

# JOURNAL of THE SENATE State of West Virginia

**EIGHTY-SECOND LEGISLATURE**

Regular Sixty-Day (and Extended) Session, 2016

First Extraordinary Session, 2016

Second Extraordinary Session, 2016

**VOLUME I**



NOTE: The first volume of this four-volume Official Senate Journal starts with proceedings proper of the Second Regular Session of the Eighty-Second Legislature from January 13, 2016, to March 15, 2016, ending with page 1292 of the Regular Session.

The Index of the Official Journal is shown in Volume III, the proceedings of the First Extraordinary Session of 2016 are shown in Volume III and Volume IV and the proceedings of the Second Extraordinary Session of 2016 are shown in Volume IV.



# JOURNAL of THE SENATE State of West Virginia

**EIGHTY-SECOND LEGISLATURE**

Regular Sixty-Day (and Extended) Session, 2016



NOTE: The Second Regular Session of the Eighty-Second Legislature convened on January 13, 2016, and concluded the sixty-day constitutional session at midnight, March 12, 2016. However, by proclamation of the Governor, the session was extended for passage of the annual Budget Bill and final adjournment came on March 15, 2016.

This session 1,896 bills were introduced in the two houses.

Members of the Legislature, officers and standing committee membership lists precede the Official Regular Session Journal and are shown hereinafter.

PUBLISHED UNDER THE DIRECTION OF  
CLARK S. BARNES, *Senate Clerk*

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**STAFF**

Kristin Canterbury, *Deputy Clerk*

Lora Thompson, *Chief Desk Clerk*

Lori Nichols, *Journal Clerk*

Xris Hess, *Bill Clerk*

LEGISLATURE OF WEST VIRGINIA  
MEMBERS, OFFICERS AND STANDING COMMITTEES

**SENATE**

**REGULAR SESSION, 2016**

**OFFICERS**

*President:* William P. Cole III, (R), Bluefield  
*President pro Tempore:* Donna J. Boley, (R), St. Marys  
*Clerk:* Clark S. Barnes, (R), French Creek  
*Sergeant-at-Arms:* Howard L. Wellman, (D), Bluefield  
*Acting Doorkeeper:* Jeffrey L. Branham, (R), Cross Lanes

<b>District</b>	<b>Name</b>	<b>Address</b>
First.....	*Ryan J. Ferns, (R) .....	Wheeling
	Jack Yost, (D) .....	Wellsburg
Second.....	Jeffrey V. Kessler, (D) .....	Glen Dale
	*Kent Leonhardt, (R) .....	Fairview
Third .....	<sup>1</sup> Bob Ashley, (R) .....	Spencer
	Donna J. Boley, (R) .....	St. Marys
Fourth.....	Mitch Carmichael, (R) .....	Ripley
	*Mike Hall, (R) .....	Winfield
Fifth.....	Robert H. Plymale, (D) .....	Huntington
	*Michael A. Woelfel, (D) .....	Huntington
Sixth.....	William P. Cole III, (R) .....	Bluefield
	*Mark R. Maynard, (R) .....	Genoa
Seventh.....	Art Kirkendoll, (D) .....	Chapmanville
	*Ron D. Stollings, (D) .....	Madison
Eighth.....	*C. Edward Gaunch, (R) .....	Charleston
	Chris Walters, (R) .....	Nitro
Ninth .....	<sup>2</sup> Sue Cline, (R) .....	Brenton
	*Jeff Mullins, (R) .....	Shady Spring
Tenth .....	William R. Laird IV, (D) .....	Oak Hill
	*Ronald F. Miller, (D) .....	Lewisburg
Eleventh .....	Gregory S. Boso, (R) .....	Summersville
	*Robert J. Karnes, (R) .....	Tallmansville
Twelfth.....	Douglas E. Facemire, (D) .....	Sutton
	*Michael J. Romano, (D) .....	Clarksburg
Thirteenth.....	*Robert D. Beach, (D) .....	Morgantown
	Roman W. Prezioso, Jr., (D) .....	Fairmont
Fourteenth .....	*Dave Sypolt, (R) .....	Kingwood
	Bob Williams, (D) .....	Grafton
Fifteenth.....	Craig Blair, (R) .....	Martinsburg
	*Charles S. Trump IV, (R) .....	Berkeley Springs
Sixteenth .....	Herb Snyder, (D) .....	Shenandoah Junction
	*John R. Unger II, (D) .....	Martinsburg
Seventeenth.....	Corey Palumbo, (D) .....	Charleston
	*Tom Takubo, (R) .....	South Charleston

\* Elected in 2014 to full four-year term.

<sup>1</sup> Appointed September 15, 2015, to unexpired term of David Nohe, who resigned August 30, 2016.

<sup>2</sup> Appointed January 22, 2016, to unexpired term of Daniel J. Hall, who resigned January 3, 2016.

Democrats ..... 16  
 Republicans ..... 18  
 Total ..... 34

**STANDING AND SELECT COMMITTEES OF THE SENATE**  
**2016**

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**AGRICULTURE AND RURAL DEVELOPMENT**

Senators Karnes (*Chair*), Leonhardt (*Vice Chair*), Blair, Boley, Maynard, Sypolt, Beach, Laird, Miller, Williams and Woelfel.

**BANKING AND INSURANCE**

Senators Gaunch (*Chair*), Ashley (*Vice Chair*), Cline, Ferns, Hall, Mullins, Trump, Facemire, Palumbo, Prezioso, Romano, Snyder and Woelfel.

**CONFIRMATIONS**

Senators Boley (*Chair*), Ashley, Boso, Mullins, Takubo, Kessler, Miller, Palumbo and Plymale.

**ECONOMIC DEVELOPMENT**

Senators Takubo (*Chair*), Ferns (*Vice Chair*), Ashley, Blair, Cline, Maynard, Mullins, Walters, Kessler, Plymale, Romano, Stollings, Woelfel and Yost.

**EDUCATION**

Senators Sypolt (*Chair*), Boley (*Vice Chair*), Carmichael, Cline, Hall, Karnes, Takubo, Trump, Beach, Laird, Plymale, Romano, Stollings and Unger.

**ENERGY, INDUSTRY AND MINING**

Senators Boso (*Chair*), Blair (*Vice Chair*), Boley, Gaunch, Maynard, Mullins, Sypolt, Facemire, Kirkendoll, Snyder, Williams, Woelfel and Yost.

**FINANCE**

Senators Hall (*Chair*), Walters (*Vice Chair*), Blair, Boley, Boso, Carmichael, Mullins, Sypolt, Takubo, Facemire, Kessler, Laird, Plymale, Prezioso, Stollings, Unger and Yost.

**GOVERNMENT ORGANIZATION**

Senators Blair (*Chair*), Walters (*Vice Chair*), Boso, Ferns, Gaunch, Leonhardt, Maynard, Mullins, Facemire, Miller, Palumbo, Snyder, Williams and Yost.

## SENATE COMMITTEES

### HEALTH AND HUMAN RESOURCES

Senators Ferns (*Chair*), Takubo (*Vice Chair*), Ashley, Karnes, Leonhardt, Trump, Walters, Laird, Palumbo, Plymale, Prezioso, Stollings and Unger.

### INTERSTATE COOPERATION

Senators Gaunch (*Chair*), Karnes (*Vice Chair*), Boso, Maynard, Kirkendoll, Palumbo and Unger.

### JUDICIARY

Senators Trump (*Chair*), Ferns (*Vice Chair*), Ashley, Carmichael, Cline, Gaunch, Karnes, Leonhardt, Maynard, Beach, Kirkendoll, Miller, Palumbo, Romano, Snyder, Williams and Woelfel.

### LABOR

Senators Ferns (*Chair*), Trump (*Vice Chair*), Blair, Gaunch, Karnes, Maynard, Laird, Prezioso, Stollings, Williams and Yost.

### MILITARY

Senators Leonhardt (*Chair*), Boley (*Vice Chair*), Ashley, Sypolt, Walters, Facemire, Laird, Romano and Yost.

### NATURAL RESOURCES

Senators Karnes (*Chair*), Maynard (*Vice Chair*), Ashley, Boso, Hall, Leonhardt, Takubo, Beach, Facemire, Laird, Miller, Snyder and Williams.

### PENSIONS

Senators Gaunch (*Chair*), Trump (*Vice Chair*), Hall, Mullins, Kirkendoll, Plymale and Unger.

### RULES

Senators Cole (*Chair*), Blair, Carmichael, Hall, Sypolt, Trump, Kessler, Plymale, Prezioso, Stollings and Williams.

### TRANSPORTATION AND INFRASTRUCTURE

Senators Walters (*Chair*), Leonhardt (*Vice Chair*), Boley, Gaunch, Mullins, Beach, Kirkendoll, Plymale and Woelfel.

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### SELECT COMMITTEE ON TAX REFORM

Senators Hall (*Cochair*), Ferns, Gaunch, Karnes, Prezioso, Stollings, Williams and Cole (*ex officio*).

## SENATE COMMITTEES

### JOINT COMMITTEES

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#### ENROLLED BILLS

Senators Maynard (*Cochair*), Gaunch (*Vice Cochair*), Boso, Miller and Unger.

#### GOVERNMENT AND FINANCE

Senators Cole (*Cochair*), Carmichael, Hall, Trump, Kessler, Plymale and Prezioso.

#### GOVERNMENT OPERATIONS

Senators Blair (*Cochair*), Walters (*Vice Cochair*), Gaunch, Palumbo and Snyder.

#### LEGISLATIVE RULE-MAKING REVIEW

Senators Maynard (*Cochair*), Boley, Karnes, Sypolt, Miller and Snyder.

#### PENSIONS AND RETIREMENT

Senators Gaunch (*Cochair*), Trump (*Vice Cochair*), Hall, Mullins, Kirkendoll, Plymale and Unger.

#### RULES

Senators Cole (*Cochair*), Carmichael and Kessler.

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#### STATUTORY LEGISLATIVE COMMISSIONS

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#### COMMISSION ON ECONOMIC DEVELOPMENT

Senators Mullins (*Cochair*), Takubo (*Vice Cochair*), Ferns, Hall, Maynard, Sypolt, Trump, Beach, Palumbo, Plymale, Stollings and Unger.



## SENATE COMMITTEES

### **COMMISSION ON INTERSTATE COOPERATION**

Senators Gaunch, (*Cochair*), Boso, Karnes, Maynard, Kirkendoll, Palumbo and Unger.

### **COMMISSION ON SPECIAL INVESTIGATIONS**

Senators Cole (*Cochair*), Hall, Trump, Kessler and Woelfel.

### **FOREST MANAGEMENT REVIEW COMMISSION**

Senators Sypolt (*Cochair*), Karnes, Miller and Williams.

### **LEGISLATIVE OVERSIGHT COMMISSION ON EDUCATION ACCOUNTABILITY**

Senators Sypolt (*Cochair*), Boley (*Vice Cochair*), Cline, Hall, Karnes, Plymale and Cole (*ex officio*).

### **LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY**

Senators Ferns (*Cochair*), Gaunch, Takubo, Trump, Prezioso, Stollings, Yost and Cole (*ex officio*).

### **LEGISLATIVE OVERSIGHT COMMISSION ON STATE WATER RESOURCES**

Senators Boso (*Cochair*), Gaunch, Palumbo and Unger.

### **LEGISLATIVE OVERSIGHT COMMISSION ON WORKFORCE INVESTMENT FOR ECONOMIC DEVELOPMENT**

Senators Takubo (*Cochair*), Ferns, Maynard and Unger.

### **LEGISLATIVE OVERSIGHT COMMITTEE ON THE REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY**

Senators Blair (*Cochair*), Boso (*Vice Cochair*), Ashley, Kirkendoll and Laird.



**HOUSE OF DELEGATES**  


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**REGULAR SESSION, 2016**

**OFFICERS**

*Speaker:* Tim Armstead, (R), Elkview  
*Clerk:* Stephen J. Harrison, (R), Cross Lanes  
*Speaker pro Tempore:* Everette W. Anderson, Jr., (R), Williamstown  
*Sergeant-at-Arms:* Marshall Clay, (R), Fayetteville  
*Doorkeeper:* Frank Larese, (R), Belle

<b>District</b>	<b>Name</b>	<b>Address</b>
First	Pat McGeehan, (R)	Chester
	Mark Zatezalo, (R)	Weirton
Second	Ryan W. Weld, (R)	Wellsburg
Third	Shawn Fluharty, (D)	Wheeling
	Erikka Storch, (R)	Wheeling
Fourth	David A. Evans, (R)	Cameron
	Michael T. Ferro, (D)	McMechen
Fifth	Dave Pethtel, (D)	Hundred
Sixth	Roger Romine, (R)	Sistersville
Seventh	Lynwood Ireland, (R)	Pullman
Eighth	Everette W. Anderson, Jr., (R)	Williamstown
Ninth	Anna Border Sheppard, (R)	Davisville
Tenth	Mike Azinger, (R)	Parkersburg
	Frank Deem, (R)	Vienna
	John R. Kelly, (R)	Parkersburg
Eleventh	Martin Atkinson III, (R)	Reedy
Twelfth	Steve Westfall, (R)	Ripley
Thirteenth	Scott Cadle, (R)	Letart
	Michael Ihle, (R)	Ravenswood
Fourteenth	Jim Butler, (R)	Henderson
Fifteenth	Geoff Foster, (R)	Winfield
Sixteenth	Sean Hornbuckle, (D)	Huntington
	Carol Miller, (R)	Huntington
	Jim Morgan, (D)	Huntington
Seventeenth	Doug Reynolds, (D)	Huntington
	Matthew Rohrbach, (R)	Huntington
Eighteenth	Kelli Sobonya, (R)	Barboursville
Nineteenth	Kenneth Paul Hicks, (D)	Kenova
	Don C. Perdue, (D)	Prichard
Twentieth	Justin J. Marcum, (D)	Williamson
Twenty-first	Phyllis White, (D)	Gilbert
Twenty-second	Jeff Eldridge, (D)	Alum Creek
	Michael Moffatt, (R)	Hurricane
Twenty-third	Joshua Nelson, (R)	Danville
Twenty-fourth	Rupert Phillips, Jr., (D)	Lorado
	Ralph Rodighiero, (D)	Logan
Twenty-fifth	Frank L. Blackwell, (D)	Mullens
Twenty-sixth	Clif Moore, (D)	Thorpe
Twenty-seventh	Joe Ellington, (R)	Princeton
	Marty Gearheart, (R)	Bluefield
	John H. Shott, (R)	Bluefield
Twenty-eighth	Roy G. Cooper, (R)	Wayside
	John D. O'Neal IV, (R)	Beckley
Twenty-ninth	Rick Moye, (D)	Crab Orchard
Thirtieth	Mick Bates, (D)	Beckley
Thirty-first	Karen Arvon, (R)	Beckley

## HOUSE OF DELEGATES

Thirty-second .....	Tom Fast, (R) .....	Fayetteville
	Kayla Kessinger, (R) .....	Mount Hope
	David G. Perry, (D) .....	Oak Hill
Thirty-third.....	Roger Hanshaw, (R).....	Wallback
Thirty-fourth .....	Brent Boggs, (D) .....	Gassaway
Thirty-fifth .....	Andrew D. Byrd, (D).....	South Charleston
	John B. McCuskey, (R) .....	Charleston
	Eric Nelson, (R) .....	Charleston
	Chris Stansbury, (R).....	Charleston
Thirty-sixth .....	Nancy Peoples Guthrie, (D) .....	Charleston
	Larry L. Rowe, (D).....	Charleston
	Brad White, (R).....	Charleston
Thirty-seventh .....	Mike Pushkin, (D).....	Charleston
Thirty-eighth .....	Patrick Lane, (R) .....	Cross Lanes
Thirty-ninth.....	Ron Walters, (R) .....	Charleston
Fortieth.....	Tim Armstead, (R) .....	Elkview
Forty-first.....	Jordan Hill, (R) .....	Mount Nebo
Forty-second .....	George Ambler, (R) .....	Fort Springs
	Ray Canterbury, (R).....	Ronceverte
Forty-third .....	Denise L. Campbell, (D) .....	Elkins
	William G. Hartman, (D) .....	Elkins
Forty-fourth.....	Dana L. Lynch, (D) .....	Webster Springs
Forty-fifth.....	Bill Hamilton, (R) .....	Buckhannon
Forty-sixth.....	Peggy Donaldson Smith, (D).....	Weston
Forty-seventh .....	Danny Wagner, (R) .....	Philippi
Forty-eighth.....	Danny Hamrick, (R).....	Clarksburg
	Tim Miley, (D) .....	Bridgeport
	Patsy Samuel Trecost II, (D) .....	Clarksburg
	Theresa Waxman, (R) .....	Bridgeport
Forty-ninth .....	Amy Summers, (R) .....	Flemington
Fiftieth.....	Mike Caputo, (D) .....	Fairmont
	Linda Longstreth, (D).....	Fairmont
	Tim Manchin, (D) .....	Fairmont
Fifty-first.....	Barbara Evans Fleischauer, (D).....	Morgantown
	Cindy Frich, (R) .....	Morgantown
	Brian Kurcaba, (R) .....	Morgantown
	William Flanigan, (R) .....	Morgantown
	Joe Statler, (R).....	Core
Fifty-second .....	Steven Shaffer, (D).....	Tunnelton
Fifty-third.....	Randy E. Smith, (R) .....	Terra Alta
Fifty-fourth.....	Allen V. Evans, (R).....	Petersburg
Fifty-fifth .....	Isaac Sponaugle, (D) .....	Franklin
Fifty-sixth.....	Gary G. Howell, (R) .....	Keyser
Fifty-seventh .....	Ruth Rowan, (R) .....	Points
Fifty-eighth .....	Darryl E. Cowles, (R).....	Berkeley Springs
Fifty-ninth .....	Saira Blair, (R) .....	Martinsburg
Sixtieth.....	Larry W. Faircloth, (R) .....	Inwood
Sixty-first .....	Walter E. Duke, (R) .....	Martinsburg
Sixty-second.....	John Overington, (R).....	Martinsburg
Sixty-third .....	Michael Folk, (R) .....	Martinsburg
Sixty-fourth.....	Eric L. Householder, (R) .....	Martinsburg
Sixty-fifth.....	Jill Upson, (R) .....	Charles Town
Sixty-sixth.....	Paul Espinosa, (R).....	Charles Town
Sixty-seventh.....	Stephen Skinner, (D) .....	Shepherdstown

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Democrats .....	36
Republicans .....	64
Total .....	100

## HOUSE COMMITTEES

### STANDING AND SELECT COMMITTEES OF THE HOUSE OF DELEGATES

2016

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#### AGRICULTURE AND NATURAL RESOURCES

Delegates A. Evans (*Chair of Agriculture*), Romine (*Vice Chair of Agriculture*), Hamilton (*Chair of Natural Resources*), Ambler (*Vice Chair of Natural Resources*), Anderson, Atkinson, Border, Cadle, Canterbury, Cooper, Folk, Ireland, Miller, R. Smith, Summers, Wagner, Eldridge (*Minority Chair of Agriculture*), Sponaugle (*Minority Vice Chair of Agriculture*), Lynch (*Minority Chair of Natural Resources*), Guthrie (*Minority Vice Chair of Natural Resources*), Blackwell, Campbell, Rodighiero, Shaffer and P. White.

#### BANKING AND INSURANCE

Delegates Walters (*Chair of Banking*), Frich (*Vice Chair of Banking*), McCuskey (*Chair of Insurance*), Westfall (*Vice Chair of Insurance*), Azinger, Deem, Flanigan, Hamrick, Kurcaba, McGeehan, E. Nelson, O'Neal, Shott, Upson, Waxman, B. White, Moore (*Minority Chair of Banking*), Morgan (*Minority Vice Chair of Banking*), Skinner (*Minority Chair of Insurance*), Bates (*Minority Vice Chair of Insurance*), Hicks, Manchin, Perdue, Perry and Rowe.

#### EDUCATION

Delegates Espinosa (*Chair*), Duke (*Vice Chair*), Ambler, Cooper, Ellington, D. Evans, Hamrick, Kelly, Kurcaba, Rohrbach, Romine, Rowan, Statler, Upson, Wagner, Westfall, Perry (*Minority Chair*), Moye (*Minority Vice Chair*), Blackwell, Campbell, Hicks, Hornbuckle, Perdue, Rodighiero and Trecost.

#### ENERGY

Delegates Ireland (*Chair*), R. Smith, (*Vice Chair*), Ambler, Anderson, Border, Cadle, Canterbury, D. Evans, Kessinger, McCuskey, J. Nelson, Romine, Statler, Storch, Upson, Zatezalo, Caputo (*Minority Chair*), Pethel (*Minority Vice Chair*), Boggs, Eldridge, Lynch, Miley, Phillips, Reynolds and P. White.

## HOUSE COMMITTEES

### FINANCE

Delegates E. Nelson (*Chair*), Householder (*Vice Chair*), Anderson, Butler, Canterbury, Espinosa, A. Evans, Frich, Gearheart, Hamilton, Miller, O'Neal, Storch, Walters, Waxman, Westfall, Boggs (*Minority Chair*), Guthrie (*Minority Vice Chair*), Bates, Longstreth, Moye, Perry, Pethtel, Reynolds and P. Smith.

### GOVERNMENT ORGANIZATION

Delegates Howell (*Chair*), Arvon (*Vice Chair*), Atkinson, Blair, Border, Cadle, Faircloth, Flanigan, Hamrick, Hill, Ihle, McGeehan, Moffatt, J. Nelson, R. Smith, Stansbury, Morgan (*Minority Chair*), Ferro (*Minority Vice Chair*), Caputo, Eldridge, Hartman, Lynch, Pushkin, Sponaugle and P. White.

### HEALTH AND HUMAN RESOURCES

Delegates Ellington (*Chair*), Summers (*Vice Chair*), Arvon, Atkinson, Cooper, Faircloth, Hill, Householder, Kurcaba, Lane, Rohrbach, Sobonya, Stansbury, Waxman, Westfall, B. White, Fleischauer (*Minority Chair*), Campbell (*Minority Vice Chair*), Bates, Fluharty, Longstreth, Moore, Perdue, Pushkin and Rodighiero.

### INDUSTRY AND LABOR

Delegates Overington (*Chair*), Sobonya (*Vice Chair*), Azinger, Blair, Cowles, Ellington, Fast, Householder, Ihle, Kurcaba, McCuskey, J. Nelson, Shott, R. Smith, Statler, B. White, Ferro (*Minority Chair*), Fluharty (*Minority Vice Chair*), Byrd, Caputo, Hicks, Manchin, Pushkin, Reynolds and Rowe.

### INTERSTATE COOPERATION

Delegates Storch (*Chair*), Faircloth (*Vice Chair*), Ellington, Hamrick, Romine, Ferro and P. Smith.

### JUDICIARY

Delegates Shott (*Chair*), Lane (*Vice Chair*), Azinger, Deem, Fast, Folk, Foster, Hanshaw, Ireland, Kessinger, McCuskey, Overington, Sobonya, Summers, Weld, Zatezalo, Manchin (*Minority Chair*), Skinner (*Minority Vice Chair*), Byrd, Fleischauer, Fluharty, Marcum, Moore, Rowe and Shaffer.

## HOUSE COMMITTEES

### PENSIONS AND RETIREMENT

Delegates Canterbury (*Chair*), Folk (*Vice Chair*), Hamilton, Kurcaba, Walters, Pethtel (*Minority Chair*) and Marcum.

### POLITICAL SUBDIVISIONS

Delegates Storch (*Chair*), Butler (*Vice Chair*), Anderson, Cowles, Duke, Folk, Gearheart, Hanshaw, Householder, Ihle, Lane, Moffatt, O'Neal, Sobonya, Stansbury, Weld, Moye (*Minority Chair*), Trecost (*Minority Vice Chair*), Boggs, Byrd, Hartman, Hornbuckle, Manchin, Morgan and Perry.

### ROADS AND TRANSPORTATION

Delegates Gearheart (*Chair*), Hamrick (*Vice Chair*), Ambler, Arvon, Butler, Cadle, Espinosa, A. Evans, D. Evans, Fast, Foster, Howell, Moffatt, Rohrbach, Statler, Wagner, Trecost (*Minority Chair*), Guthrie (*Minority Vice Chair*), Blackwell, Boggs, Longstreth, Moye, Reynolds, P. Smith and Sponaule.

### RULES

Delegates Armstead (*Chair*), Anderson, Cowles, Espinosa, Howell, Ireland, Lane, Miller, E. Nelson, O'Neal, Overington, Shott, Sobonya, Boggs, Campbell, Caputo, Fleischauer, Guthrie, Manchin and Miley

### PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Delegates Miller (*Chair*), Stansbury (*Vice Chair*), Frich, Hanshaw, Sobonya, Storch, Upson, Bates, Boggs, Perdue and Shaffer

### SENIOR CITIZEN ISSUES

Delegates Rowan (*Chair*), Border (*Vice Chair*), Canterbury, Deem, Duke, Faircloth, Hamilton, Hill, Kelly, E. Nelson, Overington, Rohrbach, Romine, Walters, B. White, Zatezalo, Moye (*Minority Chair*), Pethtel (*Minority Vice Chair*), Campbell, Ferro, Hartman, Moore, Perry, Phillips and Shaffer.

### SMALL BUSINESS, ENTREPRENEURSHIP AND ECONOMIC DEVELOPMENT

Delegates Miller (*Chair*), Hill (*Vice Chair*), Blair, Ellington, Espinosa, Faircloth, Flanigan, Hanshaw, Kelly, Kessinger, Lane, Stansbury, Storch, Waxman, Westfall, Zatezalo, Skinner (*Minority*

## HOUSE COMMITTEES

*Chair*), Rowe (*Minority Vice Chair*), Bates, Hartman, Hornbuckle, Manchin, Miley, Morgan and P. White.

### **VETERANS AFFAIRS AND HOMELAND SECURITY**

Delegates J. Nelson (*Chair of Veterans Affairs*), Cooper (*Vice Chair of Veterans Affairs*), D. Evans (*Chair of Homeland Security*), McGeehan (*Vice Chair of Homeland Security*), Arvon, Atkinson, Foster, Frich, Howell, Ireland, Kelly, Kessinger, Rowan, Upson, Wagner, Weld, Longstreth (*Minority Chair of Veterans Affairs*), Hornbuckle (*Minority Vice Chair of Veterans Affairs*), P. Smith (*Minority Chair of Homeland Security*), Pushkin (*Minority Vice Chair of Homeland Security*), Byrd, Ferro, Fleischauer, Lynch and Trecost.

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## JOINT COMMITTEES

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### **ENROLLED BILLS**

Delegates McCuskey (*Cochair*), Westfall (*Vice Cochair*), Hanshaw, Marcum and Sponaugle.

### **GOVERNMENT AND FINANCE**

Delegates Armstead (*Cochair*), Cowles, Miller, E. Nelson, Shott, Boggs and Miley.

### **GOVERNMENT OPERATIONS**

Delegates Howell (*Cochair*), Arvon, Moffatt, Morgan and Sponaugle.

### **LEGISLATIVE RULE-MAKING REVIEW**

Delegates Sobonya (*Cochair*), Frich (*Vice Cochair*), Hanshaw, Moffatt, Fleischauer and Rowe.

### **PENSIONS AND RETIREMENT**

Delegates Canterbury (*Cochair*), Folk (*Vice Cochair*), Hamilton, Kurcaba, Walters, Marcum and Pethtel.

### **RULES**

Delegates Armstead (*Cochair*), Cowles and Miley.



## HOUSE COMMITTEES

### **SELECT COMMITTEE ON TAX REFORM**

Delegates E. Nelson (*Cochair*), Anderson, Gearheart, Householder, O’Neal, Bates, Phillips and Armstead (*ex officio*).

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### **STATUTORY LEGISLATIVE COMMISSIONS**

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#### **COMMISSION ON ECONOMIC DEVELOPMENT**

Delegates Miller (*Cochair*), Ellington, Espinosa, Hamilton, E. Nelson, Shott, Walters, Byrd, Phillips and Trecost.

#### **COMMISSION ON INTERSTATE COOPERATION**

Delegates Storch (*Cochair*), Faircloth (*Vice Cochair*), Ellington, Hamrick, Romine, Ferro and P. Smith.

#### **COMMISSION ON SPECIAL INVESTIGATIONS**

Delegates Armstead (*Cochair*), Lane, Shott, Bates and Miley.

#### **FOREST MANAGEMENT REVIEW COMMISSION**

Delegates Overington (*Cochair*), A. Evans, Romine, Hartman and Lynch.

#### **LEGISLATIVE OVERSIGHT COMMISSION ON EDUCATION ACCOUNTABILITY**

Delegates Espinosa (*Cochair*), Anderson, Duke, D. Evans, Perry and Armstead (*ex officio*).

#### **LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY**

Delegates Ellington (*Cochair*), Border, Householder, Rohrbach, Summers, Moyer and Armstead (*ex officio*).

#### **LEGISLATIVE OVERSIGHT COMMISSION ON STATE WATER RESOURCES**

Delegates Ambler (*Cochair*), B. White, Zatezalo, Reynolds and Rowe.

HOUSE COMMITTEES

**LEGISLATIVE OVERSIGHT COMMISSION ON  
WORKFORCE INVESTMENT FOR ECONOMIC  
DEVELOPMENT**

Delegates Espinosa (*Cochair*), Miller, Walters and Phillips.

**LEGISLATIVE OVERSIGHT COMMITTEE ON THE  
REGIONAL JAIL AND CORRECTIONAL FACILITY  
AUTHORITY**

Delegates McCuskey (*Cochair*), Shott, Sobonya, Weld and Lynch.

WEST VIRGINIA LEGISLATURE  
**SENATE JOURNAL**  
EIGHTY-SECOND LEGISLATURE  
REGULAR AND EXTENDED SESSION, 2016

WEDNESDAY, JANUARY 13, 2016

Pursuant to section eighteen, article six of the Constitution of the State of West Virginia, which prescribes that the Legislature shall convene annually on the second Wednesday in January, the Senate assembled in its chamber in the state capitol in the City of Charleston, West Virginia, on this thirteenth day of January, two thousand sixteen, for the second annual sixty-day session of the eighty-second Legislature, and at 12 o'clock Noon was called to order by the President, the Honorable William P. Cole III.

Prayer was offered by Terry Liller, President of the Mineral County Development Authority and Member of the Keyser City Council.

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.

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

The following communication was reported by the Clerk:

STATE OF WEST VIRGINIA  
CHARLESTON

August 30, 2015

The Honorable William P. Cole, III  
President of the Senate

Room 229M, Building 1  
State Capitol Complex  
Charleston, WV 25305

Dear Mr. President:

I hereby resign from the West Virginia State Senate, effective August 30, 2015, in order to accept an appointment from Governor Earl Ray Tomblin to the West Virginia Parole Board.

It has been an honor to serve under your leadership and The Governor of the Great State of West Virginia, Earl Ray Tomblin. I am proud of what we have accomplished together on behalf of the people of West Virginia.

I want to thank the constituents of the 3rd District for their support and trust in me and I will continue to serve their best interests. I look forward to my new role which will allow me to further serve all the people of West Virginia in regards to enhancing public safety, holding offenders more accountable and adopting policies that are more cost effective.

On a personal note, it has been a pleasure to work with you and all of the senators in the 82nd Legislature. I will never forget the relationships we developed. Once again, thank you Mr. President, for your friendship, and for the opportunity to serve under your leadership.

With gratitude and warm regards,

David Clay Nohe

cc: Governor Earl Ray Tomblin  
Secretary of State Natalie E. Tennant  
Senate Clerk Clark Barnes

### **Executive Communications**

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

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

September 15, 2015

The Honorable Natalie Tennant  
Secretary of State  
State Capitol  
Charleston, West Virginia 25305

Dear Secretary Tennant:

Pursuant to W. Va. Code § 3-10-5, I have this day appointed Bob Ashley, Post Office Box 823, Spencer, Roane County, West Virginia 25276, as a Senator representing the Third Senatorial District, to fill the vacancy created by the resignation of the Honorable David Nohe.

Sincerely,

Earl Ray Tomblin  
Governor

cc: President of the Senate  
Speaker of the House of Delegates  
Clerk of the Senate  
Clerk of the House of Delegates  
West Virginia Ethics Commission

The several oaths of office prescribed by the Constitution were administered by the Honorable William P. Cole III, President of the West Virginia Senate, to Bob Ashley, of the County of Roane, on September 15, 2015.

The following communication was next reported by the Clerk:

THE SENATE OF WEST VIRGINIA  
CHARLESTON

January 3, 2016

President of the Senate  
William P. Cole III  
Room 229M, Building 1  
State Capitol Complex  
Charleston, WV 25305

Dear President Cole,

This letter is to inform you of my resignation from the West Virginia State Senate as Senator from the 9th District. My last day being January 3, 2016.

It has been my honor to serve with you while working for the citizens of the great state of West Virginia.

Warmest Regards,

Daniel J. Hall  
Senator-(R) Wyoming  
9th District

On the call of the roll, the following answered to their names:

Senators Ashley, Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President).

Thirty-three members having answered to their names, the President declared the presence of a quorum.

The following communication was reported by the Clerk:

THE SENATE OF WEST VIRGINIA  
OFFICE OF THE PRESIDENT  
LIEUTENANT GOVERNOR  
CHARLESTON

January 12, 2016

The Honorable Clark S. Barnes  
Clerk of the Senate  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

I am this date appointing Jeffrey L. Branham of 23 Cumberland Way, Cross Lanes, West Virginia, as Acting Doorkeeper of the West Virginia Senate for the remainder of the 82nd Legislature.

This appointment fills the vacancy created by the death of Anthony Gallo.

Respectfully submitted,

William P. Cole III  
President of the Senate –  
Lieutenant Governor

Whereupon, Mr. Branham previously qualified as Acting Doorkeeper by taking the several oaths of office prescribed by law and administered by the Honorable William P. Cole III, President of the West Virginia Senate.

At the request of Senator Carmichael, unanimous consent being granted, Senator Carmichael offered the following resolution from the floor:

**Senate Resolution 1**—Raising a committee to notify the House of Delegates that the Senate has assembled in regular session.

*Resolved by the Senate:*

That a committee of three be appointed by the President to inform the House of Delegates that the Senate has assembled in regular sixty-day session, with a quorum present, and is ready to proceed with the business of this regular session.

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

Whereupon, the President appointed as members of such committee, the following:

Senators Blair, Ferns and Plymale.

Subsequently, Senator Blair reported that the committee had performed the duty assigned to it.

The first message this session from the House of Delegates, by

Delegates Stansbury, R. Smith and Boggs, announced that the House of Delegates has assembled, with a quorum present, and is ready to proceed with the business of this second regular session of the eighty-second Legislature.

At the request of Senator Carmichael, unanimous consent being granted, Senator Carmichael offered the following resolution from the floor:

**Senate Resolution 2**—Providing for the appointment of a committee to inform the Governor that the Legislature has assembled in regular session.

*Resolved by the Senate:*

That a committee of three on the part of the Senate be appointed by the President, to join with a similar committee on the part of the House of Delegates, to notify His Excellency, the Governor, that the Legislature has assembled in regular sixty-day session, with a quorum of each house present, and is ready to receive any communication or message that he may desire to present.

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



Whereupon, the President appointed as members of such committee, the following:

Senators Maynard, Karnes and Woelfel.

A message from the House of Delegates, by

Delegates Border, Duke and Hartman, announced that the Speaker had appointed them a committee of three to join with a similar committee on the part of the Senate under the provisions of Senate Resolution 2 to wait upon the Governor. Senate and House members of this select committee then proceeded to the executive offices.

Subsequently, Senator Maynard reported that the joint Senate and House committee had performed the duty assigned to it.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolutions were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Cole (Mr. President), Blair, Boso, Ferns, Gaunch, Trump, Carmichael, Sypolt and Takubo:**

**Senate Bill 1**—A Bill to amend and reenact §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6, §21-5G-7 and §21-5G-8, all relating to establishing the West Virginia Workplace Freedom Act; eliminating language allowing employment agreements require membership in a labor organization as a condition of employment; prohibiting any requirement that a person become or remain a member of a labor organization as condition of employment; prohibiting any requirement that a person must pay dues or other fees to a labor organization as a condition of employment; prohibiting any requirement that a person contribute to a charity in lieu of paying dues or other fees to a labor organization; providing that certain agreements or practices between labor organizations and employers are unlawful; providing for criminal penalties;

providing for administrative remedies; providing for civil relief, including damages, attorney's fees and injunctive relief; providing for exceptions; requiring prosecuting attorneys and the Attorney General to investigate complaints; defining terms; construction; applicability; and severability.

Referred to the Committee on the Judiciary.

**By Senators Blair, Boso and Trump:**

**Senate Bill 2**—A Bill to repeal §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-7, §21-5A-8, §21-5A-9, §21-5A-10, §21-5A-11 and §21-5A-12 of the Code of West Virginia, 1931, as amended, all relating to repealing prevailing hourly rate of wages requirements by or on behalf of public authorities engaged in construction of public improvements.

Referred to the Committee on Government Organization.

**By Senators Trump, Gaunch, Karnes, Leonhardt, Walters, Sypolt, Blair and Carmichael:**

**Senate Bill 3**—A Bill to amend and reenact §29A-3-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §29A-3A-2 of said code; and to amend and reenact §29A-3B-2 of said code, all relating to rulemaking under the state Administrative Procedures Act; and providing for a sunset of rules five years after the effective date of this amendment and legislation approving rules and five years after the effective date of all new or modified rules.

Referred to the Committee on the Judiciary.

**By Senators Trump, Gaunch, Karnes, Carmichael, Blair and Takubo:**

**Senate Bill 4**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15, relating to candidates or candidate committees for legislative office disclosing contributions received while the Legislature is in session; requiring timely disclosure of certain contributions from persons while the Legislature is in session; clarifying that the

legislative session includes interim and special session; requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; defining terms; imposing same reporting requirements upon former candidates or candidate committees for legislative office who are still in office; requiring Secretary of State to create a form for disclosure; requiring Secretary of State to publish information on the Secretary of State's website; authorizing Secretary of State to establish a means for electronic filing and disclosure in the alternative; and authorizing Secretary of State to promulgate legislative and emergency rules.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Ferns, Karnes, Leonhardt, Trump, Carmichael, Blair, Sypolt and Takubo:**

**Senate Bill 5**—A Bill to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §3-1-51; and to amend and reenact §17B-2-1 of said code, all relating to voting procedures; requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; setting forth requirements for that documentation; identifying acceptable documentation; exempting from disclosure the address of individuals in the Address Confidentiality Program; directing Secretary of State to educate voters about the identification requirement and develop a program to help ensure that all eligible voters obtain identification; providing for casting of provisional ballot by a person without adequate proof of identification; providing certain exemptions from requirement to present a photo identification card; modifying provisional ballot procedures; and providing for issuance of identification cards at no charge.

Referred to the Committee on the Judiciary.

**By Senators Ferns, Carmichael, Gaunch, Takubo, Trump, Prezioso, Stollings, Plymale, Blair, Karnes and Sypolt:**

**Senate Bill 6**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-

3-6, relating to drug screening for applicants of benefits from the Temporary Assistance for Needy Families Program; requiring drug testing of applicants for whom there is a reasonable suspicion of substance abuse; creating a pilot program; setting forth an effective date; defining terms; providing basis for reasonable suspicion of drug use; requiring participation in a substance abuse treatment, counseling and job skills program with an adverse drug test; precluding assistance for refusal to take a drug test; establishing administrative review of decisions to deny benefits; providing a mechanism for dependent children to receive benefits if a parent is deemed ineligible; setting forth prohibition from benefits for an adverse drug test; requiring investigation by Child Protective Services upon an adverse drug test; setting forth a procedure for reapplication for benefits; authorizing rulemaking by the Department of Health and Human Resources; requiring results of the drug screen or drug test remain confidential; providing criminal penalties; requiring an annual report to the Legislature; setting out elements of the annual report; requiring federal approval of the program; and requiring the secretary to modify the program to meet any federal objections and allowing for exceptions.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Leonhardt, Carmichael, Ashley, Stollings, Trump and Blair:**

**Senate Bill 7**—A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §55-7-13e; and to amend and reenact §55-7B-5 of said code, all relating to the establishment of a wrongful conduct rule; providing legislative findings and purposes; prohibiting the recovery of damages that arise, in whole or in part, out of a plaintiff's commission or attempted commission of illegal or immoral acts or transactions; defining "illegal or immoral act or transaction"; providing for the burden of proof for establishing the commission of illegal or immoral acts or transactions; requiring proximate cause for a bar on recovery; setting forth exceptions to wrongful conduct rule; providing for the applicability of the wrongful conduct rule to all civil actions for

personal injury and wrongful death, including any and all claims brought against a health care provider under the Medical Professional Liability Act; applicability; and severability.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Karnes, Leonhardt, Trump and Blair:**

**Senate Bill 8**—A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of attorneys to assist the Attorney General; establishing competitive bidding process for use of private attorneys on a contingency fee basis by Attorney General; requiring written determinations for Attorney General's selection of private attorneys to represent state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and Attorney General; establishing supervision requirements for private lawyers representing state on a contingency fee basis; requiring the posting of certain documents relating to Attorney General's retention of private attorneys to represent state on a contingency fee basis; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; updating and removing outdated provisions; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Blair, Carmichael and Takubo:**

**Senate Bill 9**—A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend said code by adding thereto a new section, designated §3-5-6e; to amend and reenact §3-5-7 and §3-5-13 of said code; to amend and reenact §3-10-3 and §3-10-3a of said code; to amend and reenact §6-5-1 of said code; to amend said code by adding thereto a new article, designated §51-1B-1, §51-1B-2, §51-1B-3, §51-1B-4, §51-1B-5, §51-1B-6, §51-1B-7, §51-1B-8, §51-1B-9, §51-1B-10, §51-1B-11 and §51-1B-12; and

to amend and reenact §58-5-1 of said code, all relating to creating a new court to be known as West Virginia Intermediate Court of Appeals; requiring election of Judges of the Intermediate Court of Appeals be on nonpartisan basis; requiring elections be on a division basis when more than one judge is to be elected; providing for timing and frequency of election; providing for commencement of terms of office; establishing ballot design and printing; providing that elections be held on same date as primary election; requiring nonpartisan ballots; establishing filing announcement of candidacies, including timing, location and necessary information; providing for order of appearance of offices on the ballot; establishing ballot content; providing procedures for filling of vacancies; providing occasions for special elections to be held to fill vacancies; requiring Intermediate Court of Appeals be operational by July 1, 2017; establishing northern and southern districts; providing three judges for each district; establishing qualifications for judges; establishing court jurisdiction; providing for deflection review; providing West Virginia Supreme Court of Appeals will either keep an appeal or transfer it to Intermediate Court; designating the clerk of the Supreme Court as the Clerk of the Intermediate Court of Appeals; providing that certain appeals to be reviewed as a matter of right and those matters in which the appeals are discretionary; providing appeals in certain administrative cases are discretionary; authorizing appeals from Intermediate Court to Supreme Court; authorizing Governor make initial appointments by July 1, 2016; creating staggered terms; providing for elections for ten-year terms after initial appointments; authorizing a Chief Judge; authorizing staff for court and judges; providing for compensation and expenses of judges and staff; providing for temporary assignment of circuit court judges; authorizing Supreme Court to provide facilities, furniture, fixtures and equipment for Intermediate Court; establishing precedential effect of Intermediate Court orders and decisions; providing budget of Intermediate Court be part of Supreme Court budget; and providing for severability.

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

**By Senators Sypolt, Ferns, Gaunch, Karnes, Leonhardt, Trump, Walters, Boley, Boso, Takubo and Blair:**

**Senate Bill 10**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-31, relating to the creation of the Unborn Child Protection from Dismemberment Abortion Act; providing definitions; making it unlawful for any person to purposely perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother; hearing before West Virginia Board of Medicine; persons not liable for performing or attempting to perform a dismemberment abortion; who may seek injunctive relief; who may seek cause of action for civil damages against a person who has performed a dismemberment abortion; what damages may be awarded; requiring the court to rule whether the anonymity of any woman upon whom an abortion has been performed or attempted to be performed shall be preserved from public disclosure if she does not give her consent to such disclosure; declaring that section may not be construed as creating or recognizing a right to abortion, nor a right to a particular method of abortion; creating a felony offense for violations; and providing criminal penalties.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Karnes, Gaunch, Leonhardt, Trump, Takubo, Boso and Blair:**

**Senate Bill 11**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4 and §5-11C-5, all relating to establishing the West Virginia Freedom of Conscience Protection Act; ensuring that, in all cases where state action burdens the exercise of religion, strict scrutiny is applied; to provide a claim or defense to a person or persons whose exercise of religion is burdened by state action; including a short title; providing definitions; and addressing applicability construction, remedies and severability.

Referred to the Committee on the Judiciary.

**By Senator Leonhardt:**

**Senate Bill 12**—A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-eight new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50, §7-20-51 and §7-20-52, all relating generally to County Local Powers Act fees; taxes and expenditures for county development; restating short title; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; amending authorization for county commissions to impose impact fees, services fees and other taxes; providing that certain fees and taxes collected may be deposited in special fund and used to pay debt service on revenue bonds issued to finance capital improvements or to finance them on a pay-as-you-go basis; making technical corrections; allowing county commissions and Commissioner of Highways to enter into intergovernmental agreements for construction and modernization of state roads, bridges and related infrastructure and financing in their respective counties; providing procedures for creation and finalization or project plans and amendments of plans; requiring notice to certain locally elected public officials and general public on proposed road, bridge and related infrastructure construction projects and project amendments with opportunity for public comment; providing means to finance cost of proposed road, bridge and related infrastructure construction projects and project amendments; allowing reallocation of ad valorem property taxes after ratification of constitutional amendment of certain property tax collections to finance, in whole or in part, capital improvements to infrastructure; providing for applications for a construction project and the contents of applications; creating special fund; requiring approval of boards of education for reallocation of regular property tax levies; providing for termination of reallocation of levies; authorizing Commissioner of Highways to issue revenue bonds and refunding bonds to finance road, bridge



and related infrastructure projects financed, in whole or in part, by county commissions; providing that all bonds are exempt from tax, are negotiable and are lawful investments; providing procedures for issuance of bonds; allowing projects to also be constructed on pay-as-you-go basis; providing that these powers are supplemental powers of county commissions and Commissioner of Highways; requiring reports; exempting public officials from personal liability; providing a severability clause; and effective dates.

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

**By Senators Carmichael, Boso, Gaunch, Leonhardt, Trump, Walters, Blair, Takubo, Miller and Unger:**

**Senate Bill 13**—A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for overtaking and passing a school bus stopped for the purpose of receiving and discharging children; and providing penalties in the event that the driver of the passing vehicle cannot be ascertained.

Referred to the Committee on the Judiciary.

**By Senators Trump, Boso, Ferns, Leonhardt, Takubo and Blair:**

**Senate Bill 14**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7I-1, §55-7I-2, §55-7I-3, §55-7I-4, §55-7I-5, §55-7I-6 and §55-7I-7, all relating to providing limits on successor corporation asbestos-related liabilities.

Referred to the Committee on the Judiciary.

**By Senators Boso and Gaunch:**

**Senate Bill 15**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating generally to manufacturers and sellers of prescription drugs and medical devices and liability of those entities for alleged inadequate warning or instruction; and adopting

the learned intermediary doctrine as defense to civil action based upon inadequate warnings or instructions.

Referred to the Committee on the Judiciary.

**By Senators Ashley, Plymale, Williams, Miller, Stollings and Unger:**

**Senate Bill 16**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13BB-1, §11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6 and §11-13BB-7, all relating generally to providing a tax credit for providing broadband to certain extremely high-cost census blocks; requiring the Tax Commissioner to propose rules for legislative approval to administer this article; definitions; amount of credit; and how credit is taken and its application, including an annual cap on the credit and prohibiting a carryover or carryback to subsequent or previous tax years.

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

**By Senators Beach, Williams, Miller and Blair:**

**Senate Bill 17**—A Bill to amend and reenact §30-7-15a, §30-7-15b and §30-7-15c of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-15-7, §30-15-7a, §30-15-7b and §30-15-7c of said code, all relating to expanding prescriptive authority of advanced nurse practitioners and certified nurse-midwives; removing requirement for collaborative relationships with physicians; removing certain notifications; removing minimum requirements for certain legislative rules; and permitting certain fees to be set by rule.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Beach and Miller:**

**Senate Bill 18**—A Bill to amend and reenact §30-7-3 of the Code of West Virginia, 1931, as amended, relating to increasing membership of the Board of Examiners for Registered Professional

Nurses from five to ten members; providing that nine members be registered nurses and one member a public consumer; and setting forth qualifications of those nurses who may serve.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Beach:**

**Senate Bill 19**—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; defining “autocycle”; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver’s license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; and deleting obsolete language regarding the motorcycle safety and education committee.

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

**By Senator Beach:**

**Senate Bill 20**—A Bill to amend and reenact §20-1-19 of the Code of West Virginia, 1931, as amended, relating to West Virginia state parks and state forests; and changing name of Coopers Rock State Forest to Coopers Rock State Park.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Beach, Williams and Kessler:**

**Senate Bill 21**—A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3A-18 of said code; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating

to allowing restaurants, private clubs, mini-distilleries and wineries to sell alcohol at 10:00 a.m. on Sundays.

Referred to the Committee on Economic Development; and then to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 22**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-11a, relating to limiting health insurance coverage for elective abortions to coverage provided through supplemental policies; and elective abortion exceptions.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Karnes and Boso:**

**Senate Bill 23**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §33-42-9 and §33-42-10, all relating to the care of aborted fetuses; requiring medical facilities that provide abortions to administer anesthesia to an unborn fetus when aborted if it is older than seven weeks; requiring all available medical means to be used to preserve the life of a fetus if it is alive when aborted; and providing criminal penalties.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 24**—A Bill to repeal §17C-16-1, §17C-16-2, §17C-16-3, §17C-16-4, §17C-16-5, §17C-16-6, §17C-16-7, §17C-16-8 and §17C-16-9 of the Code of West Virginia, 1931, as amended, relating to mandatory state inspections of motor vehicles.

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

**By Senators Karnes, Leonhardt and Blair:**

**Senate Bill 25**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3, §3-11A-4 and §3-11A-5, all relating to providing a procedure for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America; defining terms; setting forth delegate duties and responsibilities; and providing a felony criminal penalty for violation of a delegate's oath.

Referred to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 26**—A Bill to amend and reenact §16-5-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-5-10a, all relating to defining “midwife”, “certified midwife” and “midwifery”; and requiring persons practicing midwifery in the State of West Virginia to make an annual report to the Bureau for Public Health as prescribed by the section of vital statistics.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Kirkendoll, Miller and Gaunch:**

**Senate Bill 27**—A Bill to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-2-2 of said code, all relating to permitting sheriff to hire outside attorneys to assist in collection of taxes through the courts; and sharing cost of collection with various taxing units.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Kirkendoll, Stollings and Boso:**

**Senate Bill 28**—A Bill to amend and reenact §7-1-3ff of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-12-16 of said code, all relating to authorizing county commissions and municipalities to cooperate and enter into

agreements removing or demolishing dwellings or buildings unfit for human habitation.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill 29**—A Bill to amend and reenact §55-2-21 of the Code of West Virginia, 1931, as amended, relating generally to tolling statute of limitations in certain cases; limiting circumstances within which statute of limitations is tolled for institution of third-party complaints associated with pending civil actions; providing alternative periods when statute of limitations on third-party complaints is tolled; defining “third-party complaint”; and clarifying that this section does not limit doctrine of equitable tolling or discovery rule.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill 30**—A Bill to amend and reenact §61-7-14 of the Code of West Virginia, 1931, as amended, relating to correcting incorrect code reference resulting from recent amendment to said code requiring certain court personnel to complete certain handgun safety and training requirements before carrying a concealed handgun.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Kessler and Gaunch:**

**Senate Bill 31**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-5-7, relating to prohibiting impersonation of a member, staff or person under direction of the Commission on Special Investigations; creating misdemeanor offense; and establishing penalties.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Beach and Miller:**

**Senate Bill 32**—A Bill to amend and reenact §3-5-11, §3-5-18 and §3-5-19 of the Code of West Virginia, 1931, as amended, all relating to withdrawal of candidates for office and filling vacancies; requiring Secretary of State to create notarized statement of withdrawal form; setting certain deadlines for filing of notarized statement of withdrawal form in order to have one's name removed from ballot; setting deadline for when Secretary of State shall certify names of general election candidates to counties; prohibiting certification of name of candidate who filed a timely notarized statement of withdrawal; clarifying process for determining candidate is disqualified; removing State Election Commission from process of voluntary withdrawal of candidates; authorizing executive committee to replace candidate who files a timely notarized statement of withdrawal and whose name would have otherwise appeared on the general election ballot; and setting and adjusting certain deadlines.

Referred to the Committee on the Judiciary.

**By Senators Plymale, Beach, Takubo and Woelfel:**

**Senate Bill 33**—A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to increasing penalty for illegally transporting Schedule I and II narcotic controlled substances into the state by making penalty a determinate sentence of not more than fifteen years; and exempting from coverage of statute certain methamphetamine precursors.

Referred to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill 34**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-11-5a; to amend said code by adding thereto a new section, designated §8-21-10a; to amend and reenact §19-25-3 of said code; and to amend said code by adding thereto a new section, designated §20-5-3a, all relating to limiting liability of the section of Parks and Recreation of the Division of Natural Resources, county parks and recreation commissions, boards of parks and recreation

commissioners, any officer or agent of a nonprofit state park of forest foundation and owners of land used for public parks and recreation purposes under an agreement with any of the foregoing entities.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill 35**—A Bill to amend and reenact §5A-3-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6-13-1 of said code, all relating to disabled veteran’s preference eligibility in hiring for state civil service jobs; resident vendor bidding on state contracts; and redefining “disabled veteran” to meet federal definition.

Referred to the Committee on Military; and then to the Committee on Government Organization.

**By Senators Snyder and Blair:**

**Senate Bill 36**—A Bill to amend and reenact §47-11A-8 of the Code of West Virginia, 1931, as amended, relating to unfair trade practices; and adding gasoline, diesel fuel and blended fuel to the list of products exempted from unfair trade practices.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Snyder:**

**Senate Bill 37**—A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to redistributing an existing excise tax paid upon transfer of real property so that tax is paid to the county where the property is situate instead of to the state; providing this be accomplished incrementally over a five-year period; requiring counties to dedicate excise tax to support regional jails; and making stylistic changes.

Referred to the Committee on Government Organization; and then to the Committee on Finance.



**By Senator Snyder:**

**Senate Bill 38**—A Bill to amend and reenact §11-14C-23 of the Code of West Virginia, 1931, as amended, relating to removal of certain tax discounts from motor fuel excise tax.

Referred to the Committee on Finance.

**By Senators Stollings and Gaunch:**

**Senate Bill 39**—A Bill to amend and reenact §17F-1-3 of the Code of West Virginia, 1931, as amended, relating to authorization and regulation of unlicensed off-road motorcycles upon public streets, roads and highways by municipalities and counties within the Hatfield-McCoy Recreation Area.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Stollings:**

**Senate Bill 40**—A Bill to amend and reenact §29-26-2 of the Code of West Virginia, 1931, as amended, relating to modifying funding assistance from Courthouse Facilities Improvement Authority; and changing definition of facilities that are eligible for funding assistance from courthouse facilities that are occupied by county or judicial officials to ones that are currently owned and occupied by those officials or upon renovation will be owned and occupied by those officials.

Referred to the Committee on the Judiciary.

**By Senator Stollings:**

**Senate Bill 41**—A Bill to amend and reenact §61-8B-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8B-6, all relating to modifying essential elements of offense of sexual assault in third degree; creating offense of sexual assault in fourth degree; and establishing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Stollings, Beach, Plymale, Blair, Gaunch, Kessler, Snyder, Carmichael, Williams and Miller:**

**Senate Bill 42**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-46-7, relating to permitting school nurses to possess and administer opioid antagonists on or near school premises.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Williams, Beach, Blair, Leonhardt and Miller:**

**Senate Bill 43**—A Bill to amend and reenact §20-2-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3B-1 of said code, all relating to posting of property to prohibit hunting or trespassing; and allowing posting by certain clearly visible paint markings.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Williams and Miller:**

**Senate Bill 44**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1A-6; and to amend said code by adding thereto a new section, designated §20-1-7a, all relating to requiring public hearings upon transfer of certain land to or from the state; requiring public hearing be held at least thirty days prior to closing of sale; requiring certain notice of public hearing; and providing for availability of transcript of public hearing and list of attendees.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Williams, Stollings, Beach and Miller:**

**Senate Bill 45**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13 and §17-29-14, all relating to creating Tourist-Oriented

Directional Signs Program; stating legislative purpose; setting forth application and eligibility requirements; establishing design and content guidelines; establishing sign location and placement criteria; establishing fee schedule; setting forth maintenance responsibility; permitting revocation of participation in program; exempting rulemaking from State Administrative Procedures Act; requiring rules be filed with Secretary of State; and defining terms.

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

**By Senators Mullins, Facemire, Takubo, Miller and Romano:**

**Senate Bill 46**—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to school calendar; and changing mandatory instructional days from one hundred eighty days to minutes based upon minimum amount of hours of instruction offered to students provided by state board rules.

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

**By Senator Ferns:**

**Senate Bill 47**—A Bill to amend and reenact §30-3-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3-13a, all relating generally to practice of medicine; rewriting licensing requirements for practice of medicine and surgery or podiatry; making exceptions; providing for unauthorized practice; requiring notice; establishing criminal penalties; permitting practice of telemedicine; establishing requirements; making exceptions; defining terms; and authorizing rulemaking.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

**By Senators Ferns and Leonhardt:**

**Senate Bill 48**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-

16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §62-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12, §62-16-13 and §62-16-14, all relating to establishing a Mental Health, Veteran and Service Members Court within the Supreme Court of Appeals; defining terms; setting forth policy and goals of the Legislature in establishing the court; granting authority to oversee the court to the Administrator of the Supreme Court; setting forth structure of the court; providing for written agreement to participate in the court; setting forth incentives for successful participation; providing for sanctions for violation of provisions of the court; setting out disposition on successful completion; providing for teams to function within the court; setting forth eligibility requirements for participation; setting forth procedure to participate in the court; allowing for mental health and drug treatment services for participants; providing for governance of the court by the Supreme Court of Appeals; setting forth information to be maintained on participants; providing for funding mechanisms which may include court fees; providing for limitation of liability; and providing for statutory construction.

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

**By Senators Ferns and Stollings:**

**Senate Bill 49**—A Bill to amend and reenact §11-27-8 of the Code of West Virginia, 1931, as amended, relating to excluding mobile x-ray services from the health care provider tax.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senator Ferns:**

**Senate Bill 50**—A Bill to amend and reenact §16-5G-2 and §16-5G-4 of the Code of West Virginia, 1931, as amended, all relating to hospitals owned or operated by nonprofit corporations, nonprofit associations or local governmental units; clarifying that these hospitals may have only one governing body whose meetings shall be open to the public; enumerating matters which may be acted upon in executive session; and clarifying and expanding authorization for holding of executive sessions.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill 51**—A Bill to amend and reenact §21-3-19 of the Code of West Virginia, 1931, as amended, relating to exempting certain employers from discriminating against tobacco users.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill 52**—A Bill to amend and reenact §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West Virginia, 1931, as amended, all relating to modifying requirements that allow a child witness to testify by closed circuit television.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Williams and Blair:**

**Senate Bill 53**—A Bill to amend and reenact §62-3-3 of the Code of West Virginia, 1931, as amended, relating to changing number of strikes in jury selection in felony cases to provide four strikes each to the accused and the prosecution; and setting forth the order strikes are to be taken.

Referred to the Committee on the Judiciary.

**By Senator Sypolt:**

**Senate Bill 54**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating generally to altering the way tax is collected on homeowners' associations; exempting from consumers sales and service tax liability dues, fees and assessments paid by members to homeowners' associations when used by the homeowners' association for payment of common expenses; taxable expenses of homeowners' association; and definitions.

Referred to the Committee on Finance.

**By Senators Sypolt, Miller and Blair:**

**Senate Bill 55**—A Bill to amend and reenact §11-1C-2, §11-1C-4 and §11-1C-7 of the Code of West Virginia, 1931, as amended, all relating to reproduction, distribution and sale of tax maps; defining terms; specifying powers of the Property Valuation Training and Procedures Commission to promulgate rules; specifying duties of county assessors; requiring that sale, reproduction and distribution of certain records be in accordance with specified legislative rules; and specifying certain fees.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill 56**—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Fairness in Competitive Bidding Act; and lowering threshold amount, from \$250,000 to \$100,000, for triggering a low bidder's duty to submit list of subcontractors on government contracts.

Referred to the Committee on Government Organization.

**By Senator Yost:**

**Senate Bill 57**—A Bill to amend and reenact §11A-1-9 of the Code of West Virginia, 1931, as amended, relating to co-owner of real property becoming sole owner when he or she pays all property taxes on real property for a minimum of five years.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill 58**—A Bill to amend and reenact §18A-4-8b of the Code of West Virginia, 1931, as amended, relating to county boards of education; temporary reassignment of injured or ill service personnel under specified conditions; compensation and

benefits; vacancies and job postings; and expiration of reassignments.

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

**By Senators Yost, Boso and Miller:**

**Senate Bill 59**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-5-19a, relating to providing a fifty-percent discount to members of the West Virginia National Guard and the West Virginia National Guard Reserve for campground rental fees in state parks.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill 60**—A Bill to amend and reenact §23-4-3b of the Code of West Virginia, 1931, as amended, relating to workers' compensation; and modifying health care guidelines for reasonable and necessary medical treatment.

Referred to the Committee on Banking and Insurance; then to the Committee on Labor; and then to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill 61**—A Bill to amend and reenact §23-4-1g of the Code of West Virginia, 1931, as amended, relating to the liberal weighing of evidence during any part of workers' compensation claim.

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

**By Senators Yost and Kessler:**

**Senate Bill 62**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to whom

workers' compensation fund is disbursed; including rebuttable presumptions for certain injuries and diseases for firefighters, including members of volunteer fire departments; and allowing coverage to employees for occupational pneumoconiosis or other occupational disease for work performed out of state.

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

**By Senator Yost:**

**Senate Bill 63**—A Bill to amend and reenact §23-4-6a of the Code of West Virginia, 1931, as amended, relating to workers' compensation benefits; and providing an award for occupational pneumoconiosis when there is a finding of no measurable pulmonary impairment.

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

**By Senator Yost:**

**Senate Bill 64**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-5a; to amend and reenact §15-2-10 of said code; to amend said code by adding thereto a new section, designated §18-2-23b; and to amend and reenact §18B-5-4 of said code, all relating to requiring all uniforms purchased by the state to be used or worn by employees of the state, including State Police officers, State Board of Education employees and employees of state institutions of higher education, to be manufactured in the United States; providing effective date; and removing outdated provision.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill 65**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting all military, National Guard and reserve income from state income taxes.



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

**By Senator Yost:**

**Senate Bill 66**—A Bill to amend and reenact §17-4-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-17-7, §17-17-16 and §17-17-17 of said code, all relating to certification requirements for applicators who paint state bridges.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senator Yost:**

**Senate Bill 67**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3 and §5B-2I-4, all relating to creating the Keep Jobs in West Virginia Act; requiring all work performed for state by contractors be performed in the United States; making legislative findings; permitting state to seek damages and void contracts for work done outside the country; and providing exceptions.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Ferns and Takubo:**

**Senate Bill 68**—A Bill to repeal §16-29B-19, §16-29B-20, §16-29B-21 and §16-29B-21a of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-29B-10 of said code, relating generally to powers and duties of the Health Care Authority; eliminating authority of the Health Care Authority to conduct rate review and set rates for hospitals; and establishing grandfathering clause.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Laird, Snyder, Miller and Blair:**

**Senate Bill 69**—A Bill to amend and reenact §20-5-2 of the Code of West Virginia, 1931, as amended, relating to development of corporate sponsorships for state parks and recreational areas managed by the parks and recreation section.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

**By Senator Yost:**

**Senate Bill 70**—A Bill to amend and reenact §23-1-1 of the Code of West Virginia, 1931, as amended, relating generally to workers' compensation; acknowledging that deficit crisis is over; recognizing that West Virginia's labor force is its greatest asset and resource; stating that injured workers should receive preeminent and efficient treatment; and stating that it is the intent of the Legislature that a rule of liberal construction based on any remedial basis of workers' compensation legislation shall be applied when deciding cases.

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

**By Senator Yost:**

**Senate Bill 71**—A Bill to amend and reenact §23-4-6 of the Code of West Virginia, 1931, as amended, relating to classification and criteria for disability benefits.

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

**By Senator Yost:**

**Senate Bill 72**—A Bill to amend and reenact §23-4-3 of the Code of West Virginia, 1931, as amended, relating generally to workers' compensation benefits; providing quick and efficient delivery of medical benefits to injured workers; providing for medical treatment that is reasonably and causally related to injury;

ensuring that treating doctor's opinion is not superseded by guidelines; and allowing for diagnosis updates based on diagnostic testing that is consistent with legislative intent set forth in said code.

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

**By Senators Yost and Miller:**

**Senate Bill 73**—A Bill to amend and reenact §17C-4-1 of the Code of West Virginia, 1931, as amended, relating to crashes involving death or personal injuries; creating crime of knowingly leaving scene of a crash resulting in serious bodily injury; establishing presumption of knowledge based upon crash conditions; and providing criminal penalties of fine and imprisonment.

Referred to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill 74**—A Bill to amend and reenact §22A-1A-1 of the Code of West Virginia, 1931, as amended, relating to employers' substance abuse screening policies and programs for safety-sensitive positions in mining operations; and providing for certificate suspension and revocation proceedings when certified individual is denied employment, withdraws application for employment, is discharged or resigns for violation of employer's substance abuse screening policy and program.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill 75**—A Bill to amend and reenact §18A-2-13 of the Code of West Virginia, 1931, as amended, relating to establishing cook-meal ratios for full-day and half-day cooks in schools.

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

**By Senator Yost:**

**Senate Bill 76**—A Bill to amend and reenact §23-4-1c of the Code of West Virginia, 1931, as amended, relating to workers' compensation; requiring covered employee to be paid maximum temporary total disability benefits for lost time without penalty to employee; and eliminating any offset to employers for employees who have a wage replacement plan.

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

**By Senators Yost and Miller:**

**Senate Bill 77**—A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to legalizing and regulating the sale and use of fireworks; creating West Virginia Veterans Program Fund; creating Fireworks Safety Act; defining terms; establishing registration requirements for retailer selling sparkling devices, novelties or toy caps; establishing certification requirements for retailer selling consumer fireworks; establishing permit requirements for presenting public display of fireworks; creating fireworks safety fee of twenty percent of all sales for the retail sale of consumer fireworks; designating allocation of fee; giving State Fire Marshal rule-making authority; setting out exemptions; stating unlawful acts; and providing criminal penalties.

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

**By Senator Yost:**

**Senate Bill 78**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-29, relating to the creation of Equal Pay Coordinator within the Division of Personnel to ensure pay equity among state employees; making legislative findings; setting forth qualifications for position; providing powers and duties of coordinator; providing for development of strategic plan to ensure pay equity in state government; authorizing other agencies to share necessary information with coordinator; requiring reports; and providing rule-making authority.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Yost and Miller:**

**Senate Bill 79**—A Bill to amend and reenact §20-2-42c of the Code of West Virginia, 1931, as amended, relating to allowing members of the West Virginia National Guard or its reserve to obtain free hunting and fishing licenses while serving in the West Virginia National Guard or its reserve and, upon full retirement, licenses for life.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill 80**—A Bill to amend and reenact §48-23-601 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §48-23-602, all relating to compiling and making available nonidentifying social and medical histories of birth parents prior to an adoption.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill 81**—A Bill to amend and reenact §20-2-42c of the Code of West Virginia, 1931, as amended, relating to allowing

members of the West Virginia National Guard or its reserve to obtain Class C hunting and fishing licenses for a one-time fee while serving in the West Virginia National Guard or its reserve and all veterans of the armed forces with an honorable discharge or full retirement to obtain license for life upon full retirement or honorable discharge.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill 82**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; and increasing adjustments to gross income for military, National Guard and reserve retirement income of resident individuals.

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

**By Senator Yost:**

**Senate Bill 83**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-15B-1, §8-15B-2, §8-15B-3, §8-15B-4 and §8-15B-5, all relating to meeting and conference rights for members of police or fire departments employed by political subdivisions; providing for right of these members to self-organization; allowing designation of exclusive representative agent; imposing duty to meet and confer with employees; allowing deduction of employee organization dues and assessments; providing for compulsory arbitration of disputes; listing prohibited acts; allowing hearings before Civil Service Commission; providing judicial review; specifying powers and duties of Civil Service Commission; and allowing injunctive relief.

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

**By Senator Yost:**

**Senate Bill 84**—A Bill to amend and reenact §61-8A-1, §61-8A-2, §61-8A-3, §61-8A-4 and §61-8A-5 of the Code of West

Virginia, 1931, as amended, all relating generally to prohibition on preparation, distribution or exhibition of harmful matter to minors; revising definition of “obscene matter” to contain specific matter that is harmful to minors; and revising article to reflect definition change.

Referred to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill 85**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-3-103; and to amend and reenact §59-1-10 of said code, all relating to requiring each judicial circuit to have a court-appointed special advocate program and each county to have a special advocate for children in abuse and neglect proceedings; raising price of certified copy of birth certificate, death certificate or marriage license from \$5 to \$11; and creating a fund within the State Treasury to pay for implementation and sustenance of court-appointed special advocate programs.

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

**By Senator Yost:**

**Senate Bill 86**—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to continuing personal income tax adjustment to gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee.

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

**By Senator Yost:**

**Senate Bill 87**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to requiring Department of Health and Human Resources review rates paid to health care providers.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senator Walters:**

**Senate Bill 88**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1F-10, relating to creating and funding establishment of facility that studies and creates solutions to separate individual chemicals out of water; and providing funding from Legislature's Tax Reduction and Federal Funding Increased Compliance Fund.

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

**By Senators Walters, Miller and Gaunch:**

**Senate Bill 89**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-18f, relating to county boards of education; licensed school psychologists; and providing that the maximum licensed school psychologist-pupil ratio is one thousand five hundred pupils for each licensed school psychologist.

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

**By Senators Yost and Miller:**

**Senate Bill 90**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-6A-1, §29-6A-2, §29-6A-3, §29-6A-4, §29-6A-5, §29-6A-6, §29-6A-7, §29-6A-8, §29-6A-9, §29-6A-10, §29-6A-11, §29-6A-12, §29-6A-13, §29-6A-14, §29-6A-15, §29-6A-16, §29-6A-17, §29-6A-18, §29-6A-19, §29-6A-20, §29-6A-21, §29-6A-22, §29-6A-23 and §29-6A-24, all relating to promoting orderly and constructive employment relations between the state and its employees; increasing efficiency of the state; ensuring health and safety of citizens of this state; requiring state to recognize, negotiate and bargain with employee organizations representing state employees and to enter into written agreements evidencing



result of bargaining; and encouraging labor peace through establishment of standards and procedures which protect the rights of the state, the state's employees and citizens of this state.

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

**By Senator Yost:**

**Senate Bill 91**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-61, relating to requiring materials, supplies, equipment and other items purchased by the state and its agencies to be made in the United States; providing exceptions; and defining terms.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill 92**—A Bill to amend and reenact §11-6B-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-6B-3a, all relating to creation of a \$20,000 annual flood zone homestead property tax exemption; defining “high-risk area”; and providing eligibility qualifications for flood zone homestead property tax exemption.

Referred to the Committee on Finance.

**By Senator Walters:**

**Senate Bill 93**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, §37-16-2, §37-16-3 and §37-16-4, all relating to requiring seller of real property satisfy upon closing any unpaid charges owed to the county and municipality in which property is located.

Referred to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill 94**—A Bill to amend and reenact §17C-16-4 of the Code of West Virginia, 1931, as amended, relating to designating

Superintendent of the West Virginia State Police as current administrator and enforcer of motor vehicle inspection program.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senator Walters:**

**Senate Bill 95**—A Bill to amend and reenact §5A-6-4c of the Code of West Virginia, 1931, as amended, relating to audits of certain government contracts; requiring Chief Technology Officer to ensure routine audits are made of all major information technology projects approved; requiring change orders be supported by certain documentation; requiring a post-audit review be conducted on certain major information technology projects; requiring certain contract terms for major information technology projects with a cost in excess of \$1 million; and requiring amounts not paid under a retainage agreement or collected under a performance bond be returned to the agency or agencies paying for the project or deposited in the state's general revenue account.

Referred to the Committee on Government Organization.

**By Senators Walters and Miller:**

**Senate Bill 96**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6 and §5B-2I-7, all relating to authorizing local units of government to adopt local energy efficiency partnership programs and to create districts to promote the use of energy efficiency improvements by owners of certain real property; providing for financing of programs through voluntary property assessments, commercial lending and other means; authorizing local unit of government to issue bonds, notes and other evidences of indebtedness and to pay the cost of energy efficiency improvements from the proceeds thereof; providing for the repayment of bonds, notes and other evidences of indebtedness; authorizing certain fees; prescribing powers and

duties of certain governmental officers and entities; and providing remedies.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Government Organization.

**By Senators Miller, Unger, Kessler, Beach, Snyder, Facemire and Romano:**

**Senate Bill 97**—A Bill to amend and reenact §25-1-11d of the Code of West Virginia, 1931, as amended, relating to providing a \$2,008 increase in the annual salary of employees of the Division of Corrections.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Miller, Kessler, Romano, Woelfel, Beach, Snyder and Facemire:**

**Senate Bill 98**—A Bill to amend and reenact §11-13Z-1 and §11-13Z-3 of the Code of West Virginia, 1931, as amended, all relating to residential solar energy tax credits; applying credit to residential installation of solar energy system or systems; and extending tax credit until July 1, 2022.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

**By Senators Miller, Woelfel, Romano, Facemire, Beach, Snyder and Laird:**

**Senate Bill 99**—A Bill to amend and reenact §29-21-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-6-2 of said code, all relating to compensation and expenses for attorneys appointed by circuit courts in child abuse and neglect proceedings.

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

**By Senator Miller:**

**Senate Bill 100**—A Bill to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating to requirements for employment of nurses in public schools; changing student-school nurse staffing ratio; expanding its coverage to all grades; and eliminating county's ability to obtain contract services for nursing.

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

**By Senators Miller and Beach:**

**Senate Bill 101**—A Bill to amend and reenact §19-1-2 of the Code of West Virginia, 1931, as amended, relating to qualifications of Commissioner of Agriculture; and eliminating certain requirements.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senators Trump, Boso and Gaunch:**

**Senate Bill 102**—A Bill to amend and reenact §7-4-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-29-12, all relating to West Virginia officials carrying a concealed firearm nationwide as provided in the federal Law-Enforcement Officers Safety Act, 18 U. S. C. §926B; providing statutory authority necessary to give prosecuting attorneys and assistant prosecuting attorneys the option to carry firearms pursuant to that federal act upon completion of required training and annual background check; providing that law-enforcement agencies are neither prohibited from nor required to permit an officer to carry his or her service weapon off duty; and requiring West Virginia law-enforcement agencies to offer access to training and certification for honorably retired officers to be permitted to carry a concealed firearm nationwide as a qualified retired law-enforcement officer as provided in the federal Law-Enforcement Officers Safety Act of 2004.

Referred to the Committee on the Judiciary.

**By Senators Laird, Unger, Romano, Kessler, Miller, Snyder and Facemire:**

**Senate Bill 103**—A Bill to repeal §17B-3-3c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17B-3-14; and to amend and reenact §17B-4-3 of said code, all relating to suspension or revocation of driver's licenses; making legislative findings; establishing driver's license restoration program; waiving certain reinstatement requirements to restore driving privileges; reducing period for suspension upon receipt of notice of driving while suspended for offenses other than driving under the influence; and granting rule-making authority.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Plymale, Woelfel and Stollings:**

**Senate Bill 104**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to the Marshall University Forensic Science Center; requiring State Police to partner with the Marshall University Forensic Science Center; and classifying it as a criminal justice agency so that it can participate in the National Data Exchange.

Referred to the Committee on the Judiciary.

**By Senators Trump and Gaunch:**

**Senate Bill 105**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to education; providing for the Tim Tebow Act; permitting a child instructed at home, by a private tutor or at a nonpublic school to participate in extracurricular athletic or other extracurricular activities in public schools and at nonpublic schools that accept the student; providing requirements, standards and insurance coverage; and providing that accommodating schools may not be impeded from competing against other schools.

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

**By Senator Trump:**

**Senate Bill 106**—A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers of warranties with respect to goods which are the subject of or are intended to become the subject of a consumer transaction; prohibition against exclusion, modification or limitation of any warranty or remedy; waiver of warranty on used manufactured homes as to a particular defect or malfunction which dealer has disclosed; conditions permitting “as is” sale of used manufactured homes; conspicuous disclosure of “as is” sale; “as is” sale does not waive express warranties made by dealer; and dealer to conform to federal regulations.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 107**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §56-12-1, §56-12-2, §56-12-3, §56-12-4, §56-12-5, §56-12-6, §56-12-7 and §56-12-8, all relating to creating the Uniform Interstate Depositions and Discovery Act.

Referred to the Committee on the Judiciary.

**By Senators Trump and Blair:**

**Senate Bill 108**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §1-2-2a, relating to requiring the election by divisions in House of Delegate districts that have two or more delegates.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 109**—A Bill to repeal §31A-2-4c of the Code of West Virginia, 1931, as amended; to repeal §38-1-8a of said code; and to repeal §44-13-4a of said code, relating to repealing

provisions requiring the filing of certain reports by trustees for property conveyed that is occupied, or intended to be occupied, as a residence by the grantor; and repealing provisions requiring compiling and maintaining of information relating to certain deeds of trusts by county clerks and the West Virginia Housing Development Fund.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Trump and Gaunch:**

**Senate Bill 110**—A Bill to amend and reenact §17E-1-13 of the Code of West Virginia, 1931, as amended, relating to disqualification of a commercial driver’s license for a conviction of driving a motor vehicle under the influence of alcohol or a controlled substance; and providing that an offense committed before January 1, 1990, or before the initial issuance of a commercial instructional permit by any state may not be considered an offense in determining a lifetime disqualification.

Referred to the Committee on the Judiciary.

**By Senators Kessler, Snyder and Beach:**

**Senate Bill 111**—A Bill to amend and reenact §5-11-2, §5-11-3, §5-11-4, §5-11-8, §5-11-9 and §5-11-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5-11A-3, §5-11A-5, §5-11A-6 and §5-11A-7 of said code, all relating to unlawful discriminatory practices; prohibiting discrimination based upon age or sexual orientation; and defining “sexual orientation”.

Referred to the Committee on the Judiciary.

**By Senators Kessler and Miller:**

**Senate Bill 112**—A Bill to amend and reenact §11-13A-5b of the Code of West Virginia, 1931, as amended, relating to the West Virginia Future Fund; including the Revenue Shortfall Reserve Fund - Part B in the calculation of when deposits may be made into

fund; and adding definition for “education and workforce development”.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

**By Senators Kessler, Unger, Snyder, Miller, Romano, Beach and Facemire:**

**Senate Bill 113**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-1b, relating to increasing pay to teachers over a five-year period.

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

**By Senators Kessler, Unger, Romano, Facemire, Snyder, Miller and Beach:**

**Senate Bill 114**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-1b, relating to increasing pay to school service personnel over five years.

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

**By Senators Kessler, Miller, Beach and Snyder:**

**Senate Bill 115**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-2a, relating to increasing pay to state employees over a three-year period.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Kessler and Beach:**

**Senate Bill 116**—A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended, relating to increasing number of limited video lottery terminals allowed at a



retail location; and requiring Lottery Commission to conduct a bid for current permit holders prior to September 1, 2016.

Referred to the Committee on the Judiciary.

**By Senator Kessler:**

**Senate Bill 117**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22B-1108a, relating to creating a preference for certain limited video lottery current permit holders in bid process.

Referred to the Committee on the Judiciary.

**By Senator Kessler:**

**Senate Bill 118**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-14-2a, relating to requiring certain disclosures with respect to group life insurance policies.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Kessler, Laird and Miller:**

**Senate Bill 119**—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating generally to expungement of certain criminal convictions; permitting expungement of certain felony convictions; establishing amount of time after felony conviction before expungement may be sought; creating exceptions; clarifying retirement or employment benefits lost due to conviction are not reinstated due to expungement; declaring expungement does not preclude person who has received expungement from being subject to sentencing enhancements for second and subsequent violations; declaring information in State Police database sufficient to prove existence of prior convictions; establishing fee to offset State Police costs associated with administering this section and the Criminal Identification Bureau; establishing special revenue account in State Treasury for funds received; and prohibiting expiration of funds.

Referred to the Committee on the Judiciary.

**By Senator Kessler:**

**Senate Bill 120**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4, §21-1E-5, §21-1E-6, §21-1E-7, §21-1E-8, §21-1E-9, §21-1E-10, §21-1E-11, §21-1E-12 and §21-1E-13, all relating to creating Earned Sick Time Act; requiring employers to provide paid sick leave; stating legislative purpose; defining terms; setting standards for use and accrual of earned sick time; distinguishing between unpaid and paid sick time for certain employees based on size of employer; excepting more generous employer policies; requiring certain certification; excepting collective bargaining agreements; requiring notice and posting requirements; setting forth duties of Commissioner of Labor; providing rule-making authority; requiring employers retain certain documents; creating penalties and enforcement measures; creating misdemeanor offense; noting lack of an intent to preempt, limit or affect other requirements; and providing an effective date.

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

**By Senators Beach and Miller:**

**Senate Bill 121**—A Bill to amend and reenact §17A-2-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; and to amend and reenact §17D-2-2 of said code, all relating to increasing fees; increasing fee for vehicle records and certified record fee; increasing registration fee for Class A motor vehicles; increasing fee for issuance and duplication of various documents by the division including titles, registrations, plates and decals; increasing fee for issuance, duplication and renewal of a driver's license; requiring payment of fee for each attempt at written and road skills test; and increasing fee for driving records.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Trump, Gaunch, Karnes and Blair:**

**Senate Bill 122**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-1-7a, relating to right of nonprohibited persons to carry firearms for self defense or defense of others in state parks and certain other areas.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Stollings:**

**Senate Bill 123**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-4F-1, §16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3E-3 of said code; to amend and reenact §30-5-14 of said code; to amend and reenact §30-7-15a of said code; and to amend and reenact §30-14-11 of said code, all relating to treatment for sexually transmitted diseases; providing for expedited partner therapy; defining terms; allowing prescribing of antibiotics to sexual partners of patient without prior examination of partner; requiring patient counseling; establishing counseling criteria; requiring informational materials be prepared by the Department of Health and Human Resources; providing limited liability for providing expedited partnership therapy; requiring rulemaking; and providing that physicians, physician assistants, pharmacists and advanced practice registered nurses are not subject to disciplinary action for providing certain treatment for sexually transmitted diseases for sexual partners of patient.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senator Miller:**

**Senate Bill 124**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto eleven new

sections, designated §24-2F-1, §24-2F-2 §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12; and to amend and reenact §24-2F-8 of said code, all relating to an alternative and renewable energy portfolio standard; setting forth legislative findings; defining terms; establishing standards for the sale of electricity generated from alternative and renewable energy resources; providing for compliance assessments; creating a system of tradable alternative and renewable energy resource credits; providing for the awarding of credits based upon electricity generated or purchased from alternative and renewable energy resource facilities; providing for the awarding of credits for certain greenhouse emissions reduction and offset projects; providing for the awarding of credits for certain energy efficiency and demand-side energy initiative projects; requiring application to Public Service Commission for approval of alternative and renewable energy portfolio standard compliance plans; setting forth minimum requirements for compliance plan applications; requiring Public Service Commission approval of compliance plan applications; requiring annual progress reports; providing for incentive ratemaking for investments in new alternative and renewable energy resource facilities in West Virginia; requiring Public Service Commission to adopt certain net metering and interconnection rules and standards; authorizing interagency agreements; requiring an ongoing assessment of alternative and renewable energy resources in West Virginia; requiring Public Service Commission to consider adopting portfolio standards for certain electric cooperatives and other electric facilities or utilities; requiring Public Service Commission to consider extending alternative and renewable resource credits to electric distribution companies or electric generation suppliers other than electric utilities; establishing Alternative and Renewable Energy Resources Research Fund; providing for the awarding of matching grants for certain research projects; and authorizing Public Service Commission to promulgate rules.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Kessler and Stollings:**

**Senate Bill 125**—A Bill to amend and reenact §11-17-3 of the Code of West Virginia, 1931, as amended, relating to incrementally increasing cigarette tax by a total of \$1 per pack in order to fund substance abuse and workforce development initiatives; setting forth timing of increases; and detailing how newly generated funds are to be distributed.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Laird, Unger, Miller, Facemire and Romano:**

**Senate Bill 126**—A Bill to amend and reenact §20-7-1a and §20-7-1c of the Code of West Virginia, 1931, as amended, all relating to providing increase in compensation for natural resources police officers.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Laird, Williams, Stollings, Miller, Beach and Blair:**

**Senate Bill 127**—A Bill to amend and reenact §48-9-103 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-10-403 and §48-10-502 of said code, all relating to grandparent's rights; permitting grandparent or psychological parent to institute action for custodial or decision-making responsibility of a child; allowing guardian ad litem to recommend psychological evaluation; increasing importance of the factor considering grandparent's significant caretaking of child; and minimizing parent's bias toward a grandparent as a factor in visitation.

Referred to the Committee on the Judiciary.

**By Senators Laird and Kessler:**

**Senate Bill 128**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j, relating to creating a West Virginia personal income tax modification reducing federal adjusted gross income for persons who choose to spay or neuter their dogs or cats.

Referred to the Committee on Finance.

**By Senator Laird:**

**Senate Bill 129**—A Bill to amend and reenact §29A-5-1 of the Code of West Virginia, 1931, as amended, relating to providing that hearing examiners conducting state agency administrative hearings be selected from a panel of five hearing examiners by a process in which the state agency first strikes two hearing examiners and the respondent subsequently strikes two hearing examiners; and making stylistic changes.

Referred to the Committee on the Judiciary.

**By Senator Laird:**

**Senate Bill 130**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-8a, relating to air-ambulance fees paid by the West Virginia Public Employees Insurance Agency; and establishing maximum amount permitted to be collected.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

**By Senator Laird:**

**Senate Bill 131**—A Bill to amend and reenact §10-1-2 of the Code of West Virginia, 1931, as amended, relating to permitting counties to impose additional levy on property within the county for the sole purpose of funding public libraries.

Referred to the Committee on Education; and then to the Committee on Government Organization.

**By Senators Laird, Unger and Miller:**

**Senate Bill 132**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-14-3a, relating to requiring municipal law-enforcement officers to wear certain armor vests when feasible; and requiring municipal police chiefs to create policy regarding mandatory use of certain armor vests.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Laird, Snyder, Romano, Facemire and Miller:**

**Senate Bill 133**—A Bill to amend and reenact §25-1-11d of the Code of West Virginia, 1931, as amended; to amend and reenact §31-20-27 of said code; and to amend and reenact §49-5E-5a of said code, all relating to salaries for Division of Corrections, Regional Jail Authority and Division of Juvenile Services employees; providing increase in annual salary of employees of Division of Corrections, Regional Jail Authority and Division of Juvenile Services; providing increase in starting salary of employees of Division of Corrections, Regional Jail Authority and Division of Juvenile Services; and providing for longevity pay increases for employees of Division of Corrections, Regional Jail Authority and Division of Juvenile Services.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Laird:**

**Senate Bill 134**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-20-1, §18B-20-2 and §18B-20-3, all relating to establishment of an Economic Adjustment Evaluation Task Force to study impact of the closure or substantial change in the scope of operation of any campus of a state two- or four-year institution of higher learning; composition of task force; and report of task force to Joint Committee on Government and Finance.

Referred to the Committee on Education; and then to the Committee on Government Organization.

**By Senator Beach:**

**Senate Bill 135**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-26-1, §7-26-2, §7-26-3, §7-26-4, §7-26-5, §7-26-6, §7-26-7, §7-26-8, §7-26-9, §7-26-10, §7-26-11, §7-26-12, §7-26-13, §7-26-14, §7-26-15, §7-26-16, §7-26-17, §7-26-18, §7-26-19, §7-26-20, §7-26-21, §7-26-22, §7-26-23, §7-26-24, §7-26-25, §7-26-26, §7-26-27, §7-26-28, §7-26-29, §7-26-30, §7-26-31, §7-26-32, §7-26-33, §7-26-34, §7-26-35, §7-26-36, §7-26-37, §7-26-38, §7-26-39, §7-26-40, §7-26-41, §7-26-42, §7-26-43, §7-26-44 and §7-26-45, all relating generally to the role of county commissions and Commissioner of Highways in construction and financing of road and bridge projects in counties; providing short title, legislative purpose and findings; defining terms; authorizing county commissions to develop road construction project plans; specifying process for development and approval of road construction project plans and plan amendments; allowing joint road construction project plans; requiring county commissions to submit road construction project plans and plan amendments to Commissioner of Highways for approval; specifying contents of application and approval process; creating new account and subaccounts in State Road Fund; allowing road construction projects be financed on cash basis or by special revenue bonds issued by Commissioner of Highways; giving Commissioner of Highways jurisdiction over all road construction projects accepted into state road system; specifying that road construction projects are public improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds and refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions, are negotiable instruments and are exempt from taxation; specifying that persons executing bonds have no personal liability; providing that powers relating to road construction project plans, construction of projects and issuance of special revenue bonds are additional powers; allowing county



commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; requiring transactions and uses subject or exempt from county sales and use taxes to conform to state consumers sales and service tax and use tax requirements except that county tax may not apply to sales of motor vehicles, motor fuels or to purchases where local taxation is prohibited by federal law; requiring Tax Commissioner to administer, collect and enforce county transportation sales and use tax and, for that purpose, specifying a fee allowed for commissioner's services; making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act and to West Virginia Tax Crimes and Penalties Act; requiring that definitions, taxable transactions and exemptions from county transportation sales and use taxes automatically update when state consumers sales and service tax and use tax laws are amended; requiring county commissions to develop and maintain county rate and boundary databases; requiring county commission to notify Tax Commissioner if tax has been imposed or tax rate has changed; specifying when collection of county transportation sales and use taxes begins; requiring that net collection of county transportation sales and use taxes be deposited in subaccount of county in county road improvement account in the State Road Fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; providing criminal penalties; and providing Commissioner of Highways with authority to propose rules for legislative approval.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senators Leonhardt and Boso:**

**Senate Bill 136**—A Bill to amend and reenact §8-12-5a of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-6 and §61-7-6a of said code, all relating to exceptions to prohibitions against carrying one or more concealed deadly weapons and reciprocity agreements for licenses to carry concealed weapons; and providing that any law-abiding person

twenty-one years of age or older may carry a concealed deadly weapon anywhere within the boundaries of the state, including on or within municipally owned or controlled buildings, recreation centers or properties, without first obtaining a license to carry concealed deadly weapons.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Plymale, Stollings, Woelfel and Miller:**

**Senate Bill 137**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to setting certain safety standards for youth lacrosse; and requiring West Virginia Secondary Schools Activities Commission to adopt certain safety standards for youth lacrosse under certain circumstances.

Referred to the Committee on Education.

**By Senators Laird, Kessler, Miller, Romano, Stollings and Facemire:**

**Senate Bill 138**—A Bill to amend and reenact §17B-3-3c and §17B-3-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17B-3-9a, all relating to creating amnesty program for certain persons with suspended licenses to allow reinstatement; establishing time period and certain procedures for amnesty program; creating exceptions to amnesty period; making certain technical corrections; requiring certain tickets amnestied remain listed as unsatisfied on court records; requiring certain suspension or revocation time remaining be waived in certain situations; requiring public awareness campaign regarding amnesty program; and providing for rule-making authority.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Plymale, Kessler, Beach, Miller and Stollings:**

**Senate Bill 139**—A Bill to amend and reenact §11-17-3 of the Code of West Virginia, 1931, as amended, relating to increasing

tobacco tax in order to provide additional revenue for Public Employees Insurance Agency's health plans for public employees.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Trump, Unger and Miller:**

**Senate Bill 140**—A Bill to amend and reenact §5-26-1 and §5-26-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §5-26-3 and §5-26-4, all relating to the Herbert Henderson Office of Minority Affairs; requiring office report to Select Committee on Minority Affairs; defining terms; continuing Minority Affairs Fund; establishing a community-based pilot demonstration project; providing for operation and funding of pilot project; setting forth objectives and goals of pilot project; and requiring leverage of existing resources.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

**By Senators Trump, Miller and Stollings:**

**Senate Bill 141**—A Bill to amend and reenact §17E-1-3 of the Code of West Virginia, 1931, as amended, relating generally to commercial driver's licenses; changing definition of commercial motor vehicle; and removing requirement for commercial driver's license when a towing vehicle is below a certain gross vehicle weight rating.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senators Woelfel, Takubo, Romano, Plymale and Facemire:**

**Senate Bill 142**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-2-2a, relating to registration of voters; automatically registering high school graduates to vote; authorizing Secretary of State to

create a form to facilitate registration; requiring county superintendent of schools or private school administrator to submit certain information to the clerk of the county commission in order to facilitate registration; and setting forth the process that each county clerk shall follow in order to process the forms received.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Woelfel:**

**Senate Bill 143**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-14-3, relating to higher education athletic competition; requiring West Virginia University and Marshall University to compete in basketball each season; and permitting the universities to determine certain details regarding each game.

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

**By Senators Plymale and Woelfel:**

**Senate Bill 144**—A Bill to amend and reenact §15-2B-2, §15-2B-3, §15-2B-5, §15-2B-6, §15-2B-9 and §15-2B-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15-9B-4, all relating to DNA evidence; requiring the collection of DNA samples from individuals arrested for certain felony crimes for inclusion in and search of the DNA Databank; defining terms; providing that DNA samples shall be taken by buccal swab rather than drawing blood; authorizing certain cooperative agreements; requiring qualified arrestees to submit to a DNA sample collection during the arrest intake; requiring a DNA sample be taken of any person convicted of a felony offense; authorizing the use of the DNA sample in accordance with this article; authorizing law-enforcement and corrections employees to use reasonable force to obtain a DNA sample when an individual refuses; limiting liability when a person obtaining a DNA sample acts in good faith and deeming the sample taken in accordance with this article; setting forth a process for handling samples taken in error; requiring Superintendent of the

State Police to submit emergency and legislative rules detailing the collection of DNA samples from qualifying arrestees; setting forth a process for expungement of the DNA sample; stating that any database match is not invalidated by a failure to or delay in expunging records; expanding authority of the sexual assault forensic examination commission; requiring the commission to authorize a sub-group to establish protocols and propose legislative rules regarding the submission of sexual assault forensic examination kits in a timely manner from health care providers to law-enforcement agencies and from law-enforcement agencies to the West Virginia State Police or the Marshall University Forensic Science Center with certain restrictions and requirements; authorizing promulgation of emergency rules with certain restrictions; requiring the rules to address testing of the kits, return of the kits and retention of the kits; permitting certain repackaging of kits not associated with an open case file; and ensuring that the changes and associated rules do not create a claim or right to relief by any person.

Referred to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill 145**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-20a, relating to required coverage for preventative dental care for any Medicaid-eligible adult who is a recipient of Medicaid benefits; requiring a state plan amendment; and setting forth an application date requirement.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Plymale and Unger:**

**Senate Bill 146**—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to minimum instructional days per week, minimum instructional minutes per week and minimum instructional days per year for early childhood education programs.

Referred to the Committee on Education.

**By Senators Romano, Snyder and Facemire:**

**Senate Bill 147**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating to specifying exemption from the consumers sales and service tax and use tax for purchases of certain services and tangible personal property sold for the repair, remodeling and maintenance of certain specified aircraft; defining terms; and specifying method for claiming exemption.

Referred to the Committee on Finance.

[CLERK'S NOTE: Senate Bill 148 through Senate Bill 245 are recommended for introduction by the Legislative Rule-Making Review Committee and sponsored by Senator Maynard, Cochair.]

**By Senator Maynard:**

**Senate Bill 148**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 149**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to the purchasing division.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 150**—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Administrative Hearings to promulgate a legislative rule relating to appeal procedures.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 151**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to the inspection of nontraditional domesticated animals.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 152**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 153**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 154**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to captive cervid farming.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 155**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to private club licensing.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 156**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to distilleries and mini-distilleries.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 157**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 158**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Conservation Committee to promulgate a legislative rule relating to the West Virginia Conservation Agency Financial Assistance Program.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 159**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to



authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensing.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 160**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education requirements.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 161**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapists licensing.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 162**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family license renewal and continuing professional education requirements.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 163**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to benefit determination and appeal.

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

**By Senator Maynard:**

**Senate Bill 164**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers' Defined Contribution Retirement System.

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

**By Senator Maynard:**

**Senate Bill 165**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers Retirement System.

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

**By Senator Maynard:**

**Senate Bill 166**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors.

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

**By Senator Maynard:**

**Senate Bill 167**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick leave.

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

**By Senator Maynard:**

**Senate Bill 168**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police.

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

**By Senator Maynard:**

**Senate Bill 169**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Deputy Sheriff Retirement System.

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

**By Senator Maynard:**

**Senate Bill 170**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Dental Examiners to promulgate a legislative rule relating to continuing education requirements.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 171**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Dental Examiners to promulgate a legislative rule relating to expanded duties of dental hygienists and dental assistants.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 172**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality, to promulgate a legislative rule relating to standards of performance for new stationary sources.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 173**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality, to promulgate a legislative rule relating to the control of air pollution from combustion of solid waste.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 174**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality, to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 175**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality, to promulgate a legislative rule relating to emission standards for hazardous air pollutants.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 176**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality, to promulgate a legislative rule relating to the control of annual nitrogen oxide emissions.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 177**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality, to promulgate a legislative rule relating to the control of ozone season nitrogen oxides emissions.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 178**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality, to promulgate a legislative rule relating to the control of annual sulfur dioxide emissions.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 179**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Oil and Gas, to promulgate a legislative rule relating to horizontal well development.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 180**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management, to promulgate a legislative rule relating to requirements governing water quality standards.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 181**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management, to promulgate a legislative rule relating to above ground storage tanks.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 182**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management, to promulgate a legislative rule relating to surface mining reclamation.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 183**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management, to promulgate a legislative rule relating to administrative proceedings and civil penalty assessment.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 184**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management, to promulgate a legislative rule relating to above ground storage tank fee assessments.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 185**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management, to promulgate a legislative rule relating to above ground storage tank administrative proceedings and civil penalty assessment.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 186**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 187**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to fees for service.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 188**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to infectious medical waste.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 189**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 190**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to tuberculosis testing, control, treatment and commitment.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 191**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to farmers market vendors.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 192**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to



authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the certification of opioid overdose prevention and treatment training programs.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 193**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to chronic pain management licensure.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 194**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to neonatal abstinence centers.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 195**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia Clearance for Access: Registry and Employment Screening.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 196**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child-care licensing requirements.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 197**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child-care facility licensing requirements.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 198**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child-care home registration requirements.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 199**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia Works Program sanctions.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 200**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to qualifications for a restricted provisional license to practice as a social worker within the department.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 201**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to goals for foster children.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 202**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 203**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 204**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to deer hunting.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 205**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended,

relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to wild boar hunting.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 206**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to elk restoration and management.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 207**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 208**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Election Commission to promulgate a legislative rule relating to the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 209**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice of professional engineers.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 210**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Ethics Commission to promulgate a legislative rule relating to the public use of names or likenesses.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 211**—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to promulgate a legislative rule relating to the fire code.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 212**—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to promulgate a legislative rule relating to the state building code.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 213**—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to promulgate a legislative rule relating to standards for the certification of continuing education of municipal, county and other public sector building code officials, inspectors and plans examiners.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 214**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Governor's Committee on Crime, Delinquency and

Correction to promulgate a legislative rule relating to law-enforcement training and certification standards.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 215**—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Highways to promulgate a legislative rule relating to the state transportation infrastructure fund program.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 216**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Human Rights Commission to promulgate a legislative rule relating to the Pregnant Workers' Fairness Act.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 217**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 218**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to minimum wage and maximum hours.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 219**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended,

relating to authorizing the Division of Labor to promulgate a legislative rule relating to Elevator Safety Act.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 220**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to the licensing of elevator mechanics and technicians and registration of apprentices.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 221**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 222**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing WorkForce West Virginia to promulgate a legislative rule relating to the West Virginia Prevailing Wage Act.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 223**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 224**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to substance abuse screening standards and procedures.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 225**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 226**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Personnel to promulgate a legislative rule relating to the administrative rule of the West Virginia Division of Personnel.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 227**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 228**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to



authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 229**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 230**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure of wholesale drug distributors, third-party logistics providers and manufacturers.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 231**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Property Valuation and Procedures Commission to promulgate a legislative rule relating to tax map sales.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 232**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 233**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 234**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 235**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to registration forms and receipts.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 236**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to the elimination of precinct registration books.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 237**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to absentee voting by military voters who are members of reserve units called to active duty.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 238**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to the Freedom of Information Act database.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 239**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech pathology and audiology.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 240**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to speech-language pathology and audiology assistants.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 241**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Tax and Revenue to promulgate a legislative rule relating to the payment of taxes by electronic funds transfer.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 242**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to

authorizing the Department of Tax and Revenue to promulgate a legislative rule relating to an exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Commerce and the commissioners of the Public Service Commission.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 243**—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Transportation to promulgate a legislative rule relating to rail-fixed guideway systems state safety oversight.

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

**By Senator Maynard:**

**Senate Bill 244**—A Bill to amend and reenact article 11, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Veterans' Assistance to promulgate a legislative rule relating to the state home for veterans.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 245**—A Bill to amend and reenact article 11, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Veterans' Assistance to promulgate a legislative rule relating to VA headstones or markers.

Referred to the Committee on the Judiciary.

[CLERK'S NOTE: Senate Bill 148 through Senate Bill 245 are recommended for introduction by the Legislative Rule-Making Review Committee and sponsored by Senator Maynard, Cochair.]

**By Senators Romano, Snyder and Gaunch:**

**Senate Bill 246**—A Bill to amend and reenact §7-11B-10 and §7-11B-22 of the Code of West Virginia, 1931, as amended, all relating generally to tax increment financing districts; extending length of certain districts; providing for the discharge of any tax increment financing obligations outstanding on the termination date of a district and extending maturation of tax increment financing obligations.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Carmichael and Plymale:**

**Senate Bill 247**—A Bill to amend and reenact §11-10-14a of the Code of West Virginia, 1931, as amended, relating to including on the state personal income tax return a checkoff option to donate some or all of any tax refund to the Cedar Lakes Foundation Checkoff Program.

Referred to the Committee on Finance.

**By Senator Stollings:**

**Senate Bill 248**—A Bill to amend and reenact §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-7 and §16-9A-8 of the Code of West Virginia, 1931, as amended, all relating to raising legal age for purchase of tobacco, tobacco products, tobacco-derived products, alternative nicotine products and vapor products to twenty-one.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senator Karnes, Trump and Leonhardt:**

**Senate Bill 249**—A Bill to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to providing chief administrator or administrative head of private primary or

secondary education provider the authority to specifically designate individuals that may possess a deadly weapon on that private education provider's premises.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 250**—A Bill to amend and reenact §46A-1-105 of the Code of West Virginia, 1931, as amended, relating to excluding obligation to make required payments to property owners' or homeowners' association from provisions of the Consumer Credit and Protection Act.

Referred to the Committee on the Judiciary.

**By Senators Trump and Woelfel:**

**Senate Bill 251**—A Bill to amend and reenact §11-16-6, §11-16-6a, §11-16-6b, §11-16-8, §11-16-9, §11-16-11 and §11-16-18 of the Code of West Virginia, 1931, as amended, all relating to nonintoxicating beer; brewers and brewpubs; residency requirements for brewer's license and distributor's license; authorizing combined license for brewers and brewpubs; growler requirements and increasing daily number of growlers sold to customers; permitting multiple licenses to individuals and the operation of a brewery, winery or distillery by the same company or individual; eliminating festival fees and allowing breweries, wineries and distilleries to attend same festival events; eliminating Sunday sale restriction for brewers and brewpubs; removing food inventory requirement for retail package stores and wine specialty stores; providing that licenses are valid for one year from date of issue instead of being based on fiscal year; and permitting brewers to make their own analysis of the alcohol contents of their products and gravity readings.

Referred to the Committee on Economic Development; and then to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 252**—A Bill to amend and reenact §62-1D-2 of the Code of West Virginia, 1931, as amended, relating to Wiretapping

and Electronic Surveillance Act; and excluding from protection under the act oral communications uttered in a place where there are notices posted informing persons that their oral communications are being intercepted.

Referred to the Committee on the Judiciary.

**By Senators Trump and Woelfel:**

**Senate Bill 253**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8A-7-14, relating to exempting drug treatment facilities and drug recovery facilities from provisions of any county or municipal zoning ordinance.

Referred to the Committee on Government Organization.

**By Senator Trump:**

**Senate Bill 254**—A Bill to amend and reenact §7-11-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting county parks commission from exercising rule-making authority to ban firearms.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 255**—A Bill to amend and reenact §46A-2-128 of the Code of West Virginia, 1931, as amended, relating to permitting creditor to collect and recover from a consumer the creditor's reasonable attorney fees, court costs, fees, late charges and other incidental expenses which are provided in the agreement creating the obligation.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 256**—A Bill to amend and reenact §46A-3-113 of the Code of West Virginia, 1931, as amended, relating to allowing delinquency charge be collected on an installment which is paid in

full in a timely manner if an earlier installment or delinquency has not been paid in full; and applying payments to the oldest unpaid installment first.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Trump and Woelfel:**

**Senate Bill 257**—A Bill to amend and reenact §48-18-105 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-4-502 of said code, all relating to requiring the Bureau of Child Support Enforcement to appear in every abuse and neglect or delinquency case proceeding in circuit court which involves an issue of setting child support; requiring the prosecuting attorney provide formal notice of the date and time of these proceedings sufficiently in advance to the Bureau of Child Support Enforcement; requiring circuit judges to set child support in accordance with applicable child support guidelines; requiring parents to submit detailed income and expense disclosures in child abuse and neglect or delinquency cases set before a circuit court; and precluding attorneys appointed to represent parents in child abuse, neglect or delinquency cases from representing the parents to whom they are appointed on the setting of child support.

Referred to the Committee on the Judiciary.

**By Senators Trump and Woelfel:**

**Senate Bill 258**—A Bill to amend and reenact §60A-7-702, §60A-7-703, §60A-7-704, §60A-7-705, §60A-7-706 and §60A-7-707 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §60A-7-708 and §60A-7-709, all relating to the West Virginia Contraband Forfeiture Act; adopting a clear and convincing evidence standard; shortening time to institute forfeiture proceedings; designating persons be made respondents to a petition for forfeiture; redirecting disposition of all forfeited property; providing for disposition of property when forfeiture is not ordered; and providing for effects of amendments to the law on pending actions.



Referred to the Committee on the Judiciary.

**By Senators Blair, Karnes and Snyder:**

**Senate Bill 259**—A Bill to repeal §47-11A-1, §47-11A-2, §47-11A-3, §47-11A-4, §47-11A-5, §47-11A-6, §47-11A-7, §47-11A-8, §47-11A-9, §47-11A-10, §47-11A-11, §47-11A-12, §47-11A-12a, §47-11A-13 and §47-11A-14 of the Code of West Virginia, 1931, as amended, relating to unfair trade practices and the Unfair Trade Practices Act.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 260**—A Bill to repeal §5A-6A-1, §5A-6A-2, §5A-6A-3, §5A-6A-4, §5A-6A-5, §5A-6A-6, §5A-6A-7, §5A-6A-8 and §5A-6A-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Permitting and Licensing Information Act.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 261**—A Bill to amend and reenact §5-1-25 of the Code of West Virginia, 1931, as amended, relating to the designation of daylight saving time.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 262**—A Bill to amend and reenact §25-1-17 and §25-1-18 of the Code of West Virginia, 1931, as amended, all relating to law enforcement not needing to obtain court orders prior to receiving recordings of inmate phone calls and inmate mail under certain circumstances.

Referred to the Committee on the Judiciary.

**By Senators Blair and Snyder:**

**Senate Bill 263**—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to the Municipal Home Rule Pilot Program; and allowing for members of the Municipal Home Rule Board be reimbursed for travel and other reasonable expenses.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 264**—A Bill to amend and reenact §4-10-3 of the Code of West Virginia, 1931, as amended, relating to the Performance Review Act; and modifying the definition of “division”.

Referred to the Committee on the Judiciary.

**By Senators Blair and Snyder:**

**Senate Bill 265**—A Bill to amend and reenact §10-1-22 of the Code of West Virginia, 1931, as amended, relating to confidentiality of certain library records; and clarifying that unpaid library volunteers may have necessary access to user records.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 266**—A Bill to amend and reenact §11-1C-3 of the Code of West Virginia, 1931, as amended, relating to Property Valuation Training and Procedures Commission; and limiting terms of appointed members.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 267**—A Bill to amend and reenact §6-6-7 of the Code of West Virginia, 1931, as amended, relating to modifying the procedure for removal of certain county, school district and municipal officers.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 268**—A Bill to repeal §5A-1-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §4-11-5 of said code; to amend and reenact §12-1-12a of said code; to amend and reenact §12-6-6 of said code; and to amend and reenact §12-6C-15 of said code, all relating to the Council of Finance and Administration; and abolishing the Council of Finance and Administration.

Referred to the Committee on Government Organization.

**By Senator Leonhardt:**

**Senate Joint Resolution 1**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to authorizing the Legislature to, by general law, allocate a portion of ad valorem property taxes paid by owners of certain new manufacturing facilities and large capital additions to existing manufacturing facilities located in counties in which county commissions elect to fund infrastructure capital improvements, in whole or in part, using property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Snyder and Unger:**

**Senate Joint Resolution 2**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to homestead exemption increase; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senator Kessler:**

**Senate Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section twelve, relating to the West Virginia Future Fund; prohibiting spending of principal; permitting spending of investment income in certain instances from the West Virginia Future Fund; defining “investment income”; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senator Boley:**

**Senate Joint Resolution 4**—Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article XII thereof, relating to reforming the West Virginia Board of Education so that its membership is made up of elected and appointed members; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senator Boley:**

**Senate Joint Resolution 5**—Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article XII thereof, relating to reforming the West Virginia Board of Education so that its membership is made up of three members elected from each congressional district; providing that members serve six-year terms; providing that the board be a nonpartisan body; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Trump, Plymale, Stollings and Williams:**

**Senate Joint Resolution 6**—Proposing an amendment to the Constitution of the State of West Virginia, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$2 billion to be used for improvement and construction of state roads and bridges; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Trump, Carmichael, Karnes, Leonhardt, Walters, Takubo and Unger:**

**Senate Joint Resolution 7**—Proposing an amendment to the Constitution of the State of West Virginia, amending article III thereof, by adding a new section, designated section twenty-three, relating to the right to hunt, fish and harvest wildlife; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

Senators Cole (Mr. President), Gaunch, Karnes, Trump and Leonhardt offered the following resolution:

**Senate Concurrent Resolution 1**—Urging Congress to propose the Regulation Freedom Amendment to the United States Constitution.

Whereas, The Legislature is deeply concerned about the economic impact of federal regulations imposed upon West Virginia and the other states without adequate legislative oversight; and

Whereas, The growth and abuse of federal regulatory authority threatens our constitutional liberties, including those guaranteed by the Bill of Rights of our Constitution; and

Whereas, The production of coal is critically important to West Virginia and the United States of America, to the economy of West Virginia and of the nation, and to the way of life of the citizens of West Virginia and to the survival of the inhabitants of West Virginia, of the United States of America and of the world; and

Whereas, The United States Environmental Protection Agency (EPA) has proposed and implemented a number of regulations in recent years that have crippled coal production in West Virginia and the United States; and

Whereas, The EPA has expanded dramatically its jurisdiction and authority, in ways that are neither necessary or advisable and in ways that were never contemplated by the Congress of the United States when it enacted the Clean Air Act; and

Whereas, This unwarranted expansion of federal jurisdiction and authority by the EPA is extremely detrimental to the continuation of normal mining activities in West Virginia and other states and, ultimately, the energy supply for the entire nation; and

Whereas, The growth and abuse of federal regulatory authority threatens our Constitutional liberties, including those guaranteed by the Bill of Rights in the first, second, fourth and fifth amendments of the United States Constitution; and

Whereas, Federal regulators, such as the EPA, must be more accountable to elected representatives of the people and not immune from such accountability; and

Whereas, The United States House of Representatives has passed with bipartisan support the Regulations from the Executive in Need of Scrutiny Act (REINS ACT) to require that Congress approve major new federal regulations before they can take effect; and

Whereas, Even if enacted, a law may be repealed or waived by a future Congress and President; and

Whereas, An amendment to the United States Constitution does not require the President's approval and cannot be waived by a future Congress and President; and

Whereas, The proposed Regulation Freedom Amendment to the U. S. Constitution would require Congress to approve major new federal regulations as follows: One quarter of the Members of the U. S. House or the U. S. Senate transmit to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House and Senate to adopt that regulation"; and

Whereas, Fifteen state legislative chambers have now adopted resolutions urging Congress to propose and adopt the Regulation Freedom Amendment; and

Whereas, The American Farm Bureau Federation and the Southern States Energy Board have also resolved to support the Regulation Freedom Amendment; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Congress to propose and adopt the Regulation Freedom Amendment; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the representatives and senators elected by the citizens of West Virginia serving the citizens of West Virginia in the Congress of the United States in Washington, D. C.

Which, under the rules, lies over one day.

Senators Beach, Prezioso, Williams, Sypolt, Stollings, Plymale, Laird, Leonhardt and Unger offered the following resolution:

**Senate Resolution 3**—Recognizing the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia.

Whereas, Monongalia County was founded in 1776 after being settled by a small group of people along the banks of Decker’s Creek and has a present-day population of approximately 100,000 people and continues to grow; and

Whereas, Monongalia County is home to West Virginia University, a public land-grant institution founded in 1867, and recognized as a top research university by the Carnegie Foundation for the Advancement of Teaching. WVU welcomes and shapes the minds of students from across the State of West Virginia, every state in the United States and approximately one hundred other nations; and

Whereas, Monongalia County offers its citizens and visitors from around the world many scenic and outdoor opportunities, such as the beautiful view from Cooper’s Rock to a bicycle ride on the Caperton Trail; the best in medical care and hospitality; and is the proud home of the NYPL Champion “West Virginia Black Bears” baseball team; and

Whereas, Monongalia County offers recognized top rated educational experiences at all levels, from preschool to graduate programs and senior education opportunities; a competitive and innovative business community; a diversified economy that embraces health care, education, technology, energy development and small business entrepreneurship; a nationally acclaimed economic model; and is known as a place that offers big city amenities with the neighborly feel of small town life; and

Whereas, Monongalia County has been recognized in recent years in the following ways: “Best Performing Small Metros” (Milken Institute); “Best Small Metros for Business and Careers” (Forbes); “Best Quality of Life and Knowledge Worker Metros” (Expansion Manage.); “Boom Towns” (Inc.); “10 Great Places to Live” (Kiplinger’s); “Boom Town” (Inc.); “Top 100 Leading Business Locations” (Area Development Magazine); “Best



College Destination” (Best College Reviews); “Top College Destination” (American Institute for Economic Research); “Best Places to Retire for under \$100 a Day” (AARP); “Most Secure Small Cities” (Farmer’s Insurance); “Adventure Town” (National Geographic Adventure Magazine); “Best Small Towns to Live” (Men’s Journal); and “Best Sports Cities” (Sporting News); and

Whereas, Monongalia County offers everything from sports to art galleries; energy to health care; corporate leaders to caring nonprofits; and tourism to education. From the scenic mountain home of West Virginia University, and everywhere in between, every day is a great day to be a Mountaineer; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives from Monongalia County.

At the request of Senator Beach, 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 Beach, and by unanimous consent, the remarks by Senator Prezioso regarding the adoption of Senate Resolution 3 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Blair, Trump, Sypolt, Williams, Stollings, Laird and Unger offered the following resolution:

**Senate Resolution 4**—Acknowledging Mineral County’s 150th anniversary on February 1, 2016, as a day to celebrate the county’s rich history and the many fine accomplishments by its citizens.

Whereas, Mineral County was created on February 1, 1866, by an Act of the West Virginia Legislature; and

Whereas, From its verdant low valleys to the towering backbone of the Allegheny Front, three thousand feet above the North Branch of the Potomac River, Mineral County lies a stone’s throw from Maryland and just a three-hour drive from Washington; and

Whereas, Home of Potomac State College and named for its vast mineral resources, Mineral County was a railroad and coal center at the beginning of the 1900s. The county has an area of three hundred twenty-nine square miles and an estimated 2012 population of 27,956. Keyser is the county seat; and

Whereas, Located in the Eastern Panhandle, Mineral County was part of Hampshire before the Civil War. Local residents were more pro-union than those living in the eastern part of Hampshire County. Following the war, in 1866, the new county was created. West Virginia had become a state just three years earlier; and

Whereas, There were skirmishes during the Civil War, and towns changed hands several times, usually only briefly. New Creek Station, now Keyser, was a training camp for Union soldiers from Pennsylvania, Ohio, Indiana and Illinois. Mineral County’s Y-junction, where the Northwest Turnpike intersected the New Creek road — now U. S. 50 and U. S. 220 — was strategic for troop and supply movements into the Shenandoah Valley; and

Whereas, The present Eastern Panhandle of West Virginia was well-known to George Washington. He had crisscrossed the region as a young surveyor and commanded frontier defense during the French and Indian War. In 1755, he ordered a stockade and fort erected in present Mineral County as a defense against incursions

by Delaware and Catawba Indians. The original log blockhouse still stands at Fort Ashby; and

Whereas, Many immigrants in the 19th century worked their way across the coalfields of Pennsylvania, down through Maryland, and settled in Mineral County. The area's population reflects a diverse mixture of Mennonites, German Swiss, English, Scots, Italians and Jews. Even Chinese immigrants found their way to Keyser in the early 1900s. Elk Garden became home for many Irish, including Flanigans and Faheys, McIntires and McDonoughs, Kilroys and Keegans, Conlons, Kenneys and Joyces; and

Whereas, Perhaps the most prominent historic figure was the industrialist Henry Gassaway Davis, who began as a brakeman for the Baltimore & Ohio Railroad at age twenty and later associated with U. S. presidents. He lived in Piedmont early in his life, as a storekeeper and railroad agent. Davis later was elected to the U. S. Senate and ran for vice president in 1904, when he and Democratic presidential candidate Alston Parker lost to Teddy Roosevelt. Davis founded Elkins and owned his own railroad; and

Whereas, Davis's purchase of the famous "Big Vein" of coal atop the Allegheny Front at Elk Garden led to a local industrial boom from the 1880s into the early twentieth century. From 1881 to 1923, three hundred fifteen acres of coal was mined and two thousand miners worked at Elk Garden. High-quality semi-bituminous coal from Davis's Big Vein was displayed at the St. Louis World's Fair in 1893 and powered Admiral Dewey's fleet at the Battle of Manila Bay; and

Whereas, The arrival of the B&O Railroad, which reached the northern part of present Mineral County in 1842 and arrived at a point across the North Branch from Piedmont a decade later, had a major impact. The railroad increased the population in northern Hampshire County, and contributed to the political differences within the county that led to the creation of Mineral County on February 1, 1866. Keyser, named for a vice president of the B&O, was a key railroad point from which coal and produce were shipped. Keyser was selected as the county seat as a compromise

between Elk Garden and Piedmont. Keyser earlier had been known as Paddytown, named for Patrick McCarty of County Tyrone, Ireland, who had settled there in the mid-1700s; and

Whereas, Keyser today is the region's hub. Once home to a B&O roundhouse, its citizens now work in education, agriculture, retail, vocational training, the arts, health care, and at small industrial parks. Major employers include Verso in both Mineral County and in nearby Luke, Maryland, and Allegheny Ballistics Laboratory at Rocket Center. The opening of Jennings Randolph Lake on the North Branch holds potential for attracting tourists from nearby Baltimore and Washington; and

Whereas, Potomac State College, beautifully situated atop a small hill that once had Fort Fuller, a branch of West Virginia University. Most of the approximately eighteen hundred students complete their last two years at WVU in Morgantown; and

Whereas, Several other Mineral County towns have rich histories. Piedmont, closely associated with the nearby Maryland communities of Westernport and Luke, is the hometown of Henry Louis Gates, Jr., of Harvard University, a prominent African-American scholar, frequent commentator, author of many books and host of a PBS television show. Piedmont once had a roundhouse and machine shops of the B&O, and its people are closely tied to MeadWestvaco at Luke; and

Whereas, Ridgeley was Fort Ohio, and Fort Ashby, a frontier post, and Doll's Gap is said to be the birthplace of Nancy Hanks, mother of Abraham Lincoln; therefore, be it

*Resolved by the Senate:*

That the Senate hereby acknowledges February 1, 2016, as a day to celebrate Mineral County's 150th anniversary and the many fine accomplishments by its citizens; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives from Mineral County.

At the request of Senator Blair, 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 Beach, and by unanimous consent, the remarks by Senator Williams regarding the adoption of Senate Resolution 4 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened 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 1**—Extending an invitation to His Excellency, the Governor, to deliver an address to the Legislature and raising a Joint Assembly therefor.

Whereas, His Excellency, the Governor, has advised that he will be pleased to address a Joint Assembly of the Senate and House of Delegates at the convenience of the two houses; therefore, be it

*Resolved by the Legislature of West Virginia:*

That His Excellency, the Governor, be hereby invited to address a Joint Assembly of the Legislature at 7:00 o'clock postmeridian this day; and, be it

*Further Resolved*, That the President of the Senate and the Speaker of the House of Delegates appoint three members of each of the respective houses of the Legislature as a committee to wait upon His Excellency, the Governor, and escort him into the Hall of the House of Delegates at the time herein appointed for hearing the address.

The message further announced the appointment of the following committee on the part of the House of Delegates:

Delegates Ireland, Kessinger and Perdue.

At the request of Senator Carmichael, 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.

Whereupon, the President appointed as Senate members of such committee, authorized by the foregoing resolution, the following:

Senators Carmichael, Boley and Kessler.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate recessed until 6:50 p.m. today.

Upon expiration of the recess, the Senate reconvened.

The hour of 7 p.m. having arrived, that being the time set for the joint assembly to hear the address of His Excellency, the Governor, the Senate recessed until five minutes after adjournment of the joint assembly. Members of the Senate then repaired in a body to the hall of the House of Delegates.

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The address of His Excellency, the Governor, the Honorable Earl Ray Tomblin, delivered in the joint assembly, was as follows as provided electronically by the Governor's office:

**GOVERNOR'S OPENING MESSAGE TO THE  
SECOND ANNUAL SIXTY-DAY  
SESSION OF THE EIGHTY-SECOND LEGISLATURE,  
2016**

Mr. Speaker, Mr. President, members of the Board of Public Works, justices of the Supreme Court of Appeals, members of the Legislature, distinguished guests, and my fellow West Virginians.

Five years ago, when I first addressed this chamber as governor, I called on our state's Legislature to get to work and put West Virginia first.

Although many things have changed, including the makeup of this Legislature, our commitment to the people who call our beautiful state home has remained steadfast. Since 2011, we have created a number of new opportunities for future generations, and we have faced our fair share of challenging times.

Tonight, our state is at a crossroads, and I stand before you with a plan that preserves the best of our past while charting a bold new plan for our future.

**ECONOMIC DEVELOPMENT**

Since 2011, we have welcomed more than 250 companies and \$10 billion in major investments, providing hardworking West Virginians with more 11,000 good-paying jobs.

We've worked hard to create a business climate that makes West Virginia a strong competitor for major economic development projects. And we're not just competing, we're seeing huge success. Nationally and internationally recognized companies like Macy's, Amazon, Quad Graphics and Toyota already know that West Virginia is a great place to do business.

And tonight, I'm proud to announce polymer additive company Addivant has reaffirmed its commitment to our state and plans to expand.

After receiving FDA approval for a groundbreaking polymer to be used in food packaging, the company was on the hunt for a new location to expand its production facility. Major players from the Gulf Coast actively pursued Addivant, but our state's Development Office stepped up and showed company executives that West Virginia is the right place to invest.

This new expansion project not only saves nearly 100 jobs, but it brings at least \$12 million in new investments and additional opportunities for employment. Plastics manufacturing is just one of the downstream industries we are working to attract, and this expansion project is just the beginning of that growth.

Addivant chose to stay in West Virginia because of our strong business climate and a highly trained experienced workforce that's ready to get to work.

These types of investments don't happen overnight. They're a result of the hard work and positive changes we've made over the years.

We overhauled workers' compensation, and companies operating here have saved more than \$323 million since the program was privatized in 2006. We've reformed medical malpractice and improved our legal climate. We've enacted gradual reductions in our business and consumer taxes, and since I took office, we've saved employers and West Virginians more than \$225 million.

We rank higher than each of our neighboring states in this year's Business Tax Climate Index. Companies are noticing these changes, and they are paying off in big ways in regions across the state.

### **PROCTER & GAMBLE**

This September, we joined officials from Procter & Gamble to celebrate the groundbreaking of the company's newest manufacturing plant – the first of its kind built in the United States since the 1970s.



Projects of this size and scope strengthen our economy, create new jobs and serve as an investment in both our state and our people. This factory – located in the Eastern Panhandle – will create 1,000 jobs during the initial construction phase. Once fully operational, it is projected to employ the company’s fifth largest workforce in the country.

We’ve worked hard to bring these jobs to West Virginia for West Virginians, and now, they need filled.

That’s why more than a year before production begins, P&G has partnered with BlueRidge Community and Technical College to create specialized training programs to meet workforce needs. These certificate and degree programs are preparing students for careers in engineering, computer science, and electronics and training students to become skilled chemical operator technicians.

BlueRidge President Dr. Peter Checkovich and his team are working hard to make sure our students can compete for these good-paying jobs. P&G construction manager Luis Gutierrez is already working with crews on the ground as part of the company’s initial construction efforts. He and his family love calling West Virginia home.

Please join me in thanking Dr. Checkovich for his continued efforts and welcoming Luis and his family to West Virginia.

## **WORKFORCE TRAINING**

In 2012, we launched a new workforce training program called Learn and Earn.

This program helps students receive classroom instruction and hands-on experience, while earning a competitive salary, and gives employers a cost-effective way to recruit and train new employees.

We know this program is incredibly successful, and companies like Gestamp – which manufactures auto parts for some of the world’s best known brands – are taking advantage of these training opportunities.

Since Gestamp first opened in 2013, the South Charleston plant has tripled production and more than doubled its total workforce. Today, Gestamp employs more than 700 West Virginians. These are real jobs, and the company is already seeing a real return-on-investment.

Through a partnership with BridgeValley Community and Technical College, students can get hands-on training and earn a one-year certificate, an associate's degree and a journeyman's card.

With us tonight are Paul Lezanic, Gestamp's new plant manager, and Jamie Thompson, a Learn & Earn graduate who is already training 12 new students. Please join me in welcoming Paul to West Virginia and congratulating Jamie on his success.

These partnerships are essential to helping those investing here train the workforce they need to grow. Tonight, I'm introducing legislation to expand the Learn and Earn program statewide by redirecting nearly \$300,000 of the current budget to create new, valuable learning experiences for our students.

We know we must do more to improve our state's workforce participation rate. I'm proud that today there are more job training programs in place than ever before.

With the help of more than \$40 million in federal grant funding, Workforce West Virginia is helping coal miners, their families and those who have exhausted their unemployment benefits find careers in growing industries. These programs help employers train workers their way at their worksites and provide up to \$5,000 in tuition assistance for classroom instruction and on-the-job training.

### **NDRC/HOBET**

As we recognize these efforts to train our workforce, I ask you to remember those who call our state's southern coalfields home.

As a son of these coalfields, I have dedicated my life and my years of public service to supporting our miners and their families. Despite the difficult times we find ourselves in, West Virginia remains the fourth largest producer of electricity in the country, and

I believe our coal industry will continue to support our families well into the future.

However, we cannot ignore the unprecedented shift that has taken place in our state and our nation. Forces beyond our control have severely damaged our coal industry, and even the most optimistic among us realize it is unlikely coal will ever reach production levels of the past.

For generations, our miners unearthed the coal used to produce the low-cost energy that fueled this country's Industrial Revolution – one that remains unmatched anywhere in the world. This nation owes these West Virginians a debt of gratitude and we are ready to cash in on that substantial IOU.

This fall, we submitted an application to the National Disaster Resilience Competition seeking more than \$140 million in funding from the United States Department of Housing and Urban Development. This competition has the potential to help six counties in our southern coalfields adjust, adapt and advance their communities.

If we're successful, these federal funds will help us rebuild aging infrastructure, promote land use planning and hazard reduction efforts and stimulate housing and economic development in areas outside of the region's floodplains.

We are also proposing to develop the largest industrial site in West Virginia history at the former Hobet surface mine in Boone and Lincoln counties. With 12,000 acres located just off Corridor G, this site is large enough to fit virtually every major economic development project in recent history – including Toyota, Procter & Gamble, Gestamp, Macy's, Amazon and more – with thousands of acres left over.

We know this is a major undertaking, and with the help of local landowners Marshall University, West Virginia University and the Virginia Conservation Legacy Fund, we are working together to find new uses for this site while mining activity continues.

Please join me in welcoming this outstanding team: interim Marshall University President Gary White, new Marshall University president Jerry Gilbert, WVU President E. Gordon Gee, and Tom Clarke and Ken McCoy of the Virginia Conservation Legacy Fund.

Tom and his team at VCLF also are helping us develop new and innovative ideas to include in the state's Clean Power Plan submission. While the DEP continues to work on a feasibility study, we anticipate our final plan may include ideas such as reforestation and the replacement of boilers to increase power plant efficiency.

Tom, thank you for your assistance on both of these important projects.

This is just the beginning of what we can do to help diversify the economy of not only this region, but our entire state.

When pursuing large-scale projects, our talented team at the Development Office consistently runs into one major obstacle – a lack of flat land. Redeveloped surface mine lands offer endless opportunities for residential, commercial and industrial development and in many cases all three.

As part of our federal grant application, we have identified at least five sites in each of Boone, Lincoln, Logan, Mingo, McDowell and Wyoming counties, which are all strong candidates for similar redevelopment efforts.

Much like the country owes West Virginia for our contributions over the years, we – as West Virginians – owe the people who call this region home the opportunity to do better for themselves and their families.

For years, taxes on the coal mined from our southern coalfields and the timber taken from our mountain sides have paid for our children's schools, the roads our residents drive on and the services on which so many West Virginians rely.

It's time we reinvest in these communities and give these families every opportunity to make a good living in the places they have called home for generations. Tonight, I hope you will join me in making that commitment for the betterment of our state and our people.

### **NATURAL GAS DEVELOPMENTS**

As hardworking West Virginians continue to mine the coal that powers our nation and drill for the natural gas that offers new opportunities for growth, we must guarantee these natural resources meet our needs here at home.

As the ninth largest producer of natural gas in the country, we must work with those operating here to create the processing and pipeline infrastructure necessary to ensure this industry's continued growth.

The ongoing development of the Marcellus and Utica shale – and the Rogersville formation just being explored – is already bringing new revenues and new jobs for West Virginians.

That's one reason I sent a letter to the Federal Energy Regulatory Commission in support of the Columbia Gas Mountaineer Xpress pipeline project. This \$2 billion investment will transport a significant amount of natural gas to new markets.

Much like similar pipeline projects by EQT, Dominion and Momentum Mid-Stream, this investment has the potential to create thousands of good paying construction jobs, while generating significant tax revenues for counties to fund local schools, roads and other worthy endeavors.

### **SELF-EMPLOYMENT ASSISTANCE ACT**

While these announcements grab headlines, we can't forget our state's small business owners who work day in and day out to support that same growth in our local communities. Ninety-six percent of West Virginia's employers are small business owners, and they are the backbone of our economy.

While we work to help tens of thousands of West Virginians on unemployment find new opportunities to succeed, we can't overlook the training and skills they already have.

That's why tonight I'm introducing the Self-Employment Assistance Act, a new program to strengthen our local economies, and make it easier for West Virginians receiving unemployment benefits to get the help they need to open a business.

Starting a new business can be hard. No matter how great the idea may be or how hard the owner works to make it a success.

With this exemption, new business owners will be able to reinvest in their company and their employees, while continuing to receive unemployment benefits to support their families.

For 14 years, Matt Dolin worked as a diesel mechanic at a local coal mine just outside of Charleston. When the mine closed, he lost his job. Matt knew he could earn a good income using the skills he already had, but he needed help starting his own business.

Earlier this year, Matt attended a West Virginia Small Business Development Center workshop in Putnam County. He sat down with business coach Bryan Shaw to develop a business plan and find a good location for his new venture.

A few months ago, Matt opened D&D Truck Shop, a full-service diesel truck and heavy equipment repair shop. Not long after he opened, Matt hired his first two employees – two mechanics who worked alongside him at the coal mine. With the help of the Governor's Guaranteed Workforce Program, Matt is in the process of getting additional support to train new employees.

Although D&D Truck Shop has only been open for a few months, Matt is seeing tremendous growth, and he's already looking to expand.

Matt, Casey and Ronnie, please stand so we may recognize you and congratulate you on the success of your new business.

## **SUBSTANCE ABUSE**

Helping our residents develop the skills to find a new career is important, but keeping them off drugs is critical to our state's continued growth. Substance abuse has become one of the greatest struggles our state has ever faced, and it is destroying the lives of far too many of our family members, friends and neighbors.

We must continue to make the fight against substance abuse a top priority.

In 2011, I established my Advisory Council on Substance Abuse to help us find more localized ways to combat this epidemic. Since then, we have updated our prescription drug monitoring program, cracked down on the sale of drugs used to make meth and put an end to doctor shopping. We have shut down pill mills for irresponsible prescription practices, and my administration is committed to continuing the fight against drug companies that oversupply pain medication without proper orders.

Last year, we invested significant state funding to expand critical substance abuse treatment and recovery services.

In your seats tonight, you received a brochure that details 150 service providers in every region of the state. This brochure is available online and at local courthouses, hospitals, schools, churches, DHHR offices and libraries in all 55 counties.

This September, we launched 844-HELP-4-W-V, the state's first 24-hour substance abuse help line. This call line gives people the opportunity to speak with certified professionals and receive referral support in their local communities. So far, the call line has connected more than 700 West Virginians with treatment and recovery services across the state.

In October, I welcomed President Obama and DHHS Secretary Sylvia Mathews Burwell for an honest discussion about the devastating toll this epidemic is causing West Virginia families and communities.

A few weeks later, I traveled to Martinsburg – what some consider ground zero of our state’s heroin epidemic – to host my own Substance Abuse Summit. We brought together a panel of West Virginians to share their experiences in the fight against substance abuse, recognize the progress we’ve made and identify ways we can work together to create a brighter, drug-free future for our residents.

We want people to find help and hope in West Virginia. And that starts with making sure treatment facilities are providing comprehensive care.

Tonight, I’m introducing legislation to establish licensing requirements for medication-assisted treatment facilities. Research shows us that the use of Suboxone and Methadone alone does not support long-term recovery. These medications don’t treat the root cause of an addiction, and only continue the addiction cycle.

This legislation requires counseling and behavioral therapies be used in conjunction with these medications to make sure those seeking treatment have the support they need to begin the recovery process.

Last year, I urged this Legislature to expand access to Narcan to help our state’s first responders, friends and families of those struggling with addiction reverse the effects of a heroin overdose. Since May, we’ve coordinated training sessions in regions across the state to teach first responders and others how to administer this drug safely. Today, more than 100 people are certified to host these sessions in their local communities.

In 2015, first responders administered more than 3,000 doses of Narcan – giving those struggling with an opioid addiction the opportunity to get help.

When an overdose happens, every second counts. And in many cases, fire and EMS crews aren’t always first on the scene.

This November, Patrolman Nick Castleman and Patrolman Seth Johnson found themselves first on the scene of a drug overdose on Charleston’s West Side. The officers administered two



life-saving doses of Narcan, and within minutes, the young man regained consciousness and was transported to the emergency room for treatment.

Patrolman Castleman and Patrolman Johnson are with us tonight. Gentlemen, please stand so we may thank you for the work you do to keep our communities safe.

This man's life was saved because of quick action by these officers, and our efforts to expand access to this life-saving drug.

Tonight, I once again urge this Legislature to expand access to Narcan by supporting my proposal to make it available to any West Virginian – without a prescription.

This new legislation requires pharmacists to become certified to train those who receive this drug to make sure they can safely administer it if a crisis occurs. It will also help us keep track of who is receiving Narcan to better focus state resources in areas hardest hit by opioid overdoses and be sure it isn't being used as a crutch to enable a heroin addiction.

## **JUVENILE JUSTICE**

We know our state's substance abuse epidemic is heartbreaking for so many of our families and communities, but in many cases, our children suffer most.

That's why last year, following recommendations from my Commission on Juvenile Justice and with the help of this Legislature, we launched comprehensive juvenile justice reform. This legislative package provided \$600,000 in new funding to establish truancy diversion programs in each county to offer early intervention to those students who need it.

Since launching its own program in 2010, Putnam County has seen significant improvements in overall student attendance and achievement. Truancy referrals have dropped in half and four-year graduation rates have increased from 78 percent to 90 percent during that same period.

We know this program works, and it's making a difference for students like Winter Davis.

For most of her life, Winter didn't have a stable place to call home. From the time she was born, her parents struggled with substance abuse. She spent much of her youth living with a family of no relation, helping to care for their young children and elderly family members.

Between 2011 and 2012, Winter missed 39 days of school. She got behind in her classwork and was struggling to keep up with her classmates. With the help of Putnam County's truancy diversion program, attendance director Jennifer Hodges and Judge Phillip Stowers, Winter got the extra attention she needed and earned her high school diploma, graduating with a 3.7 GPA and zero unexcused absences.

Today, Winter is a certified EMT and plans to become a teacher for children with special needs a dream that she's had since the sixth grade.

Winter shared part of her story with me and said, "Life was not easy for me, but I am making the best choices I can. I'm the only one in my family that has gone to college and I'm going to finish college no matter what it takes."

Ladies and gentlemen, please join me in welcoming Winter Davis, Jennifer Hodges and Judge Stowers.

These reforms have also expanded youth reporting centers to get kids help in their local communities, instead of sending them to group facilities away from their families. By connecting children and families with substance abuse recovery services, mental health programs and functional family therapies, we are giving the whole family the opportunity to thrive.

Thanks to the changes approved by this Legislature, and the work of our local partners across the state, we've reduced the number of kids being sent to out-of-home placements by more than one-third and reduced the number of detention beds by more than 40 percent. So far, we've saved \$6 million and the **Division of**

**Juvenile Services** is confident we can double that savings in the coming years.

By providing our kids with the help they need at home, we're giving them the opportunity to take advantage of the bright future we are creating here in West Virginia.

## **EDUCATION**

In 2010, we started down a path to improve our state's public education system.

Instead of allowing paperwork to drive education, we refocused our efforts to provide our children with the skills they need to compete in today's global economy. Since then, we've expanded early childhood education to help our youngest students build a foundation for a lifetime of learning. We're engaging middle school and high school students with hands-on training programs.

We're breaking down bureaucratic silos between state agencies, providing a more seamless transition for students transferring between community and technical colleges and four-year institutions.

These reforms – and the standards that come with them – are giving our kids the knowledge and skills they need to succeed, and that starts by making sure our students are in the classroom for 180 days of instructional time.

Over the past year, the delivery of public education in West Virginia has been used as a political football by members of both parties. It's disappointing. It's unacceptable. And it's a disservice to our kids.

At a time when comprehensive reform has led to real improvements, and our students are more competitive with their peers in other states, we need to build on these successes – not introduce legislation that prioritizes summer vacations over a good education. We cannot allow politics or red tape to get in the way of providing our kids with a thorough and efficient education.

While there are a number of reasons why traditional charter schools are not the best option for our students, we can find common ground by rewarding schools for innovation and creativity while raising student achievement.

That's why I'm introducing legislation to restructure the current innovation zone system to establish a new program – called Innovation in Education.

This legislation reallocates nearly \$2.5 million in existing education funding to help schools develop new methods to increase our students' interest in science, technology, engineering, math and entrepreneurship. By giving schools the flexibility to focus on these subjects, we can teach our students how to think critically – a skill they need to be successful long after they've graduated high school.

### **BUDGET AND FINANCES**

All of us in this chamber tonight and those watching and listening across the state know we are experiencing budget challenges unseen in more than a generation.

Nearly every agency and every branch of state government has shared in the burden of these reductions.

In spite of those challenges, we are paying not only our current bills, but keeping every financial commitment of the past, paying down our debts in workers' compensation, teachers' retirement and public employees' retirement. And we've done that without a single tax increase, while reducing tax burdens on West Virginia families and those doing business here by hundreds of millions of dollars.

Tonight, I am introducing legislation to pay off our old workers' compensation debt more than a **decade** ahead of schedule.

By accelerating this final payment, we can remove additional severance taxes on our coal and natural gas industries, providing much-needed relief to help them invest in our state and employ West Virginia workers. While historically low energy prices are

good news when we fill up at the pump and pay our utility bills, they make it hard on our state budget.

As we work to find new ways to ensure our tax base is both stable and more diverse, we must also seriously consider new revenue opportunities.

Tonight, I am introducing legislation to increase our state's tobacco tax by 45 cents a pack to a total of one dollar. This increase will be considered too high by some people and too low by others. But it strikes a balance that protects retailers in our border counties and discourages our young people from smoking, while generating nearly \$71.5 million annually in new revenue.

Combined with savings from a new prescription drug contract, \$43 million of this new revenue will fund PEIA, meaning public employees will NOT SEE the dramatic benefit reductions initially proposed for the coming year.

I also am proposing legislation to eliminate a sales tax exemption and bring our state's telecommunications tax in line with 41 other states across the country. Once adopted, this legislation will place the same 6 percent sales tax on cell phone and phone line usage – putting us in step with what is done in the vast majority of other states. By eliminating this exemption, we can collect an extra \$60 million each year.

With these proposed changes – and despite low severance tax projections – the 2017 budget I present to you tonight uses no money, no money from our Rainy Day Fund and does not include any across-the-board budget cuts beyond those already in place.

In spite of the tight budget years of the past, our new six-year budget forecast shows surpluses of nearly \$7 million in 2019, \$89 million in 2020 and \$118 million in 2021. While I won't be in office to see these surpluses, I'm proud to have been part of more than 30 years of responsible fiscal policies that have put us on the path to a brighter financial future.

## CLOSING

As we look ahead at the challenges we must overcome this year, we are reminded that West Virginians have never had it easy. But we have proved time and again, for generations, what has been true all along – the people who call our state home are among the best and brightest in the world.

Clara Grant Santucci grew up in what was once a one room school house with her five brothers and sisters. This Doddridge County native spent her childhood like so many of West Virginia's children – playing outside, caring for the family garden and racing her brothers and sisters on her family's gravel road. By high school, she was breaking records and winning state track titles.

Clara was determined to run cross country for Coach Sean Cleary at WVU, and her hard work paid off. As a Mountaineer, she became an All-American.

In 2011, she ran the Boston Marathon. Clara finished 16th overall and was the 3rd American finisher. And three years later, she made her mark on the national stage – winning the Pittsburgh Marathon with a time of 2 hours, 32 minutes and 25 seconds.

Last summer, Clara returned to the Pittsburgh Marathon. For most of the race, she sat in second place, but after catching sight of the leader, she found the mental toughness to not only win for the second year in a row but to finish 40 seconds ahead of her competition.

This February, Clara will travel to the U.S. Olympic Trials in Los Angeles for a chance to compete for Team U.S.A. in the 2016 Summer Olympics in Brazil.

Katherine Johnson, who was born in White Sulphur Springs in 1918, would become what NASA Administrator Charles Bolden called “one of the greatest minds ever to grace our agency or our country.”

For 33 years, she worked for the National Advisory Committee for Aeronautics, what is now known as NASA. She used the most

advanced practical mathematics of her day to chart and verify the path John Glenn would travel as he orbited the earth.

In 1958, Katherine's research focused on calculating margins of error for spacecraft take-offs and landings. The 34-page document was the first paper ever published by NASA's Flight Research Division with a woman's name on it.

Throughout her career, Katherine published 26 scientific papers. Her research was used to complete the Mercury and Apollo missions and was critical to sending man into space and bringing him home safely.

For decades, Katherine's story was hidden in the pages of history. This November she was awarded the Presidential Medal of Freedom, our country's highest civilian honor for her incredible contributions.

In an interview with the Charleston Gazette-Mail, Katherine's daughter Joylette Hylick – a former NASA scientist herself – said it was her mother's quiet confidence that drove her to succeed.

Joylette told the Gazette-Mail, "my granddaddy told my mom she was no better than anybody else, and she was no LESS than anybody else. And she believed it."

Please join me as we celebrate the courage of these incredible West Virginians and wish Clara the best of luck in next month's Olympic trials.

Whether a marathon runner, an unemployed miner, a NASA scientist, a single mother going back to school, a budding entrepreneur, the CEO of an international company or a recent graduate overcoming challenges to help her local community, West Virginians have always been willing to work twice as hard and be twice as tough to get the job done.

Over the next 60 days and throughout the coming year, we know there is work to do and difficult choices to make. Tonight, I challenge each of you to find the courage to make these decisions for the sake of the next generation – not the next election.

It's time to get to work.

Thank you. God bless you, and God bless the great state of West Virginia.

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(NOTE: For formal procedure in the joint assembly, see the Journal of the House of Delegates for this day.)

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### **Night Session**

The joint assembly having been dissolved, the Senate returned to its chamber and resumed its regular session.

### **Executive Communications**

Senator Cole (Mr. President) presented the following communication from His Excellency, the Governor, submitting the executive budget and annual budget bill, which was received and read by the Clerk:

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

January 13, 2016

Senate Executive Message No. 1  
The Honorable William P. Cole III  
West Virginia Senate  
State Capitol  
Charleston, West Virginia 25305

Dear President Cole:

I herewith submit, pursuant to the Constitution of the State of West Virginia, a budget and budget bill for the fiscal year beginning July 1, 2016.



Sincerely,

Earl Ray Tomblin  
Governor

Subsequently, Senator Cole (Mr. President) laid before the Senate the aforementioned annual budget bill,

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 269**—A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.

Which was read by its title and referred to the Committee on Finance.

Senator Cole (Mr. President) announced appointment of the standing committees of the Senate for this second session of the eighty-second Legislature, and at the request of Senator Carmichael, and by unanimous consent, the complete list was ordered printed in the Journal as follows:

## **STANDING COMMITTEES OF THE SENATE**

**2016**

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### **AGRICULTURE AND RURAL DEVELOPMENT**

Senators Karnes (*Chair*), Trump (*Vice Chair*), Blair, Boley, Maynard, Sypolt, Beach, Laird, Miller, Williams and Woelfel.

### **BANKING AND INSURANCE**

Senators Gaunch (*Chair*), Ashley (*Vice Chair*), Carmichael, Ferns, Hall, Mullins, Trump, Facemire, Palumbo, Prezioso, Romano, Snyder and Woelfel.

## **CONFIRMATIONS**

Senators Boley (*Chair*), Ashley, Boso, Mullins, Takubo, Kessler, Miller, Palumbo and Plymale.

## **ECONOMIC DEVELOPMENT**

Senators Takubo (*Chair*), Ferns (*Vice Chair*), Ashley, Blair, Leonhardt, Maynard, Mullins, Walters, Kessler, Plymale, Romano, Stollings, Woelfel and Yost.

## **EDUCATION**

Senators Sypolt (*Chair*), Boley (*Vice Chair*), Ashley, Carmichael, Hall, Karnes, Takubo, Trump, Beach, Laird, Plymale, Romano, Stollings and Unger.

## **ENERGY, INDUSTRY AND MINING**

Senators Boso (*Chair*), Blair (*Vice Chair*), Boley, Gaunch, Maynard, Mullins, Sypolt, Facemire, Kirkendoll, Snyder, Williams, Woelfel and Yost.

## **FINANCE**

Senators Hall (*Chair*), Walters (*Vice Chair*), Blair, Boley, Boso, Carmichael, Mullins, Sypolt, Takubo, Facemire, Kessler, Laird, Plymale, Prezioso, Stollings, Unger and Yost.

## **GOVERNMENT ORGANIZATION**

Senators Blair (*Chair*), Walters (*Vice Chair*), Boso, Ferns, Gaunch, Leonhardt, Maynard, Mullins, Facemire, Miller, Palumbo, Snyder, Williams and Yost.

## **HEALTH AND HUMAN RESOURCES**

Senators Ferns (*Chair*), Takubo (*Vice Chair*), Ashley, Karnes, Leonhardt, Trump, Walters, Laird, Palumbo, Plymale, Prezioso, Stollings and Unger.

## INTERSTATE COOPERATION

Senators Gaunch (*Chair*), Karnes (*Vice Chair*), Boso, Maynard, Kirkendoll, Palumbo and Unger.

## JUDICIARY

Senators Trump (*Chair*), Ferns (*Vice Chair*), Ashley, Boso, Carmichael, Gaunch, Karnes, Leonhardt, Maynard, Beach, Kirkendoll, Miller, Palumbo, Romano, Snyder, Williams and Woelfel.

## LABOR

Senators Ferns (*Chair*), Trump (*Vice Chair*), Blair, Gaunch, Karnes, Maynard, Laird, Prezioso, Stollings, Williams and Yost.

## MILITARY

Senators Leonhardt (*Chair*), Boley (*Vice Chair*), Ashley, Sypolt, Walters, Facemire, Laird, Romano and Yost.

## NATURAL RESOURCES

Senators Karnes (*Chair*), Maynard (*Vice Chair*), Ashley, Boso, Hall, Leonhardt, Takubo, Beach, Facemire, Laird, Miller, Snyder and Williams.

## PENSIONS

Senators Gaunch (*Chair*), Trump (*Vice Chair*), Hall, Mullins, Kirkendoll, Plymale and Unger.

## RULES

Senators Cole (*Chair*), Blair, Carmichael, Hall, Sypolt, Trump, Kessler, Plymale, Prezioso, Stollings and Williams.

## TRANSPORTATION AND INFRASTRUCTURE

Senators Walters (*Chair*), Leonhardt (*Vice Chair*), Boley, Gaunch, Mullins, Beach, Kirkendoll, Plymale and Woelfel.

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**JOINT COMMITTEES**

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**ENROLLED BILLS**

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Senators Maynard (*Chair*), Gaunch (*Vice Chair*), Boso, Miller and Unger.

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The President then announced the appointment of Senator Blair, of the County of Berkeley, as the majority whip of the Senate.

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Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, January 14, 2016, at 11 a.m.

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**THURSDAY, JANUARY 14, 2016**

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Chad Cowan, Pastor of Care Ministries, Bible Center Church, Charleston, West Virginia.

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

Pending the reading of the Journal of Wednesday, January 13, 2016,

At the request of Senator Miller, 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 sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senator Gauch:**

**Senate Bill 270**—A Bill to repeal §19-25-7 of the Code of West Virginia, 1931, as amended, relating to insurance policies.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Ferns and Gauch:**

**Senate Bill 271**—A Bill to amend and reenact §30-9-2, §30-9-3 and §30-9-7 of the Code of West Virginia, 1931, as amended, all relating to regulation of the practice of accountancy; redefining “attest services”; protecting board members from civil liability; and revising requirements for issuance of certificate as certified public accountant including criminal background check.

Referred to the Committee on the Judiciary.

**By Senators Blair, Gauch, Plymale and Romano:**

**Senate Bill 272**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6, relating to Attorney General’s investigators; allowing them to carry concealed weapons under certain circumstances; and limiting liability for certain acts of investigators.

Referred to the Committee on the Judiciary.

**By Senators Ferns and Stollings:**

**Senate Bill 273**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§33-45-2a, relating to required provisions regarding prior authorization of drug benefits by insurers.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill 274**—A Bill to amend and reenact §50-2-1 of the Code of West Virginia, 1931, as amended, relating to civil jurisdiction of magistrate courts; and allowing circuit courts to send cases to magistrate courts.

Referred to the Committee on the Judiciary.

**By Senators Walters, Plymale and Woelfel:**

**Senate Bill 275**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18C-8-1, relating to creating a low-interest student loan refinancing program for teachers; creating a special fund; establishing allocations to the fund; making legislative findings; establishing eligibility requirements; establishing refinancing rate; and providing for rulemaking.

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

**By Senator Walters:**

**Senate Bill 276**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-4a, relating to requiring influenza immunizations for health care workers; defining terms; providing criminal penalties; and establishing fines.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Carmichael and Woelfel:**

**Senate Bill 277**—A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to adding a definition; and increasing the criminal penalties for certain assaults and batteries.

Referred to the Committee on the Judiciary.

**By Senators Ferns, Takubo, Walters, Stollings and Palumbo:**

**Senate Bill 278**—A Bill to amend and reenact §33-20F-4 of the Code of West Virginia, 1931, as amended, relating to clarifying that Physicians' Mutual Insurance Company is not a state actor or a quasi-state actor allowing it to operate as any other commercial insurance company licensed in West Virginia.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill 279**—A Bill to amend and reenact §11-1C-10 of the Code of West Virginia, 1931, as amended, relating to determining the assessed value of any share of natural resource property.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Walters and Gaunch:**

**Senate Bill 280**—A Bill to amend and reenact §5A-1-2 of the Code of West Virginia, 1931, as amended, relating to granting Department of Administration authority and responsibility of all personnel and human resources matters that are currently provided by personnel sections or divisions within other state departments and agencies; and eliminating those other personnel sections or divisions.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Ferns:**

**Senate Bill 281**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5A-6, relating to requiring health care providers and facilities to notify a patient when a mammogram indicates dense breast tissue; requiring certain information to be included; and specifying

that it does not create a standard of care, obligation or duty that would provide the basis for a private cause of action.

Referred to the Committee on Health and Human Resources.

**By Senators Walters and Carmichael:**

**Senate Bill 282**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-1-10, relating to collection of a fee from certain special revenue accounts.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Ferns:**

**Senate Bill 283**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-10-13a, relating to creating the crime of arson resulting from a fire in a clandestine drug laboratory; and establishing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill 284**—A Bill to amend and reenact §16-2-3, §16-2-11 and §16-2-13 of the Code of West Virginia, 1931, as amended, all relating to powers and duties of local boards of health; granting county commissions authority to approve, modify or disapprove policies to be implemented by local boards of health; and allowing county commissions to review existing policies and approve, modify or void them.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

**By Senator Ferns:**

**Senate Bill 285**—A Bill to repeal §48-23-101, §48-23-102, §48-23-201, §48-23-202, §48-23-203, §48-23-204, §48-23-205, §48-23-206, §48-23-207, §48-23-208, §48-23-209, §48-23-301, §48-23-401, §48-23-402, §48-23-403, §48-23-404, §48-23-501, §48-23-502, §48-23-503, §48-23-504, §48-23-505, §48-23-506,



§48-23-507, §48-23-601, §48-23-701 and §48-23-801 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5-16 of said code; and to amend said code by adding thereto a new section, designated §48-22-705, all relating to access to adoption records; allowing adopted adults or lineal descendants to access adoption records; clarifying what is included in a certificate of adoption maintained by the State Registrar; defining terms; setting forth rights and responsibilities of biological parents; requiring biological parents to provide social and medical information for inclusion in an adoption file; setting forth duties of the State Registrar with respect to adoption files; providing for confidentiality of adoption files; providing for rule-making authority for Secretary of the Department of Health and Human Resources; setting forth an effective date; and repealing the voluntary adoption registry.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Trump, Boley and Woelfel:**

**Senate Bill 286**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-127, relating to creating the Commission to Accelerate Statewide Coordination of Mental Health Services for Children and Adolescents; and providing findings, requirements, reports, recommendations and termination.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Boso and Trump:**

**Senate Bill 287**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8, §21-3E-9, §21-3E-10, §21-3E-11, §21-3E-12, §21-3E-13, §21-3E-14, §21-3E-15, §21-3E-16 and §21-3E-17, all relating to creating West Virginia Safer Workplaces Act; permitting employers to test employees and prospective employees for drugs and alcohol; providing a short title; defining terms; making findings; declaring public policy; determining a collection

of samples, scheduling of tests and testing procedures; setting forth testing policy requirements; providing for disciplinary procedures; providing for sensitive employees; providing for preemption; providing protection from liability; establishing causes of action; providing exceptions; providing for confidentiality; providing for termination of employment; providing for forfeiture of certain benefits; and requiring employers to have drug and alcohol testing policies and procedures when implementing drug and alcohol testing.

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

**By Senators Trump, Blair, Takubo, Walters, Romano and Palumbo:**

**Senate Bill 288**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b; and to amend and reenact §60-8-3 of said code, all relating to creating a one-day special license for charitable events to sell nonintoxicating beer and wine; setting fee for license; and authorizing commissioner to waive certain restrictions by rule or order.

Referred to the Committee on the Judiciary.

**By Senators Boso and Trump:**

**Senate Bill 289**—A Bill to amend and reenact §61-6-24 of the Code of West Virginia, 1931, as amended, relating to modifying definition of a “terrorist act” to include the intimidation directed to either an official or employee of any branch or level of government or to members of his or her family; and applying existing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 290**—A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to assignment of wages by employers and payment of wages by payroll card; authorizing assignment without notarization or required statement

that assignment cannot be for more than twenty-five percent of employee's wages; allowing wage assignments to be valid for longer than one year; and removing requirement for written agreement to pay employee by payroll card.

Referred to the Committee on the Judiciary.

**By Senators Trump and Plymale:**

**Senate Bill 291**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-1H-1, §62-1H-2, §62-1H-3, §62-1H-4, §62-1H-5, §62-1H-6, §62-1H-7, §62-1H-8 and §62-1H-9, all relating to law enforcement use of unmanned aircraft systems; providing operational requirements for unmanned aircraft systems; providing for the use and documentation by a law-enforcement agency; providing for retention of images; making exceptions; providing for admissibility of evidence; providing for evidence obtained in violation of this section; and defining terms.

Referred to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 292**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25, relating to creating income tax credits against personal income tax for educational expenses incurred by parents for a child under twenty-one years of age and for expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs.

Referred to the Committee on Finance.

**By Senators Walters, Boso and Sybolt:**

**Senate Bill 293**—A Bill to amend and reenact §11-13J-3, §11-13J-4, §11-13J-4a, §11-13J-10 and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating generally to Neighborhood Investment Program Act; reauthorizing act until July 1, 2021; defining terms “community based” and “emergency assistance”; modifying definition of “economically disadvantaged area”; reducing the frequency of required project transferee reports;

reducing number of required advisory board meetings; reducing required number of West Virginia Development Office reports to the board; eliminating guidance on what a community-based project is when the board is evaluating a project; removing requirement that Tax Commissioner annually publish addresses of taxpayers who claim the credit; and reducing frequency of program assessments by the director.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Boso and Trump:**

**Senate Bill 294**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-3a, relating to permitting employers to have compulsory direct deposits of wages paid to employees provided certain conditions are met.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 295**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating to abolishing the tort of outrage.

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 1**, Urging Congress propose regulation freedom amendment.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Kessler.

Thereafter, at the request of Senator Romano, and by unanimous consent, the remarks by Senator Kessler were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, January 15, 2016, at 11 a.m.

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## FRIDAY, JANUARY 15, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Dick Corbin, Director of Church Relations, Union Mission of West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mike Hall, a senator from the fourth district.

Pending the reading of the Journal of Thursday, January 14, 2016,

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 Clerk presented a communication from the Board of Accountancy, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Acupuncture, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Architects, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Barbers and Cosmetologists, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Children's Health Insurance Program, submitting its annual report as required by §5-16B-3 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Chiropractic, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Dentistry, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Licensed Dietitians, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the State Board of Registration for Professional Engineers, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Division of Forestry, submitting its annual Outdoor Heritage Conservation Fund report, in accordance with §5B-2G-6 of the Code of West Virginia.

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

The Clerk presented a communication from the Hearing Aid Dealers Licensure Board, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Department of Health and Human Resources, submitting its annual nursing homes and assisted living facilities report, in accordance with §16-5C-3 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Landscape Architects, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Examiners for Licensed Practical Nurses, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Massage Therapy Licensure Board, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Medical Imaging and Radiation Therapy Technology Board of Examiners, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Medicine, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Division of Natural Resources, submitting its annual report, in accordance with §20-1-7 of the Code of West Virginia.

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

The Clerk presented a communication from the Nursing Home Administrators Licensing Board, submitting its annual report as required by §30-1-12 of the Code of West Virginia.



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

The Clerk presented a communication from the Board of Occupational Therapy, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Optometry, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Osteopathic Medicine, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Division of Personnel, submitting its annual report as required by §29-6-7 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Physical Therapy, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Examiners of Psychologists, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Real Estate Appraiser Licensing and Certification Board, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Real Estate Commission, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Examiners for Registered Professional Nurses, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Respiratory Care, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Sanitarians, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Social Work, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Examiners for Speech-Language Pathology and Audiology, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the State Police, submitting its annual report on its effectiveness in recruiting females and other minorities as required by §15-2-7 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Professional Surveyors, submitting its annual report, in accordance with §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Board of Veterinary Medicine, submitting its annual report as required by §30-1-12 of the Code of West Virginia.

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

The Clerk presented a communication from the Water Development Authority, submitting its annual report, in accordance with §22C-1-17 of the Code of West Virginia.

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

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 253**, Exempting drug treatment and drug recovery facilities from county and municipal ordinances.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 263**, Allowing travel and other expense reimbursement for members of Municipal Home Rule Board.

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

**Com. Sub. for Senate Bill 263** (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to the Municipal Home Rule Pilot Program; and allowing for members of the Municipal Home Rule Board, with the exception of ex officio nonvoting members, to be reimbursed for travel and other reasonable expenses.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 265**, Allowing library volunteers necessary access to user records.

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,

Craig Blair,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Government Organization pending.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Takubo, Gaunch, Mullins and Boso:**

**Senate Bill 296**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30; and to amend and reenact §57-5-4j of said code, all relating to preventing compensatory damage awards for medical

expenses from including sums that the claimant has not and will not pay for medical care or treatment.

Referred to the Committee on the Judiciary.

**By Senators Walters, Boso, Plymale and Miller:**

**Senate Bill 297**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-17e, relating to installation of conduit for fiber optic cable on state highway construction projects.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senator Walters:**

**Senate Bill 298**—A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3A-18 of said code; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing restaurants, private clubs and wineries to sell alcohol beginning at 10:00 a.m. on Sundays.

Referred to the Committee on Economic Development; and then to the Committee on the Judiciary.

**By Senators Plymale, Laird and Miller:**

**Senate Bill 299**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-23, relating to establishing Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects; setting forth general structure of fund and distribution of funds; and providing for rulemaking.

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

**By Senators Trump, Takubo and Gaunch:**

**Senate Bill 300**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-6-6c, relating to additional dedicated fee for 911.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Ferns, Gaunch, Mullins and Takubo:**

**Senate Bill 301**—A Bill to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating to rate of interest allowed for prejudgment and post-judgment interest.

Referred to the Committee on the Judiciary.

**By Senators Ferns, Mullins and Takubo:**

**Senate Bill 302**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, all relating to product liability actions; limitation of product liability action against seller other than the manufacturer of the product except in certain circumstances; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Blair, Walters, Boso, Gaunch, Maynard, Palumbo, Snyder and Woelfel:**

**Senate Bill 303**—A Bill to amend and reenact §20-2-35 of the Code of West Virginia, 1931, as amended, relating to wildlife resources; and providing that all hunting and fishing licenses are valid for one year from the date issued.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

**By Senators Ferns, Takubo, Ashley, Karnes, Laird, Leonhardt, Palumbo, Plymale, Prezioso, Stollings, Trump, Unger, Walters, Woelfel, Miller and Boso:**

**Senate Bill 304**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to abuse-deterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid analgesic drugs; providing

direct health care services cover abuse-deterrent opioid analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs; defining terms; providing an effective date; providing for cost sharing; providing for cost tier location; and allowing cost containment measures.

Referred to the Committee on Banking and Insurance; and then to the Committee on Health and Human Resources.

**By Senator Boso:**

**Senate Bill 305**—A Bill to amend and reenact §51-1-17 of the Code of West Virginia, 1931, as amended, relating to reporting by Administrative Director of the Supreme Court of Appeals and establishing an online case management system.

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

**By Senator Blair:**

**Senate Bill 306**—A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to sale of county or district property; permitting property be sold at an on-site public auction or by utilizing an Internet-based service; and requiring notice of sale include notice of the time, terms, manner and place of sale or the Internet-based service to be utilized.

Referred to the Committee on Government Organization.

**By Senator Beach:**

**Senate Bill 307**—A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3a and §60-4-3b; to amend and reenact §60-7-11 and §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing restaurants, private clubs and wineries to sell alcohol at 10:00 a.m. on Sundays; sale of alcohol by licensed manufacturers; authorizing licensed wineries, farm wineries, distilleries and mini-distilleries to make retail sales of wine and alcoholic liquors manufactured by the winery, farm winery, distillery or mini-distillery for consumption off the premises on Sundays beginning at 10:00 a.m.; authorizing licensed wineries,



farm wineries, distilleries and mini-distilleries to offer complimentary samples for consumption on the premises on Sundays beginning at 10:00 a.m.; authorizing distilleries and mini-distilleries which manufacture less than fifty thousand gallons of alcoholic liquor per year to seek and hold a separate license to operate a private club on the premises of the distillery or mini-distillery; and allowing for the sale of products manufactured on the premises of the distillery or mini-distillery, other than in sealed packages, for consumption on the premises of any such private club.

Referred to the Committee on Economic Development; and then to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 308**—A Bill to amend and reenact §30-40-6 of the Code of West Virginia, 1931, as amended, relating to terms of appointed members of the Real Estate Commission.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 309**—A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to child-care center licensing requirements; and exempting county parks and recreation commissions from licensure.

Referred to the Committee on Government Organization.

**By Senator Trump:**

**Senate Bill 310**—A Bill to amend and reenact §29B-1-4 of the Code of West Virginia, 1931, as amended, relating to exempting from disclosure by state officials certain personal information relating to active and retired law-enforcement officers, judges, prosecuting attorneys, members of the Legislature and elected officials, and their spouses and children, as protection against false claims and suits brought by members of Sovereign Citizens.

Referred to the Committee on the Judiciary.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Walters.

The Senate proceeded to the thirteenth order of business.

Senator Cole (Mr. President) announced the replacement of Senator Trump as Vice Chair of the Committee on Agriculture and Rural Development with Senator Leonhardt.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, January 18, 2016, at 11 a.m.

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## MONDAY, JANUARY 18, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mitch Carmichael, a senator from the fourth district.

Pending the reading of the Journal of Friday, January 15, 2016,

At the request of Senator Beach, 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 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 1**, Establishing WV Workplace Freedom 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.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Snyder, Romano, Gaunch, Kessler and Blair:**

**Senate Bill 311**—A Bill to amend and reenact §31-17-8 of the Code of West Virginia, 1931, as amended, relating to making permanent the exception allowing a mortgage modification or refinancing loan to be made in participation with and in compliance with the federal Homes Affordable Modification Program, a part of the federal Making Home Affordable program, or any other mortgage modification or refinancing loan funded through any other federal or state program or litigation settlement, when the aggregate total of the outstanding principal balances of all other primary or subordinate mortgage loans secured by the same property exceeds the fair market value of the property.

Referred to the Committee on Government Organization.

**By Senators Gaunch, Ashley, Blair, Carmichael, Ferns, Stollings, Trump, Walters, Boso and Plymale:**

**Senate Bill 312**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-10-1, §9-10-2, §9-10-3, §9-10-4, §9-10-5, §9-10-6, §9-10-7, §9-

10-8, §9-10-9, §9-10-10, §9-10-11, §9-10-12 and §9-10-13, all relating to welfare fraud prevention.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senator Gauch:**

**Senate Joint Resolution 8**—Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article VI thereof; and amending section one, article VII thereof, all relating to limiting the terms of office of Senators, Delegates, Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture and Attorney General; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senators Snyder, Unger, Romano, Plymale, Kessler and Stollings offered the following resolution:

**Senate Resolution 5**—Congratulating the Jefferson High School baseball team for winning the 2015 Class AAA state baseball championship.

Whereas, The Jefferson High School baseball team has a long history of success winning state championships and 2015 was no exception. The Cougars ended another outstanding season by winning their 11th state baseball championship; and

Whereas, Under the guidance of legendary Coach John Lowery, now in his 46th year of coaching, the Jefferson High School baseball team performed in dominating fashion, finishing with a record of 36 wins and only two losses; and

Whereas, The 2015 Jefferson High School baseball team will go down in state history as one of the best high school baseball teams ever assembled in the state of West Virginia; and

Whereas, The Jefferson High School baseball team is a shining example to all West Virginians of what can be accomplished with dedication, commitment and teamwork; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Jefferson High School baseball team for winning the 2015 Class AAA state baseball championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Jefferson County High School baseball team.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Bill 253**, Exempting drug treatment and drug recovery facilities from county and municipal ordinances.

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

**Com. Sub. for Senate Bill 263**, Allowing travel and other expense reimbursement for members of Municipal Home Rule Board.

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

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 Miller.

Thereafter, at the request of Senator Snyder, and by unanimous consent, the remarks by Senator Miller were ordered printed in the Appendix to the Journal.

The Senate next proceeded to the thirteenth order of business.

Senator Kessler called attention to today being the birthday of the senator from Harrison and on behalf of the Senate extended felicitations and good wishes to Senator Romano, with Senator Kessler leading the members in singing "Happy Birthday".

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, January 19, 2016, at 11 a.m.

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## TUESDAY, JANUARY 19, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Father Leon Alexander, Saint John XXIII Pastoral Center, Charleston, 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, January 18, 2016,

At the request of Senator Williams, 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 fourth order of business.

Senator Karnes, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 151**, Department of Agriculture rule relating to inspection of nontraditional domesticated animals.

**Senate Bill 152**, Department of Agriculture rule relating to poultry litter and manure movement.

**Senate Bill 153**, Department of Agriculture rule relating to livestock care standards.

And,

**Senate Bill 154**, Department of Agriculture rule relating to captive cervid farming.

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,

Robert Karnes,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Boso, Miller, Romano, Mullins, Facemire and Takubo:**

**Senate Bill 313**—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to school calendar; and changing mandatory instructional days from one hundred eighty days to minutes based upon minimum amount of hours of instruction offered to students provided by state board rules.

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

**By Senators Sypolt, Beach, Blair, Boso, Ferns, Gaunch, Karnes, Leonhardt, Takubo, Trump, Walters, Williams and Yost:**

**Senate Bill 314**—A Bill to amend and reenact §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3 of said code; and to amend said code by adding thereto two new sections, designated §61-7-4a and §61-7-7a, all relating to carry or use of handgun or deadly weapon; permitting eligible persons to carry a handgun for defense purposes, without license, while afield hunting, hiking, camping or in or on a motor vehicle; clarifying penalties for ineligible person who carries concealed deadly weapon; and providing enhanced penalties for use of display of firearm during planning or commission of a felony.

Referred to the Committee on the Judiciary.

**By Senators Walters, Ashley, Beach, Boley, Boso, Gaunch, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Snyder, Stollings, Sypolt, Takubo, Trump, Williams and Blair:**

**Senate Bill 315**—A Bill to amend and reenact §31-15A-2, §31-15A-8, §31-15A-10, §31-15A-11 and §31-15A-17 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto seventeen new sections, designated §31-15A-1a, §31-15A-9a, §31-15A-10a, §31-15A-11a, §31-15A-11b, §31-15A-12a, §31-15A-13a, §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a, all relating generally to



development of infrastructure in the state; establishing purposes for the amendments to develop broadband infrastructure; providing for development of broadband middle mile infrastructure; defining new terms; creating a separate infrastructure fund for broadband middle mile infrastructure projects; providing for deposits and expenditures; requiring certain agencies to apply for grant funds in furtherance of broadband middle mile infrastructure projects; setting forth additional powers to Water Development Authority; creating West Virginia Infrastructure Fund for Broadband Middle Mile Development; providing for disposition of funds on termination or dissolution of authority; providing that broadband middle mile projects funded by authority are not public improvements for purposes of financing and noting bidding and wage requirements; authorizing issuance of broadband middle mile revenue bonds; creating West Virginia Broadband Middle Mile Infrastructure Revenue Debt Service Fund; providing for funding of debt service fund; specifying requirements for issuance of bonds; providing for contents of trust agreement and trustee for bonds; specifying remedies available to bondholders, noteholders and trustees; making broadband middle mile infrastructure revenue bonds lawful investments; providing for purchase, cancellation and refunding of bonds; declaring bonds are not state debts and are exempt from taxation; requiring periodic reporting; limiting personal liability; and permitting legislative and emergency rulemaking.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senators Karnes, Boso, Gaunch, Hall, Maynard, Takubo, Leonhardt, Unger and Blair:**

**Senate Bill 316**—A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to removing requirement that a home-schooled student must acquire a general equivalency degree (GED) in order to qualify for a PROMISE scholarship; and adding another method by which a person is eligible for a PROMISE scholarship.

Referred to the Committee on Education.

**By Senators Blair, Walters, Boso, Gaunch, Maynard and Snyder:**

**Senate Bill 317**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-2-4; and to amend said code by adding thereto a new section, designated §7-1-3pp, all relating to accessible county records; requiring county clerks to report certain county official information to the Secretary of State annually; requiring county commissions to maintain a website; and requiring Secretary of State to annually update website of county information.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Karnes, Boso, Gaunch, Hall, Maynard and Takubo:**

**Senate Bill 318**—A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating generally to home schooling; clarifying that a student who is home schooled may not be classified as habitually absent; changing annual requirement that a parent of a child who is to be home schooled notify the county superintendent of intent to home school to a one-time notification; requiring a parent provide certain assurances; removing requirement that the person providing the home schooling instruction have a high school diploma; removing requirement that the person providing home schooling instruction have an outline of a plan for home schooling instruction for the ensuing year; permitting parent to administer the required nationally normed standardized test; providing that student has made acceptable academic progress if it is within or above the fourth stanine, or if below that stanine then student must show improvement from the previous year; requiring certified teacher to review a student's progress and submit a written narrative; removing requirement that a county superintendent be given two weeks' notice before a student enrolled in a public school may receive home instruction; requiring parent to keep academic assessments for three years; and providing that a county board of education may only provide information about the availability of special education services only if the parent requests it.

Referred to the Committee on Education.

**By Senators Gaunch, Carmichael and Boso:**

**Senate Bill 319**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-8-1, §49-8-2, §49-8-3, §49-8-4 and §49-8-5, all relating to temporary delegation of certain custodial powers by a parent or guardian; defining terms; permitting delegation of certain custodial powers; creating a parental rights form; requiring certain background checks; mandating certain disclosures; and providing exemptions.

Referred to the Committee on the Judiciary.

**By Senators Ferns and Stollings:**

**Senate Bill 320**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-13a, relating generally to practice of medicine; permitting the practice of telemedicine; establishing requirements; making exceptions; defining terms; and authorizing rulemaking.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

**By Senator Trump:**

**Senate Bill 321**—A Bill to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to more equitable disbursement of funds to county boards to lessen budgetary impact of serving high cost/high acuity special needs students; eliminating requirement of annual review of rules, policies and standards and federal law and report to legislative oversight commission; defining “high cost/high acuity special needs”; and providing for method of fund disbursement.

Referred to the Committee on Education.

**By Senators Ferns, Stollings, Trump and Gaunch:**

**Senate Bill 322**—A Bill to amend and reenact §33-46-2, §33-46-18 and §33-46-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §33-46-21, §33-46-22, §33-46-23 and §33-46-

24, all relating to regulation of pharmacy benefits managers; defining terms; providing that pharmacy benefits managers conducting audits for public health programs are not exempt from pharmacy audit restrictions; setting forth duties of pharmacy benefit managers; requiring audits by pharmacy benefits managers; setting forth requirements for audits conducted by pharmacy benefits managers; providing internal review process applicable to disputed findings of pharmacy benefits manager upon audit; requiring pharmacy benefits managers to provide notice to purchasers, pharmacists and pharmacies of information relating to maximum allowable costs; requiring pharmacy benefits managers to establish a process relating to the appropriate use of maximum allowable cost pricing; and reorganizing sections providing rule-making authority to the Insurance Commissioner.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Trump, Kessler, Woelfel, Palumbo, Romano and Williams:**

**Senate Bill 323**—A Bill to amend and reenact §61-3B-3 of the Code of West Virginia, 1931, as amended, relating to correcting subsection designations in the statute regarding trespass on property; and making other technical changes.

Referred to the Committee on the Judiciary.

**By Senators Walters, Blair, Boso, Carmichael, Ferns, Gaunch, Hall, Mullins, Sypolt, Trump, Miller, Plymale and Palumbo:**

**Senate Bill 324**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to authorizing transportation network companies to operate in the state; providing definitions; declaring transportation network companies and drivers are not common carriers or motor carriers; requiring permit from Division of Motor Vehicles to operate a transportation network company; identifying

requirements for obtaining a permit; requiring an agent for service of process; authorizing transportation network companies to charge a fare for services; requiring identification of transportation network company vehicles and drivers; requiring an electronic receipt; requiring automobile insurance; requiring disclosures from the transportation network company to transportation network company drivers; allowing automobile insurers to exclude certain coverages; defining the relationship between drivers and transportation network companies; providing zero tolerance policy for alcohol or drug use while working as a transportation network company driver; setting minimum requirements to become a transportation network company driver; requiring transportation network company vehicles to pass state inspection; prohibiting solicitation and street hails; prohibiting cash payments; requiring a no cash payment policy; requiring policy of nondiscrimination; requiring recordkeeping; and prohibiting local entity taxes or licenses.

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

**By Senators Miller, Beach, Kessler, Kirkendoll, Laird, Palumbo, Snyder, Stollings, Unger, Walters, Williams, Woelfel, Yost and Plymale:**

**Senate Bill 325**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7, §5B-2I-8, §5B-2I-9, §5B-2I-10, §5B-2I-11 and §5B-2I-12, all relating to Community Sustainability Investment Pilot Program; providing legislative findings and intent; creating the fund; establishing Community Sustainability Investment Board; providing requirements for applications for use of matching funds from Community Sustainability Investment Fund; providing for review of applications by West Virginia Development Office; establishing that Community Sustainability Investment Board shall have authority to approve matching grants from Community Sustainability Investment Fund; establishing matching requirements from applicants; establishing eligible expenditures;

and defining parameters of agreement between West Virginia Development Office and a community for use.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Trump, Kessler, Woelfel, Palumbo, Romano and Plymale:**

**Senate Bill 326**—A Bill to repeal §49-4-901 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8D-10, relating to repealing, revising, relocating and recodifying the law relating to contributing to delinquency or neglect of a child.

Referred to the Committee on the Judiciary.

Senators Leonhardt, Boley, Ashley, Facemire, Sypolt, Yost, Beach, Boso, Ferns, Miller, Palumbo, Plymale, Romano, Takubo, Unger, Williams, Prezioso and Blair offered the following resolution:

**Senate Concurrent Resolution 2**—Urging Congress to provide funding for the West Virginia National Guard to sustain and enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C-130s and other aircraft to meet global airspace requirements for 2020.

Whereas, In the event of a regional catastrophe, West Virginia's east-west highways, including I-68 and I-64, are links to the major exit corridors from the FEMA National Capital Region (NCR) westward and, assuming that a regional catastrophe will likely include Baltimore to the north of the NCR and Richmond to the south of the NCR, westward evacuation utilizing these highways is highly likely and is, in fact anticipated; and

Whereas, The routes through West Virginia will traverse rural areas that do not have infrastructure adequate for what could be a mass of evacuees in the worst-case scenario; experience in regional emergencies, such as Superstorm Sandy in 2012, illustrates some shortcomings in planning that is less focused on regions and more on states; and

Whereas, West Virginia is perfectly, and geographically, postured to support any emergency or disaster response to the NCR, including mass evacuation westward; and

Whereas, FEMA regions do not necessarily represent grouping of states likely to be involved in some scenarios; FEMA Region III contains the NCR and West Virginia as its western-most edge and in a major catastrophe, Regions V, with Ohio, Indiana and Illinois, VII with Missouri, and IV with Kentucky, Tennessee, and North Carolina are likely to be involved in some combinations; and

Whereas, The National Guard, through the use of Emergency Management Assistance Compacts, can operate across state lines to provide vital response capability in security, transportation, medical, housing, communications, command and control, and others based on its dual role in military preparedness and state civil support; and

Whereas, Military Force Structure assigned to the National Guard must be considered by federal military planners for the dual use they can encounter; National Guard Organizations require personnel, equipment, organization, training, leadership and funding to maintain federal military standards and to be prepared to respond to a domestic emergency or disaster; and

Whereas, Regional catastrophic planning is dependent on National Guard assets, capabilities and responsiveness. Consequently, it is also critical that federal military planners assess the impact of their force structure changes on regional capability needs as well as those that are state specific; and

Whereas, The C-130 H3 “Hercules” aircraft assigned to the 130th Airlift Wing of the West Virginia National Guard at Yeager Airport in Charleston, West Virginia will eventually become obsolete without system modernization to the communication, navigation, and surveillance (CNS) components; National Air Traffic Control agencies and the International Civil Aviation Organization are modernizing airspace faster than the US Air Force is updating C-130 avionics capabilities; and

Whereas, Aircraft component acquisition becomes increasingly difficult as fewer C-130 H aircraft remain in the Air Force inventory and the unique components of the C-130, including its self-contained navigational system, face short term supply chain shortages that could be remedied with aircraft avionics modernization; and

Whereas, The contract to perform maintenance on aircraft flight computers is renewed annually and this perpetual reliance on short term contracts increases sustainment cost and challenges mission effectiveness and operational planning; and

Whereas, Reliance on short term contracts and antiquated avionics will increase Air Force expense in the long run as it translates to more expensive mission-essential contracts and increased fuel expenditures due to inefficient routing; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges Congress to provide funding for the West Virginia National Guard to sustain and enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C-130s and other aircraft to meet global airspace requirements for 2020; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the House of Representatives and to the members of West Virginia's congressional delegation.

Which, under the rules, lies over one day.

Senators Stollings, Kirkendoll, Miller and Plymale offered the following resolution:

**Senate Concurrent Resolution 3**—Requesting Division of Highways name the bridge at the intersection of County Route 18, known as North Fork Road, and County Route 18/2, known as Ellis Fork Road, in Boone County, West Virginia, (latitude, longitude:



38.00947, -81.95537) be named the “Julian, Earl and Edward Hill Brothers Memorial Bridge”.

Whereas, Julian, Earl and Edward Hill were brothers, three of ten children born to Edward W. Hill and Annie L. Stollings Hill who farmed for a living in Boone County; and

Whereas, Julian Alba Hill was born on August 4, 1920, at North Fork of Big Creek, Boone County, and worked at many different jobs until being drafted into the United States Army. Before joining the Army, Julian Hill married Audrey Chapman and they had two children. When he was sent to Fort Worth, Texas, for basic training, Audrey rode the train from Charleston to Texas taking along their two small children so they could be together prior to his departure overseas during World War II. After basic training, Julian Hill was sent to Germany where he refueled airplanes and later was sent into combat with General Patton where he refueled tanks and other vehicles. He often spoke of the obstacles placed by Hitler to keep the United States armed forces from pushing their way through Germany towards Berlin. He returned from Germany on the USS Argentina in January 1946 and never talked of the fighting and what he had seen, but he suffered nightmares for many years after his return. After being discharged, Julian and Audrey Hill had a third child in 1949, and he became an over-the-road long haul truck driver, sometimes being gone for two full days at a time. Julian had a truck accident which forced an early retirement from truck driving. He was placed on disability by his company and Senator Robert C. Byrd was instrumental in seeing that he also received Social Security disability benefits. Julian and Audrey Hill divorced in 1959. Following a brief second marriage which also ended in divorce, he later married Betty Smith. Julian loved camping, gospel and country music. He and Betty spent many years camping in West Virginia, Virginia and South Carolina. Their marriage lasted for forty years until his death in December 2010, at the age of ninety, after a fall in a nursing home; and

Whereas, Earl Franklin Hill was born on April 22, 1923, at North Fork of Big Creek, Boone County, and was inducted into the United States Army on January 12, 1943, and was honorably

discharged on June 11, 1943, as Private First Class, Battery B, 225th AAA SL, Camp Davis, North Carolina, under the Enlisted Mans importance to national security, health or interest and returned home early to care for his ill father and to farm for the nation's needs and because two brothers were then serving in the military. He married Naomi Ruth Stone on December 23, 1941, and they had six children, one of whom, Richard, died at birth. The other children are Catherine Sue Hill, Sherry Grant Hill, Paul Wayne Hill, Earl F. Hill, II and Barbara Gail Hill. Naomi Hill passed away on November 26, 2006, and Earl Franklin Hill passed away on July 31, 2008, at the VA Hospital in Huntington; and

Whereas, Cebert Edward Hill was born on Ellis Fork off the North Fork of Big Creek in Boone County on October 25, 1917. He joined the United States Army Air Corps on September 8, 1942. Following his basic training in Tampa, Florida, Edward Hill attained the rank of Private First Class in the 410th Army Air Force Base Unit and served as a Radio Operator, Area 4600 Underground Placement on Catalina Island, California, and a Supply Clerk on St. Nicholas Island, California, and received the Good Conduct Medal. He received his honorable discharge on April 26, 1945. In addition to being a farmer for most of his life, he was also a mail carrier for four years from Banco to Danville and worked for Grocers Wholesale Company, later named The Creasey Company, from 1954 until his retirement in 1981. He married Oma Lee Barker and they had six children, Gary A. Hill, Larry A. Hill, Judy K. Murphy, Jeanne C. Wagner, Eddy R. Hill and Lisa J. Black; and

Whereas, It is fitting that an enduring memorial be established to commemorate these native sons who served their state and their country so ably during World War II; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge at the intersection of County Route 18, known as North Fork Road, and County Route 18/2, known as Ellis Fork Road, in Boone County, West Virginia, (latitude, longitude: 38.00947, -81.95537) the "Julian, Earl and Edward Hill Brothers Memorial Bridge"; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Julian, Earl and Edward Hill 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 and the families of Julian Hill, Earl Hill and Edward Hill and Cebert Edward Hill.

Which, under the rules, lies over one day.

Senators Beach and Romano offered the following resolution:

**Senate Concurrent Resolution 4**—Petitioning Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States of America.

Whereas, The first President of the United States, George Washington, stated, “The basis of our political systems is the right of the people to make and to alter their Constitutions of Government”; and

Whereas, It was the stated intention of the framers of the Constitution of the United States of America that the Congress of the United States of America should be “dependent on the people alone.” (James Madison, Federalist 52); and

Whereas, That dependency has evolved from a dependency on the people alone to a dependency on those who spend excessively in elections, through campaigns or third-party groups; and

Whereas, The United States Supreme Court ruling in Citizens United v. Federal Election Commission, 558 U. S. 310 (2010), removed restrictions on amounts of independent political spending; and

Whereas, The removal of those restrictions has resulted in the unjust influence of powerful economic forces, which have supplanted the will of the people by undermining our ability to

choose our political leadership, write our own laws and determine the fate of our state; and

Whereas, Article V of the United States Constitution requires the United States Congress to call a convention for proposing amendments upon application of two thirds of the legislatures of the several states for the purpose of proposing amendments to the United States Constitution; and

Whereas, The State of West Virginia sees the need for a convention to propose amendments in order to address concerns such as those raised by the decision of the United States Supreme Court in *Citizens United v. Federal Election Commission* (2010), 130 S.Ct. 876, and related cases and events, including those occurring long before or afterward or for a substantially similar purpose, and desires that the convention should be so limited; and

Whereas, The State of West Virginia desires that the delegates to the convention shall be comprised equally from individuals currently elected to state and local office, or be selected by election in each congressional district for the purpose of serving as delegates, though all individuals elected or appointed to federal office, now or in the past, be prohibited from serving as delegates to the convention, and intends to retain the ability to restrict or expand the power of its delegates within the limits expressed above; and

Whereas, The State of West Virginia intends that this be a continuing application considered together with applications calling for a convention passed in the 2013-2014 Vermont Legislature as R454 and the 2013-2014 California Legislature as Resolution Chapter 77 and all other passed, pending and future applications, the aforementioned concerns of West Virginia notwithstanding, until that time as two thirds of the several states have applied for a convention and the convention is convened by Congress; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby petitions Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States of America; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the Minority Leader of the United States House of Representatives, the President Pro Tempore of the United States Senate, to each senator and representative from West Virginia in the Congress of the United States, to the Governor of each state and to the presiding officers of each legislative body of each of the several states, requesting the cooperation of the states in issuing an application compelling Congress to call a convention for proposing amendments pursuant to Article V of the U. S. Constitution.

Which, under the rules, lies over one day.

Senators Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel, Yost, Leonhardt and Gaunch offered the following resolution:

**Senate Concurrent Resolution 5**—Requesting the Division of Highways name Exit 153 on West Virginia Interstate-79 in Monongalia County, the “Coach Bill Stewart Exit”.

Whereas, William L. “Bill” Stewart, best known as Coach Stew, was born in Grafton, WV on June 11, 1952, to the late Blaine Eugene and Roberta Lee Rutherford Stewart. William L. “Bill” Stewart was a native of New Martinsville, West Virginia. He married the former Karen Kacor on July 1, 1978. He had one son, Blaine. On May 21, 2012, William L. “Bill” Stewart passed away due to an apparent heart attack; and

Whereas, William L. “Bill” Stewart graduated from Fairmont State College in 1975, with a degree in education, where he was a three-year letterman and team captain for the WVIAC champions in 1974. His coaching career began at Fairmont State in 1974, when

he was a student assistant coach for a season. One year later he became an assistant coach at Sistersville (W.V.) High School in 1975. In 1994, he assumed the head coaching position at Virginia Military Institute. In three years, he compiled an 8–25 record. Bill Stewart gave current Pittsburgh Steelers’ head coach Mike Tomlin his first job as an assistant at VMI in 1995. Coach Tomlin later returned the favor by vouching for Stewart with the West Virginia University administration; and

Whereas, William L. “Bill” Stewart moved to Salem College in 1977 where he was an assistant football and head track coach for two seasons. In 1979, he was an assistant coach at the University of North Carolina. He has also been an assistant coach at Marshall University (1980), William and Mary (1981–1983), Navy (1984), North Carolina (1985–1987), Arizona State (1988–1989) and Air Force (1990–1993); and

Whereas, In 1998, Bill Stewart served as the offensive line coach for the Montreal Alouettes of the Canadian Football League. His line blocked for Mike Pringle, the first 2,000-yard rusher in CFL history. In 1999, he moved on to be the offensive coordinator of the Winnipeg Blue Bombers where he coached two all-conference receivers and a 1,000-yard rusher. In 2000 WVU head coach Don Nehlen hired Stewart at WVU in January as the quarterbacks coach. Following the retirement of then Coach Nehlen, Stewart was retained by Rich Rodriguez when he became the head coach after the 2000 season. Stewart remained the quarterbacks coach and special teams coach until 2007 when he moved to coach the tight ends and served as associate head coach; and

Whereas, Following Rodriguez’s departure to become the head coach at the University of Michigan on December 16, 2007, Stewart was named interim head coach of the Mountaineers for the 2008 Fiesta Bowl game. In that game Stewart led the team to a 48–28 upset win over the #3 Oklahoma Sooners. During the press conference following the awards ceremony, Fiesta Bowl MVP and West Virginia quarterback Pat White said of Stewart, “He needs that job. He deserves it, the head coaching job”; and

Whereas, On January 3, 2008, a day after the Fiesta Bowl victory, Bill Stewart was announced as West Virginia's 32nd head coach; and

Whereas, It is fitting that we honor on this day William L. "Bill" Stewart, American Football Coach, former WVU Football Coach, family man, friend and man who lived by his Christian faith; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name Exit 153 in Monongalia County on Interstate 79 the "Coach Bill Stewart Exit"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying Exit 153 as the "Coach Bill Stewart Exit"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the family of Coach William "Bill" Stewart.

Which, under the rules, lies over one day.

Senators Sypolt, Stollings, Leonhardt, Plymale, Prezioso, Unger, Boso, Miller and Romano offered the following resolution:

**Senate Resolution 6**—Designating Tuesday, January 19, 2016, as Higher Education Day at the Legislature.

Whereas, The foundation of any society's success is the degree to which its citizens are educated; and

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, West Virginia's education system helps students achieve their education and career goals, and meet the workforce needs of the State of West Virginia; and

Whereas, Higher education institutions contribute to the economic vitality of the State while enriching the culture of the communities and regions they serve; and

Whereas, West Virginia's colleges and universities advance the development of technology, partner in business and industry, conduct groundbreaking research and improve lives through advanced health care; and

Whereas, Through the services of outstanding faculty, staff, administration and leadership, West Virginia's colleges and universities carry out student-centered missions for the betterment of the entire State; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates Tuesday, January 19, 2016, as Higher Education Day at the Legislature; and, be it

*Further Resolved,* That the Senate recognizes the commitment to excellence the leaders of our colleges and universities have demonstrated; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Chancellor of the West Virginia Higher Education Policy Commission, the Chancellor of the West Virginia Council for Community and Technical College Education, the Executive Director of the West Virginia Independent Colleges and Universities, Inc. and to each of the presidents of West Virginia's public and independent colleges and universities.

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



On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Bill 253**, Exempting drug treatment and drug recovery facilities from county and municipal ordinances.

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

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

**Com. Sub. for Senate Bill 263**, Allowing travel and other expense reimbursement for members of Municipal Home Rule Board.

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.

**Senate Bill 1**, Establishing WV Workplace Freedom Act.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Stollings, Kessler and Hall.

Thereafter, at the request of Senator Snyder, and by unanimous consent, the remarks by Senator Kessler were ordered printed in the Appendix to the Journal.

The Senate next proceeded to the thirteenth order of business.

At the request of Senator Woelfel, the name of Senator Woelfel was removed as a sponsor of **Senate Bill 251** (*Amending statutes*

*relating to nonintoxicating beer, brewers and brewpubs) and **Senate Bill 253** (Exempting drug treatment and drug recovery facilities from county and municipal ordinances).*

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, January 20, 2016, at 11 a.m.

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## WEDNESDAY, JANUARY 20, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Scotty Dingess, West Logan Church of God, Logan, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan J. Ferns, a senator from the first district.

Pending the reading of the Journal of Tuesday, January 19, 2016,

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 fourth order of business.

Senator Ferns, 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 6**, Requiring drug screening and testing of applicants for TANF program.

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

**Com. Sub. for Senate Bill 6** (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 §9-3-6, relating to drug screening for applicants of benefits from the Temporary Assistance for Needy Families Program; requiring drug testing of applicants for whom there is reasonable suspicion of substance abuse; creating pilot program; setting forth an effective date; defining terms; providing basis for reasonable suspicion of drug use; requiring participation in substance abuse treatment, counseling and job skills program with adverse drug test; precluding assistance for refusal to take drug test; establishing administrative review of decisions to deny benefits; providing mechanism for dependent children to receive benefits if parent is deemed ineligible; setting forth prohibition from benefits for adverse drug test; requiring investigation by Child Protective Services upon adverse drug test; setting forth procedure for reapplication for benefits; authorizing rulemaking by Department of Health and Human Resources; requiring results of drug screen or drug test remain confidential; providing for criminal penalties; requiring annual report to the Legislature; setting out elements of annual report; requiring federal approval of program; requiring secretary to modify program to meet any federal objections; and allowing for exceptions.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 6), 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

**Senate Bill 13**, Increasing penalties for overtaking and passing stopped school buses.

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

**Com. Sub. for Senate Bill 13** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to offense of overtaking and passing school bus stopped for the purpose of receiving and discharging children; creating rebuttable inference for charging purposes that registered owner or lessee was operating vehicle in the event that the driver of the passing vehicle cannot be ascertained at time of alleged offense; and clarifying that service of process is pursuant to West Virginia Rule of Criminal Procedure 4 where identity of operator is not determined at the scene.

With the recommendation that the 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 32**, Relating to withdrawal of candidates for office and filling vacancies.

And has amended same.

And,

**Senate Bill 323**, Correcting statute subsection designations regarding trespassing on property.

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

**Senate Bill 102**, Conforming to federal Law-Enforcement Officers Safety Act.

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

**Com. Sub. for Senate Bill 102** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §7-4-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-29-12, all relating to West Virginia officials carrying a concealed firearm nationwide as provided in the federal Law-Enforcement Officers Safety Act, 18 U. S. C. §926B; providing statutory authority necessary to give prosecuting attorneys and assistant prosecuting attorneys the option to carry firearms pursuant to that federal act upon completion of required training and annual background check; granting prosecuting attorneys and assistant prosecuting attorneys arrest powers under certain circumstances; providing that law-enforcement agencies are neither prohibited from nor required to permit an officer to carry his or her service weapon off duty; and

requiring West Virginia law-enforcement agencies to offer access to training and certification for honorably retired officers to be permitted to carry a concealed firearm nationwide as a qualified retired law-enforcement officer as provided in the federal Law-Enforcement Officers Safety Act of 2004.

With the recommendation that the 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 Bills 155, 156, 157, 232, 233, 241 and 242**, Alcohol Beverage Control Commission rule relating to nonintoxicating beer licensing and operations and procedures.

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

**Com. Sub. for Senate Bill 157** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Revenue; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing the

Alcohol Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to private club licensing; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to distilleries and mini-distilleries; directing the Lottery Commission to amend and promulgate a legislative rule relating to limited video lottery; authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering; authorizing the Department of Tax and Revenue to promulgate a legislative rule relating to the payment of taxes by electronic funds transfer; and authorizing the Department of Tax and Revenue to promulgate a legislative rule relating to an exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Commerce and the Commissioners of the Public Service Commission.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Boso, 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 172**, DEP, Air Quality rule relating to standards of performance for new stationary sources.

**Senate Bill 173**, DEP, Air Quality rule relating to control of air pollution from combustion of solid waste.

**Senate Bill 174**, DEP, Air Quality rule relating to control of pollution from hazardous waste treatment, storage and disposal facilities.

**Senate Bill 175**, DEP, Air Quality rule relating to emission standards for hazardous air pollutants.

And,

**Senate Bill 176**, DEP, Air Quality rule relating to control of annual nitrogen oxide emissions.

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,

Gregory L. Boso,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Walters, 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 243**, DOT rule relating to rail-fixed guideway systems to state safety oversight.

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,

Chris Walters,  
*Chair.*



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

Senator Walters, 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 297**, Requiring installation of conduit for fiber optic cable on state highway construction projects.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 311**, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable Program.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Kirkendoll, Beach, Facemire, Hall, Kessler, Laird, Plymale, Prezioso, Romano, Stollings, Woelfel and Unger:**

**Senate Bill 327**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8a, relating to construction of a modern highway from Pikeville, Kentucky, to Beckley, West Virginia; requiring Commissioner of Highways to determine how the highway can be best funded and constructed; and requiring reports.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senators Gaunch, Ashley, Carmichael, Facemire, Karnes, Kirkendoll, Leonhardt, Stollings, Takubo, Walters, Plymale, Unger, Blair, Prezioso, Williams and Romano:**

**Senate Bill 328**—A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating generally to raising funds for veterans' facilities; creating West Virginia Veterans Program Fund; regulating fireworks generally; requiring certificate; establishing fees; requiring permit; dedicating fees to Veterans Program Fund; establishing rule-making authority; violations; penalties; enforcement; defining terms; and exemptions.

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

**By Senators Trump, Kessler, Woelfel, Palumbo, Romano, Plymale, Stollings and Unger:**

**Senate Bill 329**—A Bill to amend and reenact §49-1-207 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-2-125 of said code; and to amend and reenact §49-4-502, §49-4-604, §49-4-605, §49-4-607, §49-4-701 and §49-4-709 of said code, all relating to defining “juvenile referee”; eliminating sunset provision for the commission to study residential placement of children; clarifying that prosecuting attorneys are not required to represent any party other than Department of Health and Human Resources in child abuse and neglect cases; clarifying that Department of Health and Human Resources is required to make an effort to terminate parental rights when parent has committed sexual assault or sexual abuse; and making technical changes.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Gaunch and Boso:**

**Senate Bill 330**—A Bill to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to automobile liability insurers’ duty to provide a policyholder seven days’ notice of an insurer’s intent to cancel an automobile liability insurance policy where the reason for cancellation is nonpayment of a premium.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Boso and Gaunch:**

**Senate Bill 331**—A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting or trapping on private lands; removing restrictions for hunting or trapping on private lands on Sundays; and clarifying that hunting on private land at any time requires written consent of landowner.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Maynard, Plymale and Stollings:**

**Senate Bill 332**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6 and §17-29-7, all relating to entering into Interstate 73 Compact; entering into an agreement with five other states to develop and promote a plan for the design, construction, financing and operation of Interstate 73 corridor; designating certain officials to participate in an interstate commission to carry out the purposes of the compact; establishing composition, powers and duties of the commission; authorizing funding for commission operations; authorizing legislators to receive compensation and expense reimbursement for activities related to membership on the commission; designating agency staff to support commission activities; and establishing terms of withdraw from the compact.

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

**By Senators Karnes and Leonhardt:**

**Senate Bill 333**—A Bill to amend and reenact §20-2-4, §20-2-21 and §20-2-22 of the Code of West Virginia, 1931, as amended, all relating to the taking and registration of wildlife, including electronic registration of beaver, otter and big game animals.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

**By Senator Karnes:**

**Senate Bill 334**—A Bill to amend and reenact §20-1-2 of the Code of West Virginia, 1931, as amended, relating to classification of certain species; identifying coyote as a fur-bearing animal; identifying woodchuck as a game animal; identifying coyote, porcupine and all species of cervids as wild animals; and providing an exception.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

**By Senators Karnes, Leonhardt and Williams:**

**Senate Bill 335**—A Bill to amend and reenact §11-13A-3b of the Code of West Virginia, 1931, as amended, relating to eliminating severance tax on timber.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

**By Senators Karnes and Leonhardt:**

**Senate Bill 336**—A Bill to amend and reenact §20-2-42a, §20-2-42q, §20-2-42s and §20-2-42v of the Code of West Virginia, 1931, as amended, all relating to crossbow hunting; prohibiting use of a crossbow with Class A hunting and trapping license; permitting crossbow hunting with Class RB and Class RRB licenses; permitting crossbow hunting with Class UU license; and permitting crossbow hunting with Class BG stamp.

Referred to the Committee on Natural Resources.

**By Senators Stollings, Boso, Hall, Kessler, Kirkendoll, Palumbo, Plymale, Prezioso, Snyder, Walters, Woelfel and Gaunch:**

**Senate Bill 337**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2 and §11-28-3, all relating to creating five-year tax credit for businesses locating on post-mine sites; defining terms; setting eligibility requirements for credit; establishing amount of tax credit allowed; and establishing how credit may be applied.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

Senators Stollings, Kirkendoll and Plymale offered the following resolution:

**Senate Concurrent Resolution 6**—Requesting the Division of Highways to name bridge number 3-17-8.80, (3A087) (+38.05862, -81.82542) locally known as the Low Gap Bridge, crossing the Spruce Fork of the Little Coal River on Route 17 in Low Gap, Boone County, the “USMC PFC Marshall Lee King Memorial Bridge”.

Whereas, PFC King was born on July 5, 1924, in Coalwood, McDowell County, and grew up in Low Gap, Boone County. He served in the U. S. Marine Corps and was killed in action on May 19, 1945, on the Ryukyu Islands of Okinawa. He was awarded the Purple Heart, the Asiatic-Pacific Campaign Medal and World War II Victory Medal; and

Whereas, It is fitting and proper that PFC King be remembered and acknowledged for his courageous action and dedicated service to his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 3-17-8.80, (3A087) (+38.05862, -81.82542) locally known as the Low Gap Bridge, crossing the Spruce Fork of the Little Coal River on Route 17 in Low Gap, Boone County, the “USMC PFC Marshall Lee King 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 “USMC PFC Marshall Lee King Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the surviving family of PFC Marshall Lee King.

Which, under the rules, lies over one day.

Senators Beach, Kessler, Kirkendoll, Leonhardt, Prezioso, Unger, Williams, Plymale, Palumbo, Stollings, Blair and Romano offered the following resolution:

**Senate Concurrent Resolution 7**—Requesting the Division of Highways name bridge number 11186, at mile marker 153 crossing Interstate 79 in Monongalia County, the “Rosie the Riveters Memorial Bridge”.

Whereas, Rosie the Riveter is a cultural icon of the United States, representing the American women who worked in factories and shipyards during World War II, many of whom produced munitions and war supplies. American women sometimes took entirely new jobs replacing the male workers who were in the military. Rosie the Riveter is commonly used as a symbol of feminism and women's economic power. Similar images of women war workers appeared in other countries such as Great Britain and Australia. Images of women workers were widespread in the media as government posters and commercial advertising was heavily used by the government to encourage women to volunteer for wartime service in factories; and

Whereas, Nearly 19 million women held jobs during World War II. Many of these women had already been working. Only 3 million new female workers entered the workforce during the time of the war. Although most women took on male dominated trades during World War II, they were expected to return to their everyday housework once men returned from the war; and

Whereas, Rosie the Riveter became most closely associated with another real woman, Rose Will Monroe, who was born in Pulaski County, Kentucky. In 1920 Ms. Monroe moved to Michigan and during World War II she worked as a riveter at the Willow Run Aircraft Factory in Ypsilanti, Michigan, building B-24 bombers for the U. S. Army air forces. She was asked to star in a promotional film about the war effort at home. The song "Rosie the Riveter" was popular at the time and Ms. Monroe happened to best fit the description of the worker depicted in the song. "Rosie" went on to become perhaps the most widely recognized icon of that era. The films and posters she appeared in were used to encourage women to go to work in support of the war effort. At the age of 50, Ms. Monroe realized her dream of flying when she obtained a pilot's license. In 1978, she crashed in her small propeller plane when the engine failed during takeoff. The accident resulted in the loss of one kidney and the sight in her left eye, and ended her flying career. She died from kidney failure on May 31, 1997, age of 77, in Clarksville, Indiana where she was a resident; and

Whereas, According to the Encyclopedia of American Economic History, “Rosie the Riveter” inspired a social movement that increased the number of working American women from 12 million to 20 million by 1944, a 57 percent increase from 1940. By 1944 only 1.7 million unmarried men between the ages of 20 and 34 worked in the defense industry, while 4.1 million unmarried women between those ages did so. Although the image of “Rosie the Riveter” reflected the industrial work of welders and riveters during World War II, the majority of working women filled nonfactory positions in every sector of the economy. What unified the experiences of these women was that they proved to themselves and the country that they could do a “man’s job” and could do it well. In 1942, just between the months of January and July, the estimates of the proportion of jobs that would be “acceptable” for women was raised by employers from 29 to 85 percent; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 11186, at mile marker 153 crossing Interstate 79 in Monongalia County, the “Rosie the Riveters 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 11186 as the “Rosie the Riveters Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the Rosie the Riveters state organization.

Which, under the rules, lies over one day.

Senators Maynard, Plymale and Stollings offered the following resolution:

**Senate Concurrent Resolution 8**—Requesting the Division of Highways to name bridge number 50-52-37.47 (50A049), (latitude 38.006184, longitude -82.506839), locally known as the



Lost Creek Beam Span, carrying U. S. Route 52 over Lost Creek in Wayne County, the “U. S. Army PFC Ernest D. Marcum Bridge”.

Whereas, Ernest D. “Doby” Marcum was born in Crum, WV, on September 12, 1947, the son of Oscar and Gladys Perry Marcum; and

Whereas, Ernest D. “Doby” Marcum entered service to his country with the United States Army during the Vietnam Conflict in 1967; and

Whereas, Ernest D. “Doby” Marcum served as an Armor Intelligence Specialist with the 9th Infantry Division, attaining the rank of Private First Class; and

Whereas, PFC Ernest D. “Doby” Marcum paid the ultimate price on December 31, 1967, when he was killed by shrapnel from a grenade and he was posthumously awarded the Purple Heart; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 50-52-37.47 (50A049), (latitude 38.006184, longitude -82.506839), locally known as the Lost Creek Beam Span, carrying U. S. Route 52 over Lost Creek in Wayne County, the “U. S. Army PFC Ernest D. Marcum 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 Ernest D. Marcum Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the Wayne County Veterans’ Association.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 2**, Urging Congress provide funding for WV National Guard.

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

**Senate Concurrent Resolution 3**, Julian, Earl and Edward Hill 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 Concurrent Resolution 4**, Petitioning Congress to call convention for proposing amendments to U.S. Constitution.

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

**Senate Concurrent Resolution 5**, Coach Bill Stewart Exit.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 263**, Allowing travel and other expense reimbursement for members of Municipal Home Rule Board.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins,

Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

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. 263) 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.

**Senate Bill 1**, Establishing WV Workplace Freedom Act.

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

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

On page ten, section eight, line eight, by striking out “31” and inserting in lieu thereof “30”.

The bill (S. B. 1), as amended, was then ordered to engrossment and third reading.

**Senate Bill 253**, Exempting drug treatment and drug recovery facilities from county and municipal ordinances.

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

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

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, January 21, 2016, at 11 a.m.

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## THURSDAY, JANUARY 21, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Kevan Bartlett, Maranatha Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jeff Mullins, a senator from the ninth district.

Pending the reading of the Journal of Wednesday, January 20, 2016,

At the request of Senator Romano, 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. House Bill 4033**—A Bill to amend and reenact §30-5-34 of the Code of West Virginia, 1931, as amended, relating to

establishing a criminal penalty; permitting the board to contact law enforcement with information concerning a criminal offense; prohibiting the practice of pharmacist care without a license; prohibiting assistance to practice of pharmacist care without a registration; permitting the fining of a person practicing with an encumbered license; permitting the fining of a person practicing with an encumbered registration; establishing a fine.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

The Senate next proceeded to the fourth order of business.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 39**, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area.

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

**Com. Sub. for Senate Bill 39** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §17F-1-1 and §17F-1-9 of the Code of West Virginia, 1931, as amended, all relating to the regulation of all-terrain vehicles; clarifying circumstances in which all-terrain vehicles may operate and travel; and defining motorcycles as all-terrain vehicles.

And,

**Senate Bill 43**, Clarifying means of posting to prohibit hunting or trespassing.

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

**Com. Sub. for Senate Bill 43** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-8 of

the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3B-1 of said code, all relating to posted land; and allowing boundaries to be posted with certain clearly visible paint markings.

With the recommendation that the two committee substitutes do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bills (Com. Sub. for S. B. 39 and 43), under the original double committee references, were then referred to the Committee on the Judiciary.

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 107**, Uniform Interstate Depositions and Discovery 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 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 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200 and 201**, DHHR rule relating to WV Clearance for Access: Registry and Employment Screening.

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

**Com. Sub. for Senate Bill 195** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Health and Human Resources; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments recommended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia Clearance for Access: Registry and Employment Screening; 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 fees for service; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to infectious medical waste; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to tuberculosis testing, control, treatment and commitment; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to farmers market vendors; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the certification of opioid overdose prevention and treatment training programs; authorizing the Department of Health and Human Resources to promulgate a

legislative rule relating to chronic pain management licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to neonatal abstinence centers; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child-care licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child-care facility licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child-care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia Works Program sanctions; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to qualifications for a restricted provisional license to practice as a social worker within the department; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to goals for foster children.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 202**, DNR rule relating to prohibitions when hunting and trapping.

**Senate Bill 203**, DNR rule relating to general hunting.

**Senate Bill 204**, DNR rule relating to deer hunting.

And,



**Senate Bill 205**, DNR rule relating to wild boar hunting.

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,

Robert Karnes,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 206**, DNR rule relating to elk restoration and management.

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,

Robert Karnes,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Natural Resources pending.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Trump, Kessler, Woelfel, Palumbo, Romano, Stollings, Plymale and Yost:**

**Senate Bill 338**—A Bill to amend and reenact §61-7A-1, §61-7A-2, §61-7A-3 and §61-7A-4 of the Code of West Virginia, 1931, as amended, all relating generally to compiling and maintaining the West Virginia Central State Mental Health Registry; clarifying that only certain mental illness commitments are to be reported to the registry; and prohibiting reporting children under fourteen years of age to registry.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Trump, Kessler, Woelfel, Palumbo, Romano, Plymale and Yost:**

**Senate Bill 339**—A Bill to amend and reenact §51-1-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §51-2-13 of said code; to amend and reenact §51-2A-6 of said code; and to amend said code by adding thereto a new article, designated §51-12-1 and §51-12-2, all relating to compensation paid to professional judicial officers; establishing judicial compensation commission; providing eligibility and quorum requirements; filling commission vacancies; filing commission reports and recommendations; and requiring legislative action.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Ashley, Carmichael, Facemire, Ferns, Hall, Mullins, Palumbo, Prezioso, Romano, Snyder, Trump, Woelfel and Plymale:**

**Senate Bill 340**—A Bill to amend and reenact §7-3-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-17 of said code; to amend and reenact §8-27-16 of said code; to amend and reenact §10-2A-16 of said code; and to amend and reenact §17-17-22 of said code, all relating to payment by West Virginia Municipal Bond Commission or state sinking fund

commission or governing body issuing bonds of principal and interest on bonds owned by the United States or any governmental agency or department of the United States.

Referred to the Committee on Government Organization.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 341**—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016, in the amount of \$659,500 from the Department of Revenue, Insurance Commissioner – Examination Revolving Fund, fund 7150, fiscal year 2016, organization 0704, and in the amount of \$26,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 342**—A Bill supplementing and amending by decreasing the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources – Division of Human Services, fund 0403, fiscal year 2016, organization 0511, and to the Bureau of Senior Services, fund 0420, fiscal year 2016, organization 0508, by supplementing, amending and decreasing the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President), Hall, Kessler and Trump:**

**Senate Bill 343**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-2-11, relating to grand juries; authorizing prosecuting attorneys to designate law-enforcement officers and investigators as custodians of records, documents and other evidence subpoenaed by a grand jury; authorizing designated custodians to

use subpoenaed records, documents and other evidence for investigative purposes prior to such records, documents or other evidence being presented to a grand jury; requiring presentation of subpoenaed materials held by custodian be presented to the next session of the grand jury meeting after receipt; and limiting law-enforcement use of such subpoenaed materials to legitimate investigation and prosecuted purposes relevant to the investigation underlying issuance of subpoena.

Referred to the Committee on the Judiciary.

**By Senators Cole (Mr. President), Hall, Kessler and Trump:**

**Senate Bill 344**—A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, §4-5-5 and §4-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §4-5-7, all relating to Commission on Special Investigations; clarifying composition and chairmanship of commission; redefining what constitutes a quorum for voting procedures of commission; clarifying contents of commission's annual report; listing existing and necessary commission staff positions; defining agency's duty to cooperate with commission during investigations and requiring agencies to disclose information and documents to commission; establishing requirements for commission to enter into executive session; establishing procedures for conducting executive session; removing requirement that Joint Committee on Government and Finance approve expenses of commission; establishing procedure for commission retention and disposal of records; defining new felony offense of making false statement to commission; setting penalties for making false statement to commission; defining new felony offense of impersonating a commission member or staff member; and setting penalties for impersonating a commission member or staff member.

Referred to the Committee on the Judiciary.

**By Senator Hall:**

**Senate Bill 345**—A Bill to repeal §5A-4-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding

thereto a new section, designated §5A-10-3a, relating to parking on state-owned or leased property; creating parking fees fund; authorizing Real Estate Division to collect parking fees; providing for rule-making authority; and continuing Parking Garage Fund.

Referred to the Committee on Finance.

**By Senators Hall and Prezioso:**

**Senate Bill 346**—A Bill to amend and reenact §5A-6-2 of the Code of West Virginia, 1931, as amended, relating to information technology projects under Office of Technology; and raising minimum dollar value for information technology project to qualify as major information technology project.

Referred to the Committee on Finance.

**By Senators Walters and Boso:**

**Senate Bill 347**—A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended, relating to increasing number of limited video lottery terminals allowed at a retail location; and requiring Lottery Commission to conduct a bid for current permit holders prior to September 1, 2016.

Referred to the Committee on Finance.

**By Senators Boso, Gaunch, Leonhardt, Mullins, Palumbo, Walters and Williams:**

**Senate Bill 348**—A Bill to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to permitting lineal descendants of landowner to hunt, trap and fish on that landowner's property without obtaining a license.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 349**—A Bill to amend and reenact §11-21-9 and §11-21-71a of the Code of West Virginia, 1931, as amended, all relating to updating the meaning of “federal adjusted gross income” and certain other terms used in the West Virginia Personal

Income Tax Act; changing due dates for partnership returns; and specifying effective dates.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 350**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2D-4c, relating to exempting community-based behavioral health facilities, programs or services from certificate of need process; and defining “community-based”.

Referred to the Committee on Health and Human Resources.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 351**—A Bill to amend and reenact §31-15A-16 of the Code of West Virginia, 1931, as amended, relating to dedication of severance tax proceeds to the West Virginia Infrastructure General Obligation Debt Service Fund; and specifying reduction of the amount of severance tax proceeds dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 352**—A Bill to amend and reenact §11-24-43a of the Code of West Virginia, 1931, as amended, relating to dedication of corporation net income tax proceeds to railways; and specifying that dedication of corporation net income tax proceeds to railways expires and is void on and after January 1, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 353**—A Bill to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to allocation of

premiums for employers and employees in Public Employees Insurance Agency; and establishing contribution levels of seventy-five percent for employers and twenty-five percent for employees with respect to health insurance premiums for plan year commencing July 1, 2017, and each plan year thereafter.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 354**—A Bill to amend and reenact §11-24-3 and §11-24-13 of the Code of West Virginia, 1931, as amended, all relating to updating meaning of “federal taxable income” and certain other terms used in West Virginia Corporation Net Income Tax Act; changing due date for filing West Virginia Corporation Net Income Tax return; and specifying effective dates.

Referred to the Committee on Finance.

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 355**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-3d, relating to imposing consumers sales and service tax and use tax on sales of telecommunications service and ancillary services.

Referred to the Committee on Finance.

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 356**—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to sales tax exemption for certain sales of materials acquired for use in highway construction or maintenance project; and specifying elimination for fiscal year beginning July 1, 2015, of refundable exemption for sales of construction and maintenance material acquired by a second party for use in the construction or maintenance of a highway project, with retroactive effect for elapsed portion of that fiscal year, and resumption thereof for fiscal year beginning July 1, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 357**—A Bill making a supplementary appropriation of Lottery Net Profits from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the Bureau of Senior Services - Lottery Senior Citizens Fund, fund 5405, fiscal year 2016, organization 0508, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Gaunch, Boso, Blair, Walters, Palumbo, Stollings, Kirkendoll, Carmichael, Ferns, Takubo, Prezioso, Plymale, Williams, Trump, Hall and Mullins:**

**Senate Bill 358**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-20G-1, §33-20G-2, §33-20G-3, §33-20G-4, §33-20G-5, §33-20G-6, §33-20G-7, §33-20G-8, §33-20G-9, §33-20G-10, §33-20G-11, §33-20G-12, §33-20G-13 and §33-20G-14, all relating to establishing Mining Mutual Insurance Company; establishing scope, findings and purpose; defining terms; authorizing creation and requirements of company; establishing provisional board of directors and continuing governance and organization; establishing board of directors may enter into contract with firm or company to administer affairs of company; creating special revenue account entitled Department of Environmental Protection Mining Mutual Insurance Company Account; establishing initial capital and surplus for company; authorizing issuance of bonds; requiring DEP to promulgate rules regarding purchase of bonds; establishing controlling law; establishing liberal construction of article; and allowing severability of article provisions.

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

**By Senators Boso, Gaunch, Blair, Palumbo, Stollings, Kirkendoll, Carmichael, Ferns, Takubo, Prezioso, Plymale, Williams, Trump, Hall and Mullins:**

**Senate Bill 359**—A Bill to amend and reenact §22-3-11 of the Code of West Virginia, 1931, as amended, relating to requirements



for performance bonds by operators; providing amount and method of bonding; establishing that issuance of bonds be limited to Mining Mutual Insurance Company beginning one year after it is funded; establishing purpose for bonds; requiring secretary to submit plan to allow additional entities to issue bonds; allowing secretary to issue bond without additional surety under certain circumstances; prohibiting owner from interfering with operator obligations; continuing Special Reclamation Fund; creating and administering Special Reclamation Water Trust Fund; creating requirements for tax credits for operators reclaiming or remediating sites; allowing Tax Commissioner to promulgate rules regarding tax credits; establishing special reclamation tax rates; establishing review by Legislature of special reclamation tax; establishing secretary's duties for special reclamation program; establishing Tax Commissioner's duties for special reclamation tax; prohibited acts; establishing liability for special reclamation tax; and requiring approval from federal agency before implementation of section if necessary.

Referred to the Committee on Energy, Industry and Mining; then to the Committee on the Judiciary; and then to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 360**—A Bill making a supplementary appropriation from the balance of moneys remaining as an unappropriated balance from the State Fund, State Excess Lottery Revenue Fund, to the Department of Health and Human Resources, Division of Human Services, fund 5365, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Gaunch, Boso, Mullins, Palumbo, Walters, Williams and Prezioso:**

**Senate Bill 361**—A Bill to amend and reenact §61-2-10a of the Code of West Virginia, 1931, as amended, relating to prohibiting

persons who have committed crimes against the elderly from performing any court-ordered public service involving the elderly.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Boso, Mullins, Palumbo, Walters, Williams, Unger, Plymale, Trump and Prezioso:**

**Senate Bill 362**—A Bill to amend and reenact §61-2-29b of the Code of West Virginia, 1931, as amended, relating to increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person, protected person or incapacitated adult; and increasing the criminal penalty for the offense of financial exploitation of \$1,000 or more.

Referred to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill 363**—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; defining “autocycle”; creating autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with valid driver’s license to operate an autocycle; creating autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; and deleting obsolete language regarding the motorcycle safety and education committee.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 364**—A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016, in the amount of \$51,800,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization

0701, in the amount of \$1,940,500 from the Department of Revenue, Insurance Commissioner – Examination Revolving Fund, fund 7150, fiscal year 2016, organization 0704, and in the amount of \$4,800,000 from the Department of Revenue, Insurance Commissioner, WV Health Insurance Plan Fund, fund 7161, fiscal year 2016, organization 0704.

Referred to the Committee on Finance.

**By Senators Gaunch, Karnes, Kirkendoll, Boso, Palumbo and Unger:**

**Senate Bill 365**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §39A-4-1, §39A-4-2, §39A-4-3, §39A-4-4, §39A-4-5, §39A-4-6 and §39A-4-7, all relating to creating Uniform Real Property Electronic Recording Act; providing short title; defining terms; clarifying validity of electronic documents and electronic signatures; providing for recording of electronic documents; requiring any county clerk implementing the provisions of the act to comply with established standards; authorizing county clerks to receive, index, store, archive and transmit electronic documents; authorizing county clerks to allow public access, search and retrieval of electronic documents; allowing county clerks to convert paper documents accepted for recording into electronic documents; authorizing county clerks to collect electronically any tax or fee relating to electronic recording of real property documents they are authorized by law to collect; authorizing county clerks to agree with other jurisdictions on procedures or processes necessary for electronic recording of documents; creating Real Property Electronic Recording Standards Committee to develop standards necessary to electronically record real property documents; authorizing Commissioner of Highways to promulgate legislative rule; providing for report and recommendations to the Legislature; providing that members of Real Property Electronic Recording Standards Committee pay their own expenses; setting forth areas for consideration when adopting or changing standards; providing for uniformity of application and construction of the act; and providing that this act modifies, limits

and supersedes certain parts of the federal Electronic Signatures in Global and National Commerce Act.

Referred to the Committee on Government Organization.

**By Senators Trump, Woelfel and Snyder:**

**Senate Bill 366**—A Bill to amend and reenact §6B-3-7 of the Code of West Virginia, 1931, as amended, relating to lobbyist duties and prohibitions; prohibiting a lobbyist from contributing money to candidates for Governor, Board of Public Works, State Senate or House of Delegates; extending that prohibition to the lobbyist's spouse and dependent children; and providing exceptions.

Referred to the Committee on the Judiciary.

**By Senators Carmichael and Prezioso:**

**Senate Bill 367**—A Bill to amend and reenact §62-12-26 of the Code of West Virginia, 1931, as amended, relating to prohibiting any sex offender from living within one thousand feet of a school.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill 368**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §61-6-26 and §61-6-27, all relating to making it a criminal offense to disturb the peace; and providing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Boso, Plymale, Prezioso and Williams:**

**Senate Bill 369**—A Bill to repeal §18-2-5g of the Code of West Virginia, 1931, as amended; to repeal §18-2E-3g of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-5 of said code; to amend and reenact §18-3-12 of said code; to amend and reenact §18-5-44 of said code; to amend and reenact §18-20-5 and §18-20-8 of said code; to amend and reenact §18A-2-3 of said code; to amend and reenact §18A-4-7a of said code; to amend and reenact §18A-5-1a of said code; to amend

and reenact §18B-1D-8 of said code; to amend said code by adding thereto a new section, designated §18B-1D-8a; and to amend and reenact §18B-1E-3 and §18B-1E-4 of said code, all relating to legislative education reporting requirements; repealing obsolete section providing for establishment of a special five-year demonstration professional development school project for improving academic achievement including requirement for status reports to commission; repealing requirement for review, evaluation and report to commission on reports required to be written by principals and teachers; removing requirement for Office of Education Performance Audits to report to commission on each appeal of on-site review findings; removing requirement for report to the commission on the effectiveness of staff development resulting from expenditures from the Strategic Staff Development Fund; removing requirement for status report to commission relating to the Special Community Development School Pilot Program; removing requirement for report to commission on the progress of implementation of early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the program; removing requirement for report to the commission and the Joint Committee on Government and Finance that addresses, at a minimum, certain early childhood education program issues; removing requirement for State Superintendent of Schools to review the rules, policies and standards of the state and federal law for serving the needs of certain exceptional children and removing requirement for report to commission on the findings of the review along with an accounting of the services provided and the costs thereof; removing requirement for annual report to commission, the Joint Committee on Education, the Legislative Commission on Juvenile Law and other agencies, as appropriate, which recommends policies, procedures and legislation for effectively providing early intervention services and reports on the status of existing programs; removing requirement for State Board of Education to review the status of employing prospective employable professional personnel and the requirement for an annual report to the commission which must include certain minimum prospective employable professional personnel-related

items; removing requirement that county board of education submit a copy of its policy defining which policies are lateral positions to the state board within thirty days of any adoption or modification and the requirement that the state board compile a report and submit the report to the commission; removing requirement that county boards report the number of students determined to be dangerous students to the state board and the requirement that the state board compile the statistics and report its findings to the commission; adding to the list of reports to the commission that are not required to be prepared and submitted annually unless a member of the Legislature makes a specific request for a particular report, including reports related to community and technical college progress toward meeting statutory goals, whether statewide independently accredited community and technology should be created, the progress of community and technical colleges meeting statutory objectives, workforce development initiatives, community and technical college system performance, capital investment priorities and recommendations for statutory changes, training of commission, council and board of governors members, the status of the Higher Education Adult Part-Time Student Grant Program, the number of nursing scholarship recipients, and the annual recommendation to encourage recipients to live and work in West Virginia after graduation; listing certain reports that are not required to be made annually to the Legislature, but instead requiring them to be combined with other reports, including certain personnel, classification, compensation and human resources reports, all capital appropriation requests, priorities and campus and state capital development plans, all academic-related matters and reports, and all financial aid reports; removing obsolete requirements that the findings, conclusions and recommendations of the Revitalization Project for WVU-Tech study, together with the revitalization plan for implementation, shall be reported to the commission and the governing board, that the revitalization plan be delivered to the commission, and that the commission consider the proposed plan and approve or disapprove; removing requirement that the chancellor report to the commission on the allocation of funds to support the revitalization project at WVU-

Tech and on progress made in implementing the purposes and intent of the revitalization project article and the components of the revitalization plan; and removing the requirement that the commission and governing board provide to the commission a detailed summary of all revitalization project activities undertaken.

Referred to the Committee on Education.

**By Senators Walters and Miller:**

**Senate Bill 370**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6 and §5B-2I-7, all relating to authorizing local units of government to adopt local energy efficiency partnership programs and to create districts to promote use of energy efficiency improvements by owners of certain real property; providing for financing of programs through voluntary property assessments, commercial lending and other means; authorizing local unit of government to issue bonds, notes and other evidences of indebtedness and to pay the cost of energy efficiency improvements from the proceeds thereof; providing for repayment of bonds, notes and other evidences of indebtedness; authorizing certain fees; prescribing the powers and duties of certain governmental officers and entities; and providing remedies.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Government Organization.

**By Senator Walters:**

**Senate Bill 371**—A Bill to repeal §21-16-1, §21-16-2, §21-16-3, §21-16-4, §21-16-5, §21-16-6, §21-16-7, §21-16-8, §21-16-9 and §21-16-10 of the Code of West Virginia, 1931, as amended; to repeal §29-3D-1, §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-5, §29-3D-6, §29-3D-7 and §29-3D-8 of said code; and to amend and reenact §29-3-12b of said code, relating to deregulating persons who perform work on heating, ventilating and cooling systems and fire dampers.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Walters, Gaunch and Palumbo:**

**Senate Bill 372**—A Bill to amend and reenact §16-1-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2-5 and §16-2-11 of said code, all relating to powers and duties of Commissioner of Public Health; modifying administration of local boards of health; providing for regionalization of administration and services of local health departments; requiring local health departments to bill health insurance plans for services that are provided; mandating development of needle exchange programs in local health departments; and providing for rule-making authority.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

**By Senators Walters and Gaunch:**

**Senate Bill 373**—A Bill to amend and reenact §18-2-26 of the Code of West Virginia, 1931, as amended, relating to granting full control of the Board of Education Regional Education Service Agencies to state superintendent including selection of executive directors and support staff as well as organization and operations of regional education service agencies.

Referred to the Committee on Education.

Senators Maynard, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 9**—Requesting Division of Highways name stretch of highway on U. S. Route 52, in Kimball, West Virginia, from mile marker 27.24 to mile marker 29.20, the “U. S. Army First Sergeant Jesse T. McPeake Memorial Road”.

Whereas, Jesse T. McPeake was born on November 13, 1944, in Kimball, West Virginia, as one of nine children; and

Whereas, Jesse enlisted in the United States Army in 1966. He later became this State’s most decorated Vietnam Veteran, earning the Silver Star, five Bronze Stars, the Purple Heart, the Soldiers Medal, the National Defense Ribbon, the Good Conduct Medal with three loops, the Army Conduct Medal, the Vietnam Service



Medal with nine Silver Stars, the Vietnam Compensative Medal and the Expert Badge with Automatic Rifle; and

Whereas, In 1976, Jesse resigned from the United States Army and opened McPeake's Furniture Store in Kimball. In 1977, Jesse and Manuel Horeluk moved to Beckley, West Virginia, and established employment together at F&W Furniture. In 1978, Jesse and Manuel moved to Welch, West Virginia, where Jesse established employment with US Steel, where he worked for twenty-eight years until 2006; and

Whereas, Jesse was a key player in the rebuilding of the WWI African American Memorial Building, being an early member of the board where he remained until 2015; and

Whereas, In 2007, Jesse, along with Manuel Horeluk and his mother Mildred, opened the Visitors Center in the Kimball Light and Water Building; and

Whereas, Jesse taught the youth of McDowell County to respect this country and its values while assisting homeless veterans; and

Whereas, Jesse passed away on July 12, 2015, and he will be greatly missed by the people who reside in McDowell County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the stretch of highway on U. S. Route 52, in Kimball, West Virginia, from mile marker 27.24 to mile marker 29.20, the "U. S. Army First Sergeant Jesse T. McPeake Memorial Road"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the stretch of highway as the "U. S. Army First Sergeant Jesse T. McPeake Memorial Road"; and, be it

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

Which, under the rules, lies over one day.

Senators Karnes, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, Leonhardt, Maynard, Mullins and Trump offered the following resolution:

**Senate Concurrent Resolution 10**—Urging Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress.

Whereas, Article IV, Section 4 of the Constitution of the United States guarantees to every state a republican form of government which gives each state equal standing when calling for an amendments convention. Article V of the Constitution of the United States reserves to the several states the right to call for a convention for the purpose of amending the United States Constitution when Congress or the courts or both Congress and the courts refuse to address an egregious wrong suffered by the people; and

Whereas, The states alone have the authority to “limit” the agenda and authority of a convention. The states alone can call for a “Single Issue” convention by agreeing among themselves the purpose, terms, conditions, duration and agenda for the convention. Congress does not have the authority to define a “Single Issue” convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a convention as called for and defined by the several states; and

Whereas, The founders of our constitution empowered state legislators to be guardians of liberty against future abuses of power

by the federal government which has created a crushing national debt through improper and imprudent spending; and

Whereas, The federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, It is the solemn duty of the states to protect the liberty of our people—particularly for the generations to come—by proposing amendments to the Constitution of the United States through a Convention of the States under Article V for the purpose of restraining these and related abuses of power; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress; and, be it

*Further Resolved,* That the State of West Virginia hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress and absolutely no other business will be authorized at this convention; and, be it

*Further Resolved,* That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least

two thirds of the several states have made applications on the same subject; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution and application to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of West Virginia's congressional delegation and to the presiding officers of each of the legislative houses in the several states requesting their cooperation.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 6**, USMC PFC Marshall Lee King 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 7**, Rosie the Riveters 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 8**, U.S. Army PFC Ernest D. Marcum Bridge.

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

The Senate proceeded to the eighth order of business.

**Senate Bill 1**, Establishing WV Workplace Freedom 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 Senate Bill 1 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—17.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

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. 1) 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 Woelfel, and by unanimous consent, the remarks by Senators Trump, Kessler, Snyder, Kirkendoll, Miller, Romano, Beach, Laird, Blair, Boso, Karnes, Facemire and Carmichael regarding the passage of Engrossed Senate Bill 1 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

**Senate Bill 253**, Exempting drug treatment and drug recovery facilities from county and municipal ordinances.

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

At the request of Senator Carmichael, 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.

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

**Com. Sub. for Senate Bill 13**, Increasing penalties for overtaking and passing stopped school buses.

**Senate Bill 32**, Relating to withdrawal of candidates for office and filling vacancies.

**Com. Sub. for Senate Bill 102**, Conforming to federal Law-Enforcement Officers Safety Act.

**Com. Sub. for Senate Bill 157**, Authorizing Department of Revenue to promulgate legislative rules.

**Senate Bill 311**, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable Program.

And,

**Senate Bill 323**, Correcting statute subsection designations regarding trespassing on property.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Romano, the name of Senator Romano was removed as a sponsor of **Senate Concurrent Resolution 4** (*Petitioning Congress to call convention for proposing amendments to U.S. Constitution*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, January 22, 2016, at 10 a.m.

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## FRIDAY, JANUARY 22, 2016

The Senate met at 10 a.m.

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

Prayer was offered by the Reverend Richard G. Mahan, St. Timothy Lutheran Church, Charleston, West Virginia.

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

A State of Emergency, due to Winter Storm Jonas, having been declared by the Governor, the Honorable Earl Ray Tomblin, the President declared the absence of quorum.

On motion of Senator Carmichael, the Senate adjourned until Monday, January 25, 2016, at 11 a.m.

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## MONDAY, JANUARY 25, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Tom Bias, Retired United Methodist Clergy, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable C. Edward Gaunch, a senator from the eighth district.

Pending the reading of the Journals of Thursday, January 21, 2016, and Friday, January 22, 2016,

At the request of Senator Stollings, unanimous consent being granted, the Journals were 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 Carmichael, and by unanimous consent, the provisions of rule number fifty-four 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 Sue Cline privileges of the floor for the day.

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 2101**—A Bill to repeal §16-5P-7 of the Code of West Virginia, 1931, as amended; and to repeal §29-12C-1 and §29-12C-2; all relating to eliminating obsolete government entities; repealing section relating to the West Virginia Council on Aging; repealing sections relating to the Patient Injury Compensation Plan Study Board.

Referred to the Committee on Government Organization.

### **Executive Communications**

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

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

January 22, 2016

The Honorable Natalie Tennant  
Secretary of State  
State Capitol  
Charleston, West Virginia 25305



Dear Secretary Tennant:

Pursuant to W. Va. Code § 3-10-5, I have this day appointed Naomi Cline, Post Office Box 46, Brenton, Wyoming County, WV 24818, as a Senator representing the Ninth Senatorial District of the West Virginia State Senate, to fill the vacancy created by the resignation of the Honorable Daniel Hall.

Sincerely,

Earl Ray Tomblin  
Governor

cc: President of the Senate  
Speaker of the House of Delegates  
Clerk of the Senate  
Clerk of the House of Delegates  
West Virginia Ethics Commission

Sue Cline, of the County of Wyoming, previously qualified by taking the several oaths of office prescribed by law and administered by the Honorable William P. Cole III, Senate President.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 27**, Permitting sheriff to hire outside attorneys for collection of taxes through courts.

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

**Com. Sub. for Senate Bill 27** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact § 11A-2-2 of said code, all relating to permitting county

commissions hire outside attorneys to assist in collection of taxes or represent the county before any United States Bankruptcy Court; providing for fees to be paid to any attorneys so hired; and sharing cost of collection with various taxing units.

And,

**Senate Bill 28**, County commission and municipality agreements in demolishing buildings unfit for habitation.

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

**Com. Sub. for Senate Bill 28** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-1-3ff of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-12-16 of said code, all relating to authorizing county commissions and municipalities to cooperate and enter into agreements regarding the removal or demolishing of dwellings or buildings unfit for human habitation; and allowing commissions and municipalities use their own resources for the removal or demolishing of such buildings.

With the recommendation that the two committee substitutes do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bills (Com. Sub. for S. B. 27 and 28), under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 55**, Clarifying tax map rules apply to both paper and digital maps.

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,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 132**, Requiring municipal police officers wear armored vests when feasible.

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,

Craig Blair,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill 146**, Establishing instruction standards for early childhood education.

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

**Com. Sub. for Senate Bill 146** (originating in the Committee on Education)—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to replacing days per week requirement for early childhood education programs with instructional minutes per week and instructional minutes per year requirements.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*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 262**, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.

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

**Com. Sub. for Senate Bill 262** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §25-1-17 and §25-1-18 of the Code of West Virginia, 1931, as amended, all relating to law enforcement not needing to obtain court orders prior to receiving recordings of inmate phone calls and inmate mail for investigative purposes; eliminating requirement for promulgation of legislative rules relating to monitoring of inmate telephone conversations and mail; requiring commissioner to promulgate

policy directive establishing record-keeping procedure to memorialize telephone conversations and mail provided to law enforcement for investigation; requiring records of such transfers be maintained for three years; allowing an inmate's attorney access to telephone conversations and inmate mail supplied to law enforcement and exceptions thereto; clarifying that inmate mail and telephone provisions apply only to inmates in physical custody of commissioner; and clarifying that information supplied to law enforcement is not subject to disclosure under the Freedom of Information Act.

And,

**Senate Bill 290**, Assignment of wages by employers and payment by payroll card.

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

**Com. Sub. for Senate Bill 290** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to assignment of wages by employers and payment of wages by payroll card; authorizing assignment without notarization or required statement that assignment cannot be for more than twenty-five percent of employee's wages; allowing wage assignments to be valid for longer than one year; and removing requirement for written agreement to pay employee by payroll card.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Ashley, Boso, Facemire, Gaunch, Hall, Leonhardt, Romano, Takubo, Trump, Walters, Stollings, Plymale, Blair, Palumbo, Williams and Miller:**

**Senate Bill 374**—A Bill to amend and reenact §60-4-3b of the Code of West Virginia, 1931, as amended, relating to permitting farm winery to supply wine it produces directly to customers if the customer is purchasing wine for resale purposes and the customer is a licensed carry-out, nonintoxicating beer retailer or wine specialty shop located in a dry county.

Referred to the Committee on the Judiciary.

**By Senators Ashley, Boley, Boso, Hall, Leonhardt, Trump and Blair:**

**Senate Bill 375**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §27-18-1, §27-18-2, §27-18-3, §27-18-4, §27-18-5, §27-18-6, §27-18-7, §27-18-8, §27-18-9, §27-18-10, §27-18-11 and §27-18-12, all relating to establishing procedure for involuntary treatment of persons suffering from alcohol and other drug abuse disorders; protecting rights of patients; establishing limits; requiring legal proceedings; requiring notice and examinations; granting Department of Health and Human Resources authority to administer programs and issue licenses; permitting contracts between agencies and providers; requiring reports, studies and evaluations; prohibiting denial of treatment; protecting confidentiality; defining terms; and granting rule-making authority.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Trump, Palumbo, Gaunch, Williams, Beach, Yost, Miller and Maynard:**

**Senate Bill 376**—A Bill to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended, relating to

background checks for applicants for private investigator and security guard licensure.

Referred to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill 377**—A Bill to amend and reenact §9-5-9 and §9-5-18 of the Code of West Virginia, 1931, as amended, all relating to liability of spouses or relatives for support; defining terms; requiring financial information; setting amount to be paid for indigent funeral service expenses; limiting number of indigent funeral services to be paid by the department in any state fiscal year; and redefining funeral service expenses to mean expenses for cremation unless objectionable pursuant to decedent's religion or otherwise prohibited by federal law, state law or regulation.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Trump, Carmichael, Williams, Ashley, Gaunch, Leonhardt, Palumbo, Romano, Miller, Boso, Stollings, Sypolt, Blair and Plymale:**

**Senate Bill 378**—A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to truancy intervention; and defining excused and unexcused absences.

Referred to the Committee on the Judiciary.

**By Senators Trump, Palumbo, Gaunch, Williams, Beach, Yost and Miller:**

**Senate Bill 379**—A Bill to amend and reenact §3-5-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-8-5b of said code, all relating to where candidates' filing fees are paid; apportionment of candidate filing fees to counties; and where campaign finance statements are filed.

Referred to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill 380**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to the

comprehensive statewide student assessment; and requiring ACT and ACT Aspire to be used as the comprehensive statewide student assessment.

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

**By Senators Ashley, Boso and Gaunch:**

**Senate Bill 381**—A Bill to amend and reenact §33-40-3 of the Code of West Virginia, 1931, as amended, relating to risk-based capital trend test for life and health insurers; and changing the definition of “company action level event” to change the trend test, for a life and health insurer, to three from two and one-half percent.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Stollings and Plymale:**

**Senate Bill 382**—A Bill to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended, relating to liability insurance for certain persons connected to county boards of education; requiring Board of Risk and Insurance Management cover volunteer workers and student teachers in the same manner as other board of education employees; defining “volunteer worker”; and limiting civil liability in certain circumstances.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

**By Senators Boso, Ferns and Maynard:**

**Senate Bill 383**—A Bill to amend and reenact §22-6-31 of the Code of West Virginia, 1931, as amended, relating generally to prevention of waste by joint development of oil and gas lease tracts of land; allowing joint development of oil and natural gas wells by horizontal drilling under certain circumstances; providing that joint development promotes efficient extraction of oil and gas resources and prevents waste; and addressing production royalties where multiple contiguous leases are developed.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.



**By Senators Takubo and Stollings:**

**Senate Bill 384**—A Bill to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating to requiring West Virginia Bureau for Medical Services seek federal waiver to provide for exemption from the thirty-day waiting period for a tubal ligation; and making stylistic changes.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 385**—A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended, relating to predicating actions for damages upon principles of comparative fault; and expanding deadline by which defendant must give notice that nonparty was wholly or partially at fault.

Referred to the Committee on the Judiciary.

**By Senators Mullins, Beach, Blair, Gaunch, Hall, Kessler, Prezioso, Trump and Williams:**

**Senate Bill 386**—A Bill to repeal §18B-1E-1, §18B-1E-2, §18B-1E-3 and §18B-1E-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-1C-1 and §18B-1C-2 of said code, all relating to West Virginia University Institute of Technology; finding that there is a need to maintain the valuable educational services provided by West Virginia University Institute of Technology; finding that there are continued enrollment and facilities issues facing West Virginia University Institute of Technology in Montgomery, West Virginia; finding that West Virginia University Institute of Technology, West Virginia University, Marshall University, Concord University, Bluefield State College and other private partners should collaborate; eliminating requirement that the headquarters of West Virginia University Institute of Technology remain in Montgomery, West Virginia; clarifying provisions relating to West Virginia University Institute of Technology Board of Visitors; eliminating outdated provisions; and repealing provisions relating to West Virginia University Institute of Technology Revitalization Project.

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

**By Senator Karnes:**

**Senate Bill 387**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-7, relating to shared animal ownership agreements to consume raw milk; acquiring percentage ownership interest in milk-producing animal's raw milk; providing for payment for percentage ownership for care and boarding of milk-producing animal; providing for receipt of a share of raw milk pursuant to an agreement; requiring written document acknowledging the inherent dangers of consuming raw milk; setting forth required provisions for shared animal ownership agreements; requiring herd seller meet animal health requirements set by state veterinarian for milk-producing animals; setting forth required health standards for milk-producing animals; providing immunity to herd seller; prohibiting the distribution, sale or resale of raw milk; requiring shared animal ownership agreements be filed; requiring parties and physicians to report illnesses related to consumption of raw milk; and providing administrative penalties.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

Senators Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 11**—Requesting Division of Highways name bridge number 4003, located in Boone County on Route 85, at mile marker 10.66 and crossing over to Bald Knob over the mouth of James Creek, the "U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge".

Whereas, Gerald Leslie Perry was born March 23, 1942, to "Nan" Perry and Charles Leslie Perry, both deceased, and resided at Bald Knob, Boone County, West Virginia; and

Whereas, Gerald Leslie Perry was nicknamed “Orangey” growing up in Boone County, due to his bright, orange-colored hair; and

Whereas, Gerald Leslie Perry joined the United States Marine Corps as a machine gunner and attained the rank of Sergeant; and

Whereas, Sergeant Gerald Leslie Perry served this country during the Vietnam War; and

Whereas, Sergeant Gerald Leslie Perry started his tour of duty in Vietnam in April, 1966; and

Whereas, Sergeant Gerald Leslie Perry, after only approximately four months into his tour of duty in Vietnam, paid the ultimate sacrifice for his country when he was killed by enemy gunfire in Quang Tin Province, South Vietnam; and

Whereas, It is believed that Sergeant Perry was the first soldier from Boone County to pay the ultimate sacrifice in service of his country in Vietnam; and

Whereas, Sergeant Gerald Leslie Perry has three surviving siblings, David Perry, Terry Perry and Nancy Perry Adkins; and

Whereas, It is fitting and appropriate that the bridge located on Route 85, at mile marker 10.66 where it crosses over to Bald Knob over the mouth of James Creek, designated as bridge number 4003 by the West Virginia Division of Highways, be named the “U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge” in honor of this fallen soldier who paid the ultimate sacrifice on behalf of his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 4003, located in Boone County on Route 85, at mile marker 10.66 and crossing over to Bald Knob over the mouth of James Creek, the “U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to make and have placed signs identifying the “U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby requested to provide the surviving siblings of Sergeant Perry, named above, with certified copies of this resolution.

Which, under the rules, lies over one day.

Senator Hall offered the following resolution:

**Senate Resolution 7**—Authorizing the appointment of permanent and per diem employees for the Second Regular Session of the Eighty-second Legislature and payment of their compensation.

*Resolved by the Senate:*

That the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate is hereby authorized to appoint employees to receive the per diem compensation, as herein provided, during this regular sixty-day session of the eighty-second Legislature, and any extension thereof as follows:

Thirty Class I secretaries at a rate of seventy dollars per diem to one hundred dollars per diem;

Two Class II secretaries at a rate of seventy-five dollars per diem to one hundred dollars per diem;

Four legislative analysts at a rate of seventy-five dollars per diem to two hundred dollars per diem;

Eight legal counselors at a rate of two hundred dollars per diem to two hundred seventy-five dollars per diem; assignments and salary to be determined by the presiding officer of the Senate;

One bill and journal clerk to the Senate Clerk at a rate of seventy dollars per diem to one hundred dollars per diem;

Four proofreaders at a rate of seventy-five dollars per diem to one hundred dollars per diem;

One Sergeant at Arms at a rate not to exceed one hundred sixty-six dollars per diem;

Two assistants to the Sergeant at Arms at a rate of sixty-five dollars per diem to one hundred dollars per diem;

One Doorkeeper at a rate not to exceed one hundred fifty dollars per diem;

Five assistants to the Doorkeeper at a rate of sixty-five dollars per diem to one hundred dollars per diem;

Three mail clerks at a rate of sixty dollars per diem to one hundred dollars per diem;

One night custodian at a rate of sixty-five dollars per diem to seventy-five dollars per diem;

The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such per diem staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by this Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the presiding officer of the Senate. In all such cases, the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to supervise and dismiss such staff personnel; and, be it

*Further Resolved*, That the appointment of salaried full-time employees of the Senate for the year two thousand sixteen and their compensation, at the following amounts per month, for such

periods of time as they are employed in the positions designated, is hereby authorized, as follows:

Clerk.....	7,416.67
Assistant Clerk.....	5,000.00
Executive Secretary to Clerk.....	3,542.00
Administrative Assistant to Clerk.....	2,666.67
Fiscal Officer.....	4,833.33
Fiscal Officer.....	4,833.33
Technical Support.....	4,000.00
Deputy Clerk.....	4,208.67
Chief Desk Clerk.....	4,760.75
Chief Journal Clerk.....	4,125.33
Bill Clerk.....	2,541.67
Minor Committee Support.....	2,925.33
Counsel to Minor Committees.....	6,458.33
Counsel to President.....	8,166.67
Executive Assistant to President.....	3,000.00
Legislative Analyst to President.....	3,250.00
Secretary to President.....	2,250.00
Director of Communications.....	5,916.67
Communications Specialist.....	2,875.33
Counsel to Majority Leader.....	7,083.33
Parliamentarian.....	4,333.33
Assistant to Majority Leader.....	2,500.00
Counsel to Minority Leader.....	6,458.33
Secretary to Minority Leader.....	2,500.00
Counsel to Education Committee.....	7,080.33
Counsel to Education Committee.....	6,042.00
Chief Counsel to Finance Committee.....	6,908.67
Budget-Policy Analyst to Finance Committee.....	5,792.00
Budget Analyst to Finance Committee.....	3,416.67
Clerk to Finance Committee.....	2,958.67
Assistant to Finance Chairman.....	3,125.33
Counsel to Government Organization.....	5,833.33
Clerk to Government Organization Committee.....	2,916.67
Secretary to Government Organization Committee.....	3,226.17
Senior Counsel to Health and Human Resources Committee.....	6,594.92

Clerk to Health and Human Resources Committee .....	3,042.00
Counsel to Judiciary Committee .....	7,083.33
Legislative Analyst to Judiciary Committee .....	3,875.00
Secretary/Clerk to Judiciary Committee .....	2,916.67
Secretary/Clerk to Energy, Industry and Mining .....	2,416.67
Supervisor, Materials & Supplies .....	4,094.08
Purchasing & Procurement Clerk .....	3,393.67
Custodian .....	2,083.67

The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such full-time staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by this Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the presiding officer of the Senate. In all such cases, the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to supervise and dismiss such staff personnel.

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

Senators Karnes, Boley, Cole (Mr. President), Carmichael, Hall, Sypolt, Unger, Kirkendoll, Yost, Ashley, Laird, Trump, Kessler, Stollings, Palumbo, Walters, Facemire, Ferns, Maynard, Mullins, Miller, Blair, Boso, Romano, Snyder, Takubo, Beach, Leonhardt, Woelfel, Williams and Plymale offered the following resolution:

**Senate Resolution 8**—Designating January 25, 2016, as Homeschool Day at the Legislature.

Whereas, The State of West Virginia is committed to excellence in education; and

Whereas, The State of West Virginia recognizes that parental involvement and individualized attention to educational success are unique and basic components of homeschooling; and

Whereas, Homeschooled students exhibit self-confidence and good citizenship and are prepared academically to meet the challenges of today's society; and

Whereas, Contemporary studies continue to confirm that children who are educated at home score exceptionally well on national achievement tests; and

Whereas, Homeschooled students have been shown to be competitive with publicly and privately schooled students at the college level; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 25, 2016, as Homeschool Day at the Legislature; and, be it

*Further Resolved,* That the Senate recognizes students, teachers and families involved with homeschooling in West Virginia for their dedication to excellence in education; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Home Educators Association and the Christian Home Educators of West Virginia.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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



Senators Gaunch, Palumbo, Stollings and Plymale offered the following resolution:

**Senate Resolution 9**—Congratulating the George Washington High School Patriots girls’ volleyball team for winning the 2015 AAA State Volleyball Championship.

Whereas, The George Washington High School Patriots girls’ volleyball team had a dominant year, finishing with a record of 65-1-1, on their way to winning the MSAC Championship; Region 3, Section 1 Championship; Region 3 Championship; and the 2015 AAA State Volleyball Championship; and

Whereas, The Patriots girls’ volleyball team is led by Head Coach Missy Smith, now in her eleventh season, assistant coaches Tom Raker and Dan Shreve, and team manager Cassie Robinson; and

Whereas, The Patriots girls’ volleyball team roster consists of players Hayden Cooke, Liddy Elmore, Delaney Ellis, Malika Houston, Lillie Jacobs, Hannah Jones, Lauren Jones, Ashley McClung, Narassa Medley, Maddy Sayre, Sydney Whitlock and Tessa Wyner; and

Whereas, The 2015 Patriots girls’ volleyball team displayed their talent and strong will for an entire season and is a shining example of what can be accomplished with hard work, dedication and spirit; and

Whereas, The 2015 Patriots girls’ volleyball team won George Washington High School’s sixth girls’ state volleyball championship and will be remembered as one of the best girls’ volleyball teams in West Virginia history; therefore, be it

*Resolved by the Senate:*

That the Senate congratulates the George Washington High School Patriots girls’ volleyball team for winning the 2015 AAA State Volleyball Championship; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School girls' volleyball team.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Concurrent Resolution 9**, U.S. Army First Sergeant Jesse T. McPeake Memorial Road.

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 10**, Urging Congress call convention to amend Constitution of United States.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 13**, Increasing penalties for overtaking and passing stopped school buses.

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

**Senate Bill 32**, Relating to withdrawal of candidates for office and filling vacancies.

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 eleven, line fourteen, by striking out the word “withdraw” and inserting in lieu thereof the word “withdrawal”.

The bill (S. B. 32), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 102**, Conforming to federal Law-Enforcement Officers Safety 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 157**, Authorizing Department of Revenue to 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 253**, Exempting drug treatment and drug recovery facilities from county and municipal ordinances.

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

On motion of Senator Carmichael, the bill was committed to the Committee on Rules.

**Senate Bill 311**, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable Program.

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

**Senate Bill 323**, Correcting statute subsection designations regarding trespassing on property.

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.

**Senate Bill 107**, Uniform Interstate Depositions and Discovery Act.

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

**Com. Sub. for Senate Bill 195**, Authorizing DHHR to promulgate legislative rules.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Kessler, Carmichael and Snyder.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senators Kessler and Snyder were ordered printed in the Appendix to the Journal.

At the request of Senator Gaunch, unanimous consent being granted, the remarks by Senator Carmichael were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Senator Cole (Mr. President) announced the replacement of Senator Boley on the Committee on Agriculture and Rural Development with Senator Cline; the replacement of Senator Carmichael on the Committee on Banking and Insurance with Senator Cline; the replacement of Senator Ashley on the Committee on Education with Senator Cline; and the replacement of Senator Boso on the Committee on the Judiciary with Senator Cline.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, January 26, 2016, at 11 a.m.

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## TUESDAY, JANUARY 26, 2016

The Senate met at 11 a.m.

(Senator Cole, 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 Tom Takubo, a senator from the seventeenth district.

Pending the reading of the Journal of Monday, January 25, 2016,

At the request of Senator Yost, 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 a communication from the Commission on Special Investigations, submitting its annual report as required by §4-5-2 of the Code of West Virginia.

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

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 4002**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3-19; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to rule making under the state Administrative Procedures Act; providing for a sunset of rules promulgated after April 1, 2016; requiring a sunset provision for existing rules as they are modified; requiring Higher Education Policy Commission rules promulgated or modified after April 1, 2016 to include a sunset provision; clarifying that statutory sunset provisions take precedence over rule sunset provisions; expressly exempting out emergency rules from the sunset requirement; authorizing the Legislative Rule-making Review Committee to establish a procedure for timely review of rules prior to the expiration of the sunset provision; and authorizing the legislative oversight commission on education accountability to establish a procedure for timely review of rules prior to the expiration of the sunset provision.

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 4007**—A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of attorneys to assist the Attorney General; authorizing the Attorney General to appoint special assistant attorneys general; establishing competitive bidding process for the use of private attorneys on a contingency fee basis by the Attorney General; requiring written determinations for the Attorney General's selection of private attorneys to represent the state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and the Attorney General; requiring appointed

private attorneys to accept an award of attorney fees in accordance with, and no greater than, the established fee limitations; establishing supervision requirements for private lawyers representing the state on a contingency fee basis; requiring the posting of certain documents relating to the Attorney General's retention of private attorneys to represent the state on a contingency fee basis; providing for the designation as a special assistant attorney general upon appointment; prohibiting campaign contributions to the Attorney General by members and staff of a private law firm providing legal services to the state; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; updating and removing outdated provisions; and defining terms.

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 4031**—A Bill to amend and reenact §29A-3-5, §29A-3-6, and §29A-3-11 of the Code of West Virginia, 1931, as amended, all relating to requiring agencies to respond to public comments received during the rule-making process; permitting the President of the Senate and the Speaker of the House of Delegates to review agencies' responses; providing grounds for the rejection of a proposed rule; and providing for review of agencies' responses by legislative rule-making review committee.

Referred to the Committee on Government Organization.

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

**Senate Bill 14**, Limiting successor corporation asbestos-related liabilities.

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

**Com. Sub. for Senate Bill 14** (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 §55-7I-1, §55-7I-2, §55-7I-3, §55-7I-4, §55-7I-5, §55-7I-6 and §55-7I-7, all relating to providing limits on successor corporation asbestos-related liabilities; setting forth legislative findings and purpose; defining terms; setting forth the applicability of article and certain exclusions; limiting liability of successor corporations in successor asbestos-related liabilities; providing applicability of limitation in the case of prior merger or consolidation with prior transferor; setting forth guidelines for establishment of fair market value of total gross assets; requiring inclusion of intangible assets in calculation of fair market value; detailing how liability insurance is to be valued; providing for adjustment of fair market value of total gross assets; discontinuing adjustment of fair market value of total gross assets once certain conditions met; excluding liability insurance from annual adjustments; directing liberal construction of act with regard to successors; and setting forth applicability of act to certain claims.

With the recommendation that the 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 Bills 202, 203, 204, 205, 206, 217, 219, 220, 222 and 224**, DNR rule relating to prohibitions when hunting and trapping.



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

**Com. Sub. for Senate Bill 202** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Commerce; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and with various amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping; authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to deer hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to wild boar hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to elk restoration and management; authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection; authorizing the Division of Labor to promulgate a legislative rule relating to the Elevator Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to the licensing of elevator mechanics and technicians and registration of apprentices; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to substance abuse screening standards and procedures; directing the Tourism Commission to amend and promulgate a Division of Tourism rule relating to the direct advertising grants program; and authorizing WorkForce West Virginia to promulgate a legislative rule relating to the West Virginia Prevailing Wage Act.

With the recommendation that the 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 216**, Human Rights Commission rule relating to Pregnant Workers' Fairness Act.

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

**Com. Sub. for Senate Bill 216** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Human Rights Commission to promulgate a legislative rule relating to the Pregnant Workers' Fairness Act.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, 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 270**, Repealing code relating to insurance policies.

And,

**Senate Bill 278**, Clarifying physicians' mutual insurance company is not state or quasi-state actor.

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,

C. Edward Gaunch,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Trump, Leonhardt, Miller, Carmichael, Woelfel, Boso, Palumbo, Williams, Gaunch, Ashley, Beach, Blair, Prezioso and Plymale:**

**Senate Bill 388**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6 and §61-14-7, all relating to laundering and concealment of proceeds from criminal activity; defining terms; creating felony crime of conducting financial transactions involving proceeds of criminal activity; creating felony crime of transporting, transmitting or transferring monetary instruments or property involving proceeds of criminal activity; creating felony crime of concealing monetary instruments or property involving proceeds of criminal activity; providing for penalties; providing for presumptions when law enforcement or persons acting at the direction of law enforcement are involved with proceeds of criminal activity; denying availability of certain defenses; providing for the seizure and forfeiture of property or monetary instruments; clarifying conduct that constitutes separate offenses; and setting forth venue for offenses.

Referred to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 389**—A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to bear hunting; and offenses and penalties.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Karnes and Miller:**

**Senate Bill 390**—A Bill to amend and reenact §5A-3-37 of the Code of West Virginia, 1931, as amended, relating to providing for a resident farm vendor's bidding preference.

Referred to the Committee on Government Organization.

**By Senators Trump, Leonhardt, Miller, Carmichael, Woelfel, Boso, Gaunch, Romano, Karnes, Ashley, Beach, Blair, Prezioso, Plymale and Unger:**

**Senate Bill 391**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to use of a firearm during, in relation to, or in furtherance of a violation of Uniform Controlled Substances Act; creating the felony offense of use or possession of firearm; providing for penalties; clarifying that the offense is separate and distinct from other offenses; denying eligibility for sentencing alternatives; and clarifying the term “convicted”.

Referred to the Committee on the Judiciary.

Senators Maynard, Yost, Stollings, Leonhardt, Plymale, Miller and Woelfel offered the following resolution:

**Senate Concurrent Resolution 12**—Requesting the Division of Highways name State Route 152, beginning from the Cabell County line with Wayne County to where it intersects with U. S. Route 52 near Crum, West Virginia, the “Wayne County Veterans’ Memorial Highway”.

Whereas, Since West Virginia attained statehood in 1863, many brave individuals from this state have served this country in the United States armed forces; and

Whereas, Wayne County, West Virginia, has provided its fair share of thoughtful and courageous individuals, some of whom paid the ultimate sacrifice, in service of this country, beginning from the Civil War to the present; and

Whereas, It is fitting and appropriate to honor those who have served in the United States military from Wayne County by naming the portion of State Route 152 that traverses Wayne County the “Wayne County Veterans’ Memorial Highway”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name State Route 152, beginning from the Cabell County line with Wayne County to where it intersects with U. S. Route 52 near Crum, West Virginia, the “Wayne County Veterans’ Memorial Highway”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to make and have placed signs identifying the “Wayne County Veterans’ Memorial Highway”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Wayne County Veterans’ Association.

Which, under the rules, lies over one day.

Senators Miller, Yost, Stollings, Trump, Williams, Leonhardt, Plymale, Unger and Laird offered the following resolution:

**Senate Resolution 10**—Designating January 26, 2016, as West Virginia Local Foods Day at the Legislature.

Whereas, The mission of the West Virginia Food & Farm Coalition is to build, support and strengthen a statewide network of those involved in West Virginia’s local food economies, with the

interconnected goals of improving access to healthy, locally produced food for all West Virginians and helping viable food and farm businesses to grow; and

Whereas, The West Virginia Food & Farm Coalition is made of farmers, food processors, distributors, agencies, health professionals, extension agents, researchers, nonprofits, farmers markets, youth groups, religious organizations, consumers and institutions that feed people; and

Whereas, The West Virginia Food & Farm Coalition works within its network to change agricultural policy, promote access to local foods, share resources and grow food and farm businesses; and

Whereas, The West Virginia Food & Farm Coalition has enacted the Road Map for the Food Economy, a food charter that was developed through public input from hundreds of West Virginians from all geographic areas that outlines major challenges facing West Virginia's food economy and answers with an action plan and a series of four goals for accomplishing needed changes; and

Whereas, The West Virginia Food & Farm Coalition convenes five Food & Farm Working Groups that are tasked with overcoming the challenges outlined in the Road Map for the Food Economy. These working groups include aggregation and distribution; meat processing; school, youth and community gardens; access to local, healthy food; and affiliate group West Virginia Farmers Market Association. Working groups consist of volunteers with backgrounds in various sectors of West Virginia's food systems that come together to work through West Virginia's food system challenges and opportunities and implement impactful projects and policies; and

Whereas, The West Virginia Food & Farm Coalition, with its partners, aids in building and strengthening food and farm businesses and seeks to spur economic growth through building strong local food economies in regional "foodsheds", areas where

food is produced, transported and consumed in West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 26, 2016, as West Virginia Local Foods Day at the Legislature; and, be it

*Further Resolved,* That the Senate acknowledges the progress the West Virginia Food & Farm Coalition's network has made in building strong local food systems, a competitive local food economy and increasing food access in West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Food & Farm Coalition and its working groups.

At the request of Senator Williams, 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 Snyder, and by unanimous consent, the remarks by Senator Williams regarding the adoption of Senate Resolution 10 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Walters, Yost, Stollings, Williams, Plymale, Unger and Miller offered the following resolution:

**Senate Resolution 11**—Designating January 26, 2016, as Broadband Day at the Legislature.

Whereas, The term “broadband” refers to high-speed internet access; and

Whereas, Broadband service provides a higher speed of data transmission; and

Whereas, Broadband access is constant and does not block phone lines and there is no need to reconnect each time you need to use the internet; and

Whereas, Broadband can provide access to a wide range of resources, services and products that can enhance West Virginians' lives in a variety of ways, including, but not limited to, education, culture, entertainment, telehealth and telemedicine, economic development, e-commerce, public safety and homeland security, and communications service; and

Whereas, Broadband infrastructure is critical to the future of West Virginia and its economy and will serve as West Virginia's gateway to the global market in recruiting and attracting businesses; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 26, 2016, as Broadband Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Broadband Day.

At the request of Senator Walters, 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 Carmichael, and by unanimous consent, the remarks by Senator Walters regarding the adoption of Senate Resolution 11 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.



Upon expiration of the recess, the Senate reconvened proceeded to the seventh order of business.

**Senate Concurrent Resolution 11**, U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 13**, Increasing penalties for overtaking and passing stopped school buses.

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 13 pass?”

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

The nays were: Kessler—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. 13) 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 13**—A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to the offense of overtaking and passing a school bus stopped for the purpose of receiving and discharging children; creating an inference for charging purposes that a registered owner or lessee was operating the vehicle in the event that the driver of the passing vehicle cannot be ascertained at the time of the alleged offense; and clarifying that service of process is pursuant to W. V. Rule of Criminal Procedure 4.

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

**Eng. Senate Bill 32**, Relating to withdrawal of candidates for office and filling vacancies.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 32) 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 102**, Conforming to federal Law-Enforcement Officers Safety 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 102) 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 157**, Authorizing Department of Revenue to promulgate legislative rules.

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

Pending discussion,

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

**Eng. Senate Bill 311**, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall,

Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 311) 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 323**, Correcting statute subsection designations regarding trespassing on 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 323) 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 323**—A Bill to amend and reenact §61-3B-3 of the Code of West Virginia, 1931, as amended, relating to correcting subsection designations in the statute regarding trespass on property; relettering certain subsections to avoid duplication of subsection designations; and making other stylistic and technical changes.

*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.

**Senate Bill 107**, Uniform Interstate Depositions and Discovery 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 195**, Authorizing DHHR to promulgate legislative rules.

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.

**Com. Sub. for Senate Bill 146**, Establishing instruction standards for early childhood education.

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

**Com. Sub. for Senate Bill 262**, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.

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

**Com. Sub. for Senate Bill 290**, Assignment of wages by employers and payment by payroll card.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Miller.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senator Miller were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Senator Cole (Mr. President) announced the replacement of Senator Leonhardt on the Committee on Economic Development with Senator Cline.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, January 27, 2016, at 11 a.m.

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## WEDNESDAY, JANUARY 27, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Rick Swearingin, Madison United Methodist Church, Madison, West Virginia.

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

Pending the reading of the Journal of Tuesday, January 26, 2016,

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 Clerk presented a communication from the Division of Motor Vehicles, submitting its annual report of the Motor Vehicle Test and Lock Program, in accordance with §17C-5A-3a of the Code of West Virginia.

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

The Clerk presented a communication from the Motorcycle Safety Awareness Board, submitting its annual report as required by §17B-1D-8 of the Code of West Virginia.

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

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. House Bill 2147**—A Bill to amend and reenact §44A-2-7 of the Code of West Virginia, 1931, as amended, relating to appointing counsel for an alleged protected person; requiring the circuit court to make appointments from a listing of all interested attorneys in the circuit and on a rotating basis; and providing for the appointment of any competent counsel if no interested counsel are available.

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 2584**—A Bill to amend and reenact §52-1-11 of the Code of West Virginia, 1931, as amended, relating to jury service; allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment.

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 2588**—A Bill to amend and reenact §3-8-5b of the Code of West Virginia, 1931, as amended, relating to the filing of financial statements with the Secretary of State; providing that these must be in an electronic format; providing for exceptions in instances where a candidate has been unable to file the financial statement, and, providing for exceptions in the case of hardship.

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 2796**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-15b, relating to providing that certain state employees may be granted a leave of absence with pay while providing assistance as an essential member of an emergency aid provider during a declared state of emergency.

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 2800**—A Bill to amend and reenact §29B-1-2 and §29B-1-4 of the Code of West Virginia, 1931, as amended, all relating to adding law-enforcement officers'



contact information and the names and contact information of family members to the list of exemptions from public records requests; providing exception for law-enforcement information voluntarily disclosed on campaign documentation; providing exception for law-enforcement officer's government-issued email addresses and telephone numbers; and defining law-enforcement officers.

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 4038**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to insurance requirements for the refilling of topical eye medication; requiring a refill take place at a certain time; and establishing when a refill is permitted.

Referred to the Committee on Health and Human Resources.

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

**Senate Bill 15**, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

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

**Com. Sub. for Senate Bill 27**, Permitting sheriff to hire outside attorneys for collection of taxes through courts.

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

**Com. Sub. for Com. Sub. for Senate Bill 27** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-2-2 of said code, all relating to permitting county commissions to hire outside attorneys to assist in collection of taxes or to represent the county before any United States Bankruptcy Court; providing for county commissions to limit fees to be paid to any attorneys so hired; providing for reimbursement of actual expenses incurred by attorneys in the course of representation; and providing for sharing cost of collection with various taxing units.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, 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 109**, Repealing code provisions related to certain reports by trustees for property.

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

**Com. Sub. for Senate Bill 109** (originating in the Committee on Banking and Insurance)—A Bill to repeal §31A-2-4c of the Code of West Virginia, 1931, as amended; to repeal §38-1-8a of said code; to repeal §44-13-4a of said code; to amend and reenact §31-18-6 of said code; and to amend and reenact §59-1-10 of said code, all relating to repealing provisions concerning filing certain foreclosure disclosure forms; repealing provisions requiring compiling and maintaining information relating to certain deeds of trust; and eliminating all requirements concerning certain foreclosure disclosure forms.

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,

C. Edward Gaunch,  
*Chair.*

The bill (Com. Sub. for S. B. 109), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 150, 215 and 243**, Office of Administrative Hearings rule relating to appeal procedures.

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

**Com. Sub. for Senate Bill 150** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Transportation; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Office of Administrative Hearings to promulgate a legislative rule relating to appeal procedures; authorizing the Division of Highways to promulgate a legislative rule relating to the State Transportation Infrastructure Fund Program; and authorizing the Division of Public Transit to promulgate a legislative rule relating to rail-fixed guideway systems state safety oversight.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Boso, 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 177**, DEP, Air Quality rule relating to control of ozone season nitrogen oxides emissions.

And,

**Senate Bill 178**, DEP, Air Quality rule relating to control of annual sulfur dioxide emissions.

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,

Gregory L. Boso,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 259**, Repealing Unfair Practices Act.

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

**Com. Sub. for Senate Bill 259** (originating in the Committee on Government Organization)—A Bill to repeal §47-11A-7, §47-11A-10 and §47-11A-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-11A-1, §47-11A-2, §47-11A-5, §47-11A-6, §47-11A-8, §47-11A-9 and §47-11A-14 of said code, all relating to unfair trade practices; providing legislative findings; designating article the Unfair Trade Practices Act; making it unlawful for a retailer to sell products below cost with specific intent, where the effect may substantially lessen competition or tend to create a monopoly, and there is a dangerous probability of recoupment of losses through future profits; providing that a violation of the act constitutes a misdemeanor offense; exempting wholesalers from the provisions of the act; providing for how cost is to be determined; exempting sales of perishable merchandise or seasonal goods to avert loss to the retailer from the provisions of the act; exempting sales made in a good faith attempt to match the price of a competitor from the provisions of the act; exempting sales involving an earned discount or earned rebate through the use of a bonus or rewards program from the provisions of the act; providing that an injured party may maintain an action to enjoin continuance of any violation; providing actual damages, if alleged and proven, be assessed;

providing that a claim arising under the act may be sufficiently rebutted by evidence that a competitor in the same market area is selling a substantially similar product for an equal to or greater than price as the defendant; defining market area; requiring a court to dismiss an action upon motion for summary judgment if the action is sufficiently rebutted; vesting jurisdiction in the circuit courts to carry into effect the provisions of the act; providing for the purposes of the act; and providing for construction of the act.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. 259), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 288**, Creating one-day special license for charitable events to sell nonintoxicating beer and wine.

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

**Com. Sub. for Senate Bill 288** (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 §11-16-11b, relating to creating a one-day special license for charitable events to sell nonintoxicating beer; setting fee for license; and authorizing commissioner to waive certain restrictions by rule or order.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, 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 329**, Eliminating sunset provision for commission to study residential placement of children.

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,

Ryan J. Ferns,  
*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 Health and Human Resources.

Senator Ferns, 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 338**, Compiling and maintaining Central State Mental Health Registry.

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

**Com. Sub. for Senate Bill 338** (originating in the Committee on Health and Human Resources)—A Bill amend and reenact §61-7A-1, §61-7A-2, §61-7A-3 and §61-7A-4 of the Code of West Virginia, 1931, as amended, all relating generally to compiling and maintaining of West Virginia Central State Mental Health Registry; clarifying that only certain mental illness commitments are to be reported to registry; prohibiting reporting children under fourteen years of age to registry; requiring names to be reported to Administrator of the Supreme Court of Appeals; and making technical corrections.

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,

Ryan J. Ferns,  
*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 Health and Human Resources.

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

Your Committee on Finance has had under consideration

**Senate Bill 342**, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services.

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

**Com. Sub. for Senate Bill 342** (originating in the Committee on Finance)—A Bill supplementing and amending by decreasing the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human



Resources – Division of Human Services, fund 0403, fiscal year 2016, organization 0511, and to the Bureau of Senior Services, fund 0420, fiscal year 2016, organization 0508, by supplementing, amending and decreasing the appropriations for the fiscal year ending June 30, 2016.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. 342) 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.

On motion of Senator Carmichael, 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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

Engrossed Committee Substitute for Senate Bill 342 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 342) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 342) takes effect from passage.

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

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

Your Committee on Finance has had under consideration

**Senate Bill 357**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund.

And,

**Senate Bill 360**, Supplemental appropriation to Division of Human Services.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, Senate Bill 357 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.

On motion of Senator Carmichael, 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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

Engrossed Senate Bill 357 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 357) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 357) 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 Carmichael, unanimous consent being granted, Senate Bill 360 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.

On motion of Senator Carmichael, 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The yeas were: None.

Absent: None.

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

Engrossed Senate Bill 360 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The yeas 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. 360) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins,

Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 360) takes effect from passage.

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

Senator Walters, 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 363**, Creating exemption for autocycles.

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,

Chris Walters,  
*Chair.*

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

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

Your Committee on Finance has had under consideration

**Senate Bill 364**, Supplemental appropriation expiring funds to General Revenue.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. 364) 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.

On motion of Senator Carmichael, 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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

Engrossed Senate Bill 364 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 364) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 364) takes effect from passage.

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

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 379**, Relating to candidate filing fees.

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 Karnes, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 387**, Shared animal ownership agreements to consume raw milk.

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

**Com. Sub. for Senate Bill 387** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-7, relating to shared animal ownership agreements to consume raw milk; acquiring percentage ownership interest in milk-producing animal's raw milk; providing for payment for percentage ownership for care and boarding of milk-producing animal; providing for receipt of a share of raw milk pursuant to an agreement; requiring written document acknowledging the inherent dangers of consuming raw milk; setting forth required provisions for shared animal ownership agreements; requiring herd seller meet animal health requirements established by state veterinarian; providing immunity to herd seller; prohibiting the distribution, sale or resale of raw milk; requiring shared animal ownership agreements be filed; requiring parties and physicians to report illnesses related to consumption of raw milk; requiring Commissioner of Agriculture contact other parties consuming raw milk from same herd seller of illnesses; providing administrative penalties; and providing rule-making authority.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. 387), under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Carmichael, Hall, Ashley, Plymale and Trump:**

**Senate Bill 392**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-16b, relating to transferring Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Kessler and Yost:**

**Senate Bill 393**—A Bill to amend and reenact §46A-6L-102 of the Code of West Virginia, 1931, as amended, relating to eliminating fees charged by consumer-reporting agencies to consumers related to security freeze on consumer credit report.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 394**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-8F-1 and §61-8F-2, all relating to prohibited sexual contact by psychotherapists; creating crime of prohibited sexual contact by a psychotherapist and crime of therapeutic deception; providing elements of the crime; providing exceptions; providing definitions; and providing criminal penalties.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Ferns, Plymale, Stollings, Prezioso and Unger:**

**Senate Bill 395**—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; modifying expiration date for tax rate on eligible acute care hospitals; changing tax rate on eligible acute care hospitals; and providing for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account.

Referred to the Committee on Finance.

**By Senators Walters (By Request), Facemire and Boso:**

**Senate Bill 396**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-6-33a, relating to authorizing shut-in of oil and gas wells in West Virginia; payment of shut-in royalty or shut-in payments; and deferment of certain charges or fees in certain circumstances.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Walters and Beach:**

**Senate Bill 397**—A Bill to amend and reenact §17-16A-18 of the Code of West Virginia, 1931, as amended, relating to Parkways Authority and maintaining status quo in the event bond indebtedness relative to Parkways Authority is eliminated; continuing tolls; and maintaining projects with Parkways Authority.

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

**By Senators Trump, Palumbo, Gaunch, Williams, Beach, Yost and Miller:**

**Senate Bill 398**—A Bill to amend and reenact §31B-10-1006 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-9-53a of said code, all relating to notices of revocation of certificate of authority to conduct business.

Referred to the Committee on Government Organization.

**By Senators Karnes, Miller, Plymale, Stollings, Boso, Prezioso, Williams, Leonhardt and Unger:**

**Senate Bill 399**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3 and §11-13DD-4, all relating to creation of farm-to-food bank tax credit; defining terms; providing method for calculation and application of tax credit; establishing procedures to value and claim the tax credit; and establishing the effective date of the tax credit.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 400**—A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended, relating to dedication and deposit of certain tax proceeds; reducing amount of sales tax proceeds annually dedicated to School Major Improvement Fund by \$999,996 for fiscal year 2017; and reducing amount of sales tax proceeds annually dedicated to School Construction Fund by \$3 million for fiscal year 2017.

Referred to the Committee on Finance.

**By Senators Takubo, Stollings, Trump, Prezioso and Unger:**

**Senate Bill 401**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-18, relating to creating designation for hospital as either comprehensive, primary or acute stroke-ready hospital; setting forth reporting requirements to emergency medical service agencies; requiring Department of Health and Human Resources to establish protocols; and requiring rulemaking.

Referred to the Committee on Health and Human Resources.

**By Senators Hall, Plymale, Boso, Williams and Romano:**

**Senate Bill 402**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to excluding

pension and annuity income of certain law-enforcement officers and firefighters from West Virginia income taxes.

Referred to the Committee on Finance.

**By Senators Leonhardt and Williams:**

**Senate Bill 403**—A Bill to amend and reenact §19-8-1 of the Code of West Virginia, 1931, as amended, relating to cooperative extension workers.

Referred to the Committee on Government Organization.

**By Senators Ferns, Plymale, Stollings and Prezioso:**

**Senate Bill 404**—A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §16-3C-2a and §16-3C-2b; and to amend and reenact §16-4-19 of said code, all relating to testing for HIV and sexually transmitted diseases; authorizing the billing of persons for HIV and sexually transmitted disease testing or sexually transmitted disease treatment done by state or local public health agencies; informing persons who wish to opt out of HIV-related testing that anonymous testing is available; authorizing magistrate and circuit courts to order testing of persons accused of certain sex crimes; requiring prosecuting attorneys to file motion for testing upon request of a victim or the victim's parent or guardian; establishing a time frame for mandatory testing; providing for follow-up HIV-related testing as medically appropriate; providing that the costs associated with testing may be borne by the state when the defendant or juvenile respondent is financially unable to pay; authorizing the billing of a defendant's or juvenile respondent's health insurance provider; requiring the testing of juveniles adjudicated of certain sex crimes; removing counseling requirement; removing an exemption for providers regulated by the Insurance Commissioner; removing a limitation on the amount that may be charged for medication used to treat sexually transmitted diseases; and removing archaic language related to the testing of sexually transmitted diseases.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Trump, Leonhardt, Miller, Carmichael, Woelfel, Boso, Gaunch, Ashley, Plymale and Blair:**

**Senate Bill 405**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to conspiracy to commit violations of the Uniform Controlled Substances Act; creating the felony offense of conspiracy; providing penalties; establishing a sentencing guideline based upon quantity for certain controlled substances; authorizing court to make the determination of applicable quantity; and authorizing aggregation of quantities from all participants and members of the conspiracy.

Referred to the Committee on the Judiciary.

**By Senators Boso, Boley, Gaunch, Karnes, Leonhardt and Sypolt:**

**Senate Bill 406**—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-8-1a of said code, all relating generally to compulsory school attendance and early childhood education programs; changing the age date of attending school and early childhood education programs from September 1 to July 1; and eliminating legislative findings portion of the section relating to early childhood programs.

Referred to the Committee on Education.

**By Senators Blair, Carmichael, Ferns, Gaunch, Mullins, Takubo and Trump:**

**Senate Bill 407**—A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-9A-2 of said code; to amend said code by adding thereto a new section, designated §18-9A-12a; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, §18-33-8, §18-33-9, §18-33-10, §18-33-11, §18-33-12 and §18-33-13; and to amend and reenact §29-12-5a of said code, all relating to providing for the authorization and oversight of public charter schools;

providing for charter school employee participation in public employee insurance and applicable teachers retirement systems; including charter school students in net enrollment of county; providing calculation of charter school basic foundation program and corresponding reduction in county's basic foundation program; defining "exceptional child with high-cost/high-acuity special needs"; providing for establishment of method for disbursing state-appropriated funds; providing for charter school application for funds; removing certain reports; creating charter school act to establish process for creation; providing for governance and oversight accountability of public charter schools; stating purposes; establishing charter schools as public schools and part of public education system; providing for liberal interpretation; prohibiting conversion of private schools into charter schools under act; prohibiting establishment of charter virtual schools under act; providing general definitions; limiting county board management and control of charter school; prohibiting state board as authorizing authority; defining terms; providing for authorizations, eligibilities, compliances and prohibitions; providing for general supervision by state board for meeting student performance standards required of other public school students; providing powers of public charter schools; establishing processes for determining capacity and enrolling students; prohibiting discrimination in enrollment decisions; providing for credit transfers; authorizing charter student participation in state- and school district-sponsored interscholastic leagues, competitions, awards, scholarships and recognition programs and specifying parameters; requiring access to and utilization of electronic education information system for reporting certain information and subject to student data accessibility, transparency and accountability; providing for certification of charter school enrollment, attendance and program participation to county board and department; providing for distribution of charter school basic foundation program funds and allowing authorizer charge for oversight costs; providing for payment of special education and federal funds to charter schools; requiring charter school submission of budget and sources of funds to state board and requiring public availability; creating public charter school oversight and authorizer board and specifying mission, agency

status and degree of oversight and supervision by state board; providing for appointment of members, qualifications, terms, removal, civil liability and limited scope of acts of ex officio members; requiring appointment of executive director and duties and qualifications; setting forth meetings, expenses, powers and duties of board; requiring annual report to state board and availability to public and Legislature; granting authority to require annual reports from charter schools; establishing limitations on regulation by state board, oversight and authorizer board and county board authorizers; requiring annual request for proposals; providing contents of requests for proposals; providing for application for authorization of public charter school; requiring notice of intent to establish by organizers; requiring timelines for notice and submission of application; providing option for county board to proceed as authorizer or forward application to oversight and authorizer board; establishing process for application review and evaluation; granting period for applicant response to authorizer decision prior to final determination; requiring report of final action; setting forth registration of approved charters by state superintendent; stating effect of approved application; providing authorizer powers and duties respecting charter contracts; providing timelines for execution of charter contract and authorization to appeal to executive director to finalize terms; providing minimum provisions of contract, including performance provisions; prohibiting delegation and assignment of powers; setting forth obligations and responsibilities set forth in charter contract; requiring performance report prior to contract renewal and period to rectify weaknesses; requiring offer of contract application renewal guidance; requiring timelines for submission of renewal application; provisions for authorizer decisions on renewals; permitting authorizer report of renewal decisions; prohibition on contract renewal of school given failing level of accreditation during final operating year; authorizing contract revocation at any time or nonrenewal for certain violations and failures; requiring report of revocation and nonrenewal with statement of reasons; providing for options of county board for disposition of school when contract revoked or not renewed; duties of authorizer when contract revoked or not renewed; establishing supremacy of article when inconsistent with any other laws, rules



or regulations; granting authorization for one or more schools under single contract; granting authorization of one or more contracts for single governing board; providing that local education agency status when charter school authorized county board and local education agency status when charter school authorized oversight and authorizer board; providing for county board accreditation accountability for charter school authorized by county board; prohibition on county board requiring employee to be employed in charter school; prohibition on any retaliatory action against district employee involved in application to establish charter school; prohibiting discrimination against charter school in district advertising of educational options; providing for accrual of seniority with the county board of personnel employed in charter school; and authorizing charter school liability coverage through Board of Risk and Insurance Management.

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

**By Senators Hall, Ferns, Gauch and Mullins:**

**Senate Bill 408**—A Bill to amend and reenact §3-8-1a, §3-8-5b, §3-8-8, §3-8-9 and §3-8-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §3-8-9a and §3-8-9b, all relating generally to the regulation and control of elections; updating definitions; creating a new definition for “political party caucus”; updating and removing outdated provisions; requiring candidates for circuit judge and family court judge to file financial statements with Secretary of State; requiring Secretary of State to maintain an online searchable database; setting contribution limits for any campaign for nomination or election; setting contribution limits to political organizations; setting contribution limits to state party executive committees, or any subsidiary thereof, or state party legislative caucus committees; providing for indexing of contribution limits; setting limits on contributions made from any separate segregated fund; prohibiting contributions by foreign nationals; identifying additional lawful election expenses; defining coordinated political expenditures; clarifying prohibition on coordinated political expenditures; permitting limited coordinated

political expenditures by state political party committees and political party caucuses for certain elections; and specifying effective dates.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Plymale, Stollings and Prezioso:**

**Senate Bill 409**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-15F-1, §33-15F-2, §33-15F-3 and §33-15F-4, all relating to requiring any insurance company operating in this state to be precluded from excluding any health care provider who provides services to persons receiving federal health care subsidies; defining terms; prohibiting discrimination of health care providers; providing for exceptions; granting rule-making authority to Insurance Commissioner; and setting out construction and applicability.

Referred to the Committee on Health and Human Resources.

**By Senator Trump:**

**Senate Bill 410**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-4A-1, §37-4A-2, §37-4A-3, §37-4A-4, §37-4A-5, §37-4A-6, §37-4A-7, §37-4A-8, §37-4A-9, §37-4A-10, §37-4A-11, §37-4A-12 and §37-4A-13, all relating to creating Uniform Partition of Heirs Property Act; providing short title and definitions; providing that this article applies to partition actions filed on or after the effective date of this article; providing court shall determine whether certain property is heirs property; requiring posting of notice of legal action on property subject to partition; appointing commissioners; determining value of property; procedure for cotenant buyout of interests; alternative to partition; providing considerations for partition in kind and whether partition would result in great prejudice to the cotenants as a group; whether sale should be an open-market sale, by sealed bids, or by auction; requiring report of open-market sale; requiring uniformity of application and construction of this article; and modifying, limiting and superseding the relation of this article to Electronic Signatures in the Global and National Commerce Act.

Referred to the Committee on the Judiciary.

Senators Palumbo, Walters, Plymale, Stollings, Williams and Unger offered the following resolution:

**Senate Concurrent Resolution 13**—Requesting the Division of Highways name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate 77 over Garrison Avenue in Kanawha County, the “Tom Williams Family Bridge”.

Whereas, The family of Tom Williams was raised on Garrison Avenue in Charleston, West Virginia; and

Whereas, A daughter in the family, Lena Gay Williams McClandish, served in the U. S. Navy, stationed at a Maryland hospital; and

Whereas, One son, Thomas Buck Williams, also served in the U. S. Navy as a “frogman” during the Korean War; and

Whereas, A second son, Gene Williams, served in the U. S. Army and was stationed at Fort Hood, Washington; and

Whereas, A third son, U. S. Marine Gunnery Sergeant Dennis Williams, while serving as a Platoon Sergeant with Company D, First Battalion, First Marines, First Marine Division, in connection with operations against the enemy in the Republic of Vietnam, courageously exposed himself to enemy fire to carry a wounded comrade across fifty meters of fire-swept terrain to a place of relative safety where medical aid was available; and

Whereas, Gunnery Sergeant Dennis Williams was awarded two Purple Hearts and retired after twenty-one years of service; and

Whereas, As a result of his courage, bold initiative and unflinching devotion to duty at great personal risk, Gunnery Sergeant Dennis Williams is authorized to wear the Combat V; and

Whereas, It is fitting and proper to honor the Williams family's contribution to the nation and its military services, made by the sister and three brothers herein named; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate 77 over Garrison Avenue in Kanawha County, the "Tom Williams Family Bridge"; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "Tom Williams Family 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 Walters, Plymale, Stollings, Williams and Unger offered the following resolution:

**Senate Resolution 12**—Designating Wednesday, January 27, 2016, as Innovation and Entrepreneurship Day at the Legislature.

Whereas, Research and innovation continue to be the bedrocks of America's economic strength and vitality; and

Whereas, Facilitating innovation-based economic development and the growth of entrepreneurial companies are critical to our state's future and prosperity; and

Whereas, In 2013, West Virginia continued to make good progress toward a broader, more robust innovation economy; and

Whereas, Entrepreneurs and small businesses create the vast majority of the new jobs in the United States; and

Whereas, Research and development activities being done in federally funded, university and private laboratories in our state are important for new discoveries, scientific and engineering solutions and potential commercialization opportunities; and

Whereas, Recent studies point to the need for states to nurture research and development activities, develop innovation assets and grow businesses to diversify their economies; and

Whereas, A technology-based economic development study by the Battelle Technology Partnership Practice highlighted four key innovation clusters where West Virginia should focus its innovation efforts; and

Whereas, These four key innovation clusters are advanced energy, chemicals/advanced materials, biometrics and identity management and biotechnology; and

Whereas, Innovations in manufacturing, such as 3D printing, are opening new opportunities for West Virginia's small manufacturing firms to develop new products and processes to improve their bottom lines; and

Whereas, There is growing interest in entrepreneurship across our state as business plan competitions are attracting record-setting numbers of applications and other groups are exploring ways to bring entrepreneurship education into the K-12 system; and

Whereas, Improving access to risk capital is a critical need that is being addressed by existing and new public and private programs, such as the West Virginia Capital Access Program, the INNOVA Fund, the West Virginia Growth Investment, LLC and the Appalachian Community Capital; and

Whereas, More than one hundred organizations, agencies and companies are working together to help advance the state's innovation and entrepreneurship potential and capacity; and

Whereas, West Virginia has developed an integrated ecosystem of organizations, agencies and financial firms working collaboratively to spur innovation enterprises and jobs; and

Whereas, Many of these innovation drivers are here at the Capitol today as part of the “Innovation and Entrepreneurship Day” hosted by Industries of the Future-West Virginia and TechConnect WV; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates Wednesday, January 27, 2016, as Innovation and Entrepreneurship Day at the Legislature; and, be it

*Further Resolved,* That the innovation industry is interested in realizing the long-term economic opportunities that an innovation-based economy can provide our state’s citizens; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Industries of the Future-West Virginia and TechConnect WV.

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

Senators Kirkendoll, Yost, Plymale, Stollings, Beach, Prezioso, Williams, Gaunch, Romano and Unger offered the following resolution:

**Senate Resolution 13**—Designating January 31, 2016, as a Day of Prayer for the Coalfields.

Whereas, Divine Providence has made the State of West Virginia rich in coal with approximately 51 billion tons of recoverable reserves ready to be mined; and

Whereas, For more than a century, West Virginia coal has helped fuel America’s expansion westward, supported the industrial revolution and powered our nation’s way to victory in two World Wars; and

Whereas, The State of West Virginia depends on coal as the foundation of its economy; and

Whereas, The coal industry has historically provided more than 25,000 direct mining jobs, paid more than \$3.4 billion in wages and generated more than \$26 billion in total economic activity statewide annually; and

Whereas, The coal industry and its support functions provide a high percentage of the good paying, full-time jobs in this state; and

Whereas, The coalfields of West Virginia are experiencing a significant economic downturn as a direct result of the policy decisions of the Obama Administration as administered through its regulatory agencies; and

Whereas, The regulatory actions of the Obama Administration have already shut down hundreds of our coal mines, coal processing and coal loading facilities and coal-fired power plants here in the state; and

Whereas, The economic downturn has resulted in massive unemployment, economic hardship and poverty across a large part of our state; and

Whereas, Unemployment across the coalfields far exceeds 10 percent in many of our coal-producing counties; and

Whereas, This economic hardship has inordinately affected the poor, the elderly and children; and

Whereas, This economic hardship has created despair and fostered widespread drug and alcohol addiction; and

Whereas, Our faith teaches us that God answers the prayers of His people; and

Whereas, West Virginians have deep and abiding faith in an Almighty God; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 31, 2016, as a Day of Prayer for the Coalfields; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the organizers of a Day of Prayer for the Coalfields.

At the request of Senator Kirkendoll, 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 Carmichael, and by unanimous consent, the remarks by Senator Kirkendoll regarding the adoption of Senate Resolution 13 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Concurrent Resolution 12**, Wayne County Veterans Memorial Highway.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 107**, Uniform Interstate Depositions and Discovery 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.



Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 107) 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 107**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §56-12-1, §56-12-2, §56-12-3, §56-12-4, §56-12-5, §56-12-6, §56-12-7 and §56-12-8, all relating to creating and adopting the Uniform Interstate Depositions and Discovery Act; establishing the short and citation title of the act; defining terms; creating the procedure governing issuance of subpoenas by clerks of the court in this state; clarifying the rules governing service of such subpoenas; establishing application of the West Virginia Rules of Civil Procedure to subpoenas issued under the act; requiring that any application or motion to enforce, quash or modify a subpoena issued under the act comply with the rules and statutes of this state including where to file any such application or motion; encouraging consideration of uniformity of the law with respect to the act whenever it is applied or construed; and establishing the application of the effective date of the act.

*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 157**, Authorizing Department of Revenue to promulgate legislative rules.

Having been read a third time on yesterday, Tuesday, January 26, 2016, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Committee Substitute for Senate Bill 157 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Romano, Snyder, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Beach, Prezioso, Stollings, Unger and Yost—5.

Absent: Miller—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. 157) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Romano, Snyder, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Beach, Prezioso, Stollings, Unger and Yost—5.

Absent: Miller—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. 157) 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 195,** Authorizing DHHR 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. 195) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. 195) 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 Senate Bill 146**, Establishing instruction standards for early childhood education.

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

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

**Com. Sub. for Senate Bill 262**, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.

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 290**, Assignment of wages by employers and payment by payroll card.

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 page two, section three, line thirty-four, after the word “same” by inserting the words “and appropriately witnessed by an individual who shall sign and provide his or her name in print”;

And,

On page two, section three, lines thirty-seven and thirty-eight, by striking out the words “and no assignment”.

On motion of Senator Kessler, the following amendment to the bill (Com. Sub. for S. B. 290) was next reported by the Clerk and adopted:

On page one, section three, line ten, after the word “institution” by changing the period to a colon and inserting the following proviso: *Provided*, That an employee paid by a payroll card shall not be assessed any fees for using the payroll card, withdrawing

funds from the payroll card or replacing a lost or stolen payroll card; nor shall the employee be limited in the daily amount he or she may withdraw from the payroll card.

The bill (Com. Sub. for S. B. 290), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 14**, Limiting successor corporation asbestos-related liabilities.

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

**Com. Sub. for Senate Bill 202**, Authorizing Department of Commerce promulgate legislative rules.

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

**Com. Sub. for Senate Bill 216**, Authorizing Human Rights Commission promulgate legislative rule relating to Pregnant Workers' Fairness Act.

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

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

Thereafter, at the request of Senator Sypolt, and by unanimous consent, the remarks by Senator Ferns as to the introduction of the Wheeling Park High School Patriots football and cheering teams were ordered printed in the Appendix to the Journal.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Carmichael.

At the request of Senator Carmichael, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of the Honorable Darrell E. Holmes, former Clerk of the Senate.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Carmichael were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, January 28, 2016, at 11 a.m.

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## THURSDAY, JANUARY 28, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Dr. Melissa Pratt, Senior Pastor, Teays Valley Church of God, Scott Depot, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Chris Walters, a senator from the eighth district.

Pending the reading of the Journal of Wednesday, January 27, 2016,

At the request of Senator Facemire, 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 2130**—A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to enhanced charges and penalties for assaults and batteries of law-enforcement officers; adding law-enforcement officers among the list of professionals the malicious assault, unlawful assault, battery or assault of which leads to enhanced criminal penalties; adding an element of the criminal offense of battery a requirement that the perpetrator have knowledge that the victim was acting in his or her official capacity; adding an element of the criminal offense of assault a requirement that the perpetrator have knowledge that the victim was acting in his or her official capacity; and defining law-enforcement officers.

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 4005**—A Bill to repeal §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-7, §21-5A-8, §21-5A-9, §21-5A-10, §21-5A-11 and §21-5A-12 of the Code of West Virginia, 1931, as amended, all relating to repealing prevailing hourly rate of wages requirements by or on behalf of public authorities engaged in construction of public improvements.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 86**, Continuing personal income tax adjustment for certain retirees of terminated defined pension plans.

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

**Com. Sub. for Senate Bill 86** (originating in the Committee on Pensions)—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to continuing personal income tax adjustment to gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee.

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,

C. Edward Gaunch,  
*Chair.*

The bill (Com. Sub. for S. B. 86), under the original double committee reference, was then referred to the Committee on Finance.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 163**, CPRB rule relating to benefit determination and appeal.

**Senate Bill 164**, CPRB rule relating to Teachers' Defined Contribution Retirement System.

**Senate Bill 165**, CPRB rule relating to Teachers Retirement System.

**Senate Bill 166**, CPRB rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors.

**Senate Bill 167**, CPRB rule relating to service credit for accrued and unused sick leave.



**Senate Bill 168**, CPRB rule relating to WV State Police.

And,

**Senate Bill 169**, CPRB rule relating to Deputy Sheriff Retirement System.

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,

C. Edward Gaunch,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 271**, Conforming definition of attest services to Uniform Accountancy Act.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Walters, 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 315**, Providing for construction of statewide fiber optic broadband infrastructure network.

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

**Com. Sub. for Senate Bill 315** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §31-15A-2, §31-15A-8, §31-15A-10, §31-15A-11 and §31-15A-17 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto seventeen new sections, designated §31-15A-1a, §31-15A-9a, §31-15A-10a, §31-15A-11a, §31-15A-11b, §31-15A-12a, §31-15A-13a, §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a; and to amend and reenact §31-15C-4 of said code, all relating generally to development of infrastructure in the state; establishing purposes for the amendments to develop broadband infrastructure; providing for development of broadband middle mile infrastructure; defining new terms; creating a separate infrastructure fund for broadband middle mile infrastructure projects; providing for deposits and expenditures; requiring certain agencies to apply for grant funds in furtherance of broadband middle mile infrastructure projects; setting forth additional powers and duties for Water Development Authority and Broadband Enhancement Council; creating West Virginia Infrastructure Fund for Broadband Middle Mile Development; providing for disposition of funds on termination or dissolution of authority; authorizing issuance of broadband middle mile revenue bonds; creating West Virginia Broadband Middle Mile Infrastructure Revenue Debt Service Fund; providing for funding of debt service fund; specifying requirements for issuance of bonds; providing for contents of trust agreement and trustee for bonds; specifying remedies available to bondholders, noteholders and trustees; making broadband middle mile infrastructure revenue bonds lawful investments; providing for purchase, cancellation and refunding of bonds; declaring bonds are not state debts and are exempt from taxation; requiring periodic reporting; limiting personal liability; and permitting legislative and emergency rulemaking.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 315), under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 333**, Taking and registering of wildlife.

And has amended same.

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

Respectfully submitted,

Robert Karnes,  
*Chair.*

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

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 334**, Identifying coyote as fur-bearing animal and woodchuck as game animal.

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

Respectfully submitted,

Robert Karnes,  
*Chair.*

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

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 336**, Relating to crossbow hunting.

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

Respectfully submitted,

Robert Karnes,  
*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 343**, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records.

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

**Com. Sub. for Senate Bill 343** (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 §52-2-11, relating to grand juries generally; authorizing prosecuting attorneys to designate law-enforcement officers and investigators as custodians of records, documents and other evidence subpoenaed by grand jury; authorizing designated custodians use subpoenaed records, documents and other evidence for investigative purposes prior to such records, documents or other evidence being presented to a grand jury; requiring custodians execute disclosure statements to preserve grand jury secrecy; authorizing custodian to share subpoenaed materials with other law-enforcement officers and agencies; allowing for successor custodians; requiring presentation of subpoenaed materials held by custodian be presented to the next session of the grand jury meeting after receipt; limiting law-enforcement use of such subpoenaed materials to legitimate investigative and prosecutorial purposes relevant to investigation underlying issuance of subpoena; and defining “prosecuting attorney” and “investigator”.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Military has had under consideration

**Senate Concurrent Resolution 2**, Urging Congress provide funding for WV National Guard.

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

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Walters, Laird, Kessler, Miller, Facemire, Romano and Gaunch:**

**Senate Bill 411**—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to creating Second Chance for Employment Act; allowing expungement of certain felony convictions; setting forth conditions; establishing procedure; creating exceptions; and establishing its effect.

Referred to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill 412**—A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §21A-6-18, all relating to domestic violence victims' eligibility for unemployment compensation benefits; removing disqualification for certain victims of domestic violence, sexual offenses or stalking; and requiring training of WorkForce West Virginia employees in the nature and dynamics of domestic violence to aid employees who interact with claimants.

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

**By Senators Walters, Boso and Maynard:**

**Senate Bill 413**—A Bill to repeal §17C-14-1 of the Code of West Virginia, 1931, as amended, relating to unattended motor vehicles; and penalty.

Referred to the Committee on the Judiciary.

**By Senators Walters, Laird and Miller:**

**Senate Bill 414**—A Bill to amend and reenact §49-2-913 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §49-2-914; and to amend and reenact §49-5-106 of said code, all relating to Juvenile Justice Reform Oversight Committee and averted costs reinvestment; creating juvenile justice account and providing its purpose, funding and disbursements; and requiring new data to be collected and compiled to allow calculation of juvenile recidivism and the outcome of programs and making this information available to the public.

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

**By Senator Ashley:**

**Senate Bill 415**—A Bill to amend and reenact §8-13-22a of the Code of West Virginia, 1931, as amended, relating to lengthening the maximum term of negotiable certificates of deposit that municipal funds are permitted to hold.

Referred to the Committee on Banking and Insurance.

**By Senators Takubo, Trump, Blair and Kessler:**

**Senate Bill 416**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-51-1, §16-51-2, §16-51-3, §16-51-4, §16-51-5, §16-51-6, §16-51-7 and §16-51-8, all relating to allowing terminally ill patients to have access to investigational products that have not been approved by the federal Food and Drug Administration that other patients have access to when they participate in clinical trials; establishing short title; setting out legislative findings; defining terms; allowing

drug manufacturers to provide investigative products; setting forth insurance requirements; and prohibiting action.

Referred to the Committee on Health and Human Resources.

**By Senators Boso and Carmichael:**

**Senate Bill 417**—A Bill to repeal §22A-6-1, §22A-6-2, §22A-6-3, §22A-6-4, §22A-6-5, §22A-6-6, §22A-6-7, §22A-6-8, §22A-6-9, §22A-6-10, §22A-6-11, §22A-6-12, §22A-6-13 and §22A-6-14 of the Code of West Virginia, 1931, as amended; to amend and reenact §22A-1-1, §22A-1-2, §22A-1-3, §22A-1-4, §22A-1-5, §22A-1-6, §22A-1-7, §22A-1-8, §22A-1-9, §22A-1-11, §22A-1-12, §22A-1-13, §22A-1-14, §22A-1-15, §22A-1-19, §22A-1-20 and §22A-1-21 of said code; to amend said code by adding thereto a new section, designated §22A-1-3a; and to amend and reenact §22A-2-3, §22A-2-4, §22A-2-8, §22A-2-12, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36, §22A-2-55 and §22A-2-77 of said code, all relating to preserving employment and promoting health and safety in the coal industry; creating the 2016 Coal Jobs and Safety Act; reorganizing the Office of Miners' Health, Safety and Training; providing for appointment of deputy directors; segregating office into districts; continuing the Board of Coal Mine Health and Safety within the Office of Miners' Health; redefining qualifications for members of board; abolishing Coal Mine Safety and Technical Review Committee; providing for promulgation of rules; removing probationary period and permanent tenure for mine inspectors; providing for mine inspectors, safety instructors, electrical inspectors and surface inspectors to serve at the will and discretion of director, barring conflicts of interest; changing requirements for requesting immediate inspection and requiring request in writing; providing for representative of operator to accompany representative of director on inspections; providing for findings, orders and notices; removing requirement that entire mine be given closure order when director determines area of imminent danger does not include entire mine; providing that all orders or decisions of director subject to judicial review; requiring director to file civil actions in circuit court of county where mine is located; removing requirement that civil penalties be deposited in Special Health, Safety and Training Fund; requiring all working places be



examined for hazards once per shift; eliminating requirement to use obsolete equipment; eliminating requirement that operator provide safety committee anonometers and smoke tubes; providing that miners may return to underground working areas if ventilation restored and mine determined to be safe; changing intervals hinged man doors required; increasing the number of apprentices under supervision of trainer; removing authority of director to propose emergency rules; changing who may receive fire boss report; providing for instruction of persons affected by revisions to roof control plans; eliminating requirement that man trip be idle one hour before transporting men; and requiring filing of mine operator report with director quarterly instead of monthly.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Miller, Laird and Beach:**

**Senate Bill 418**—A Bill to repeal §11-21-22a of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3a of said code; and to amend and reenact §11-21-22 and §11-21-22b of said code, all relating generally to taxation; requiring sales tax on the sale of food; dedicating revenue generated by sales tax on food to Public Employees Insurance Agency; creating West Virginia Earned Income Tax Credit; authorizing a refundable tax credit based upon the federal Earned Income Tax Credit; determining eligibility for the credit; and determining amount of the credit.

Referred to the Committee on Finance.

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 419**—A Bill to amend and reenact §4-11A-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13A-3b of said code; to amend and reenact §11-13V-4 of said code; and to amend and reenact §11-21-96 of said code, all relating to termination of Workers' Compensation Debt Reduction Act; specifying effective date of termination; authorizing sooner termination by Executive Order; reallocating deposits of revenues with relation to the Old Fund; authorizing redirection of deposits, by Executive Order, of specified revenues

into the General Fund for a limited time period if budget shortfall exceeds specified amount; eliminating language relating to actuarial determination and executive certification of specified conditions; reestablishing severance tax on timber at a specified tax rate; specifying effective dates; and specifying dedication of revenues.

Referred to the Committee on Finance.

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 420**—A Bill to amend and reenact §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-17-4b, all relating to increasing the tax rate on cigarettes and tobacco products; requiring a physical inventory of tax stamps and tobacco products and e-cigarette liquids upon the effective date of tax imposition or tax rate increase; applying tax rate changes to inventories; requiring a report of such inventory be filed sixty days after the effective date of the tax imposition or tax rate change; levying the excise tax on e-cigarette liquid; defining terms; providing for administration of the tax on e-cigarette liquid; specifying penalty for failure to file required reports; specifying criminal sanctions; and specifying effective date.

Referred to the Committee on Finance.

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 421**—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-9i of said code, all relating to the termination of the behavioral health severance and business privilege tax; specifying the effective date of the termination; establishing the method of payment of outstanding refund claims; generating a replacement revenue stream by changing the durable medical goods sales tax exemption to home users only; specifying the effective date of this amendment; providing the method to claim this exemption; and providing definitions for clarification.

Referred to the Committee on Finance.

**By Senators Gaunch, Karnes, Kirkendoll, Boso, Palumbo and Unger:**

**Senate Bill 422**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §48D-1-101, §48D-1-102, §48D-1-103, §48D-1-104, §48D-1-105, §48D-1-106, §48D-1-107, §48D-2-201, §48D-2-202, §48D-2-203, §48D-2-204, §48D-3-301, §48D-3-302, §48D-3-303, §48D-3-304, §48D-3-305, §48D-3-306, §48D-3-307, §48D-3-308, §48D-3-309, §48D-3-310, §48D-3-311, §48D-4-401, §48D-4-402, §48D-4-403, §48D-4-404, §48D-5-501, §48D-5-502 and §48D-5-503, all relating to creating the Uniform Deployed Parents Custody and Visitation Act; denominating a short title; defining terms; providing remedies for noncompliance; setting forth rules governing jurisdiction; providing conditions for when notification is required to be given by a parent; setting forth a duty to notify of a custodian's change in address; setting forth general considerations that may and may not be considered by the courts when determining the best interests of the child; setting forth the form of a temporary custodial responsibility agreement; setting forth the nature of the authority set forth in the agreement; providing for modification of agreement; providing for delegation of power of attorney; setting forth procedures for temporary custody order proceedings; allowing expedited hearings; allowing testimony by electronic means; setting forth the effect of a prior judicial order or agreement; permitting a court to grant caretaking or decision-making authority to nonparent in certain instances; providing for grant of limited contract in certain instances; setting forth the nature of authority created by a temporary custody order; setting forth the contents of temporary custody order; permitting court to enter order for temporary child support under certain circumstances; permitting court to modify or terminate grant of custodial responsibility to nonparent under certain circumstances; setting forth proceedings for terminating temporary grant of custodial responsibility; providing a consent procedure for terminating temporary grant of custodial responsibility established by court order; permitting visitation before termination of temporary grant of custodial responsibility; providing for termination by law of temporary grant of custodial responsibility established by court order; providing for uniform application and

construction; relating chapter to Electronic Signatures in Global and National Commerce Act; and providing that act does not affect validity of temporary court order concerning custodial responsibility during deployment entered into before the effective date of the act.

Referred to the Committee on Interstate Cooperation; and then to the Committee on the Judiciary.

Senators Maynard, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 14**—Requesting the Division of Highways to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754), locally known as New Girl Scout Camp Bridge, carrying County Route 25/11 over Mud River in Cabell County, the “U. S. Marine Corps PFC Billy Joe Vickers Memorial Bridge”.

Whereas, Billy Joe Vickers, the son of Herman C. Vickers and Opal Vickers of Milton, West Virginia, was born March 24, 1947, the third of four sons born to the couple; and

Whereas, Billy Joe Vickers graduated from Milton High School, married Linda Dillon, whom he had known since the seventh grade, and had a daughter, Pammy. Both Pammy Vickers Mahon and Linda Dillon Vickers live in Barboursville, West Virginia; and

Whereas, Billy Joe Vickers enlisted in the United States Marine Corps Reserve June 22, 1966, and was assigned later to active duty with Company A, 1st Battalion, 7th Marines, 1st Marine Division, southwest of DaNang, Vietnam, arriving there February 10, 1968. While on a combat patrol April 8, 1968, along the bank of the Song Yen River, near the vicinity of La Chau hamlet in Hieu Duc District of Quang Nam Province, Private First Class Billy Joe Vickers and two fellow Marines were killed as a result of detonation of an antipersonnel mine; and

Whereas, Private First Class Billy Joe Vickers’ two older brothers, Herman O’Dell Vickers and Jimmy Lou Vickers, also

served in the military. Herman in the U. S. Navy and Jimmy in the U. S. Marine Corps; and

Whereas, Both older brothers currently live in Culloden, Cabell County, West Virginia; and

Whereas, Private First Class Billy Joe Vickers' younger brother, Danny Vickers, lives with his family at the home place where the four brothers all grew up; and

Whereas, The family home place is located at the end of the bridge hereby to be named for Private First Class Billy Joe Vickers; and

Whereas, The body of Private First Class Billy Joe Vickers was buried in Brown Cemetery, Ball's Gap, Cabell County, West Virginia; and

Whereas, It is proper that Private First Class Billy Joe Vickers' service to and sacrifice for his country be remembered by this fitting memorial; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754), locally known as New Girl Scout Camp Bridge, carrying County Route 25/11 over Mud River in Cabell County, the "U. S. Marine Corps PFC Billy Joe Vickers Memorial Bridge"; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Marine Corps PFC Billy Joe Vickers 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.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 13**, Tom Williams Family Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 262**, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 262) 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 290**, Assignment of wages by employers and payment by payroll card.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Ferns, Hall, Karnes, Kessler, Kirkendoll,

Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—30.

The nays were: Cline, Facemire, Gaunch and Mullins—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. 290) passed.

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

**Eng. Com. Sub. for Senate Bill 290**—A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to assignment of wages by employers and payment of wages by payroll card; authorizing assignment without notarization or required statement that assignment cannot be for more than twenty-five percent of employee's wages; requiring that assignment be appropriately witnessed by an individual who shall sign and provide his or her name in print; allowing wage assignments to be valid for longer than one year; removing requirement for written agreement to pay employee by payroll card; and declaring that an employee paid by payroll card is not assessed certain fees or restricted in certain uses.

*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 14**, Limiting successor corporation asbestos-related liabilities.

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 146**, Establishing instruction standards for early childhood 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 202**, Authorizing Department of Commerce promulgate legislative rules.

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 216**, Authorizing Human Rights Commission promulgate legislative rule relating to Pregnant Workers' Fairness Act.

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.

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

**Senate Bill 15**, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

**Com. Sub. for Senate Bill 27**, Permitting county commissions hire outside attorneys for collection of taxes through courts.

**Com. Sub. for Senate Bill 150**, Authorizing Department of Transportation promulgate legislative rules.

**Com. Sub. for Senate Bill 288**, Creating one-day special license for charitable events to sell nonintoxicating beer and wine.

**Senate Bill 329**, Eliminating sunset provision for commission to study residential placement of children.

**Com. Sub. for Senate Bill 338**, Compiling and maintaining Central State Mental Health Registry.

And,

**Senate Bill 379**, Relating to candidate filing fees.



The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Miller and Leonhardt.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, January 29, 2016, at 11 a.m.

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## FRIDAY, JANUARY 29, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend John Hagan, St. Matthew's Episcopal Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Thursday, January 28, 2016,

At the request of Senator Kirkendoll, 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 fourth order of business.

Senator Walters, 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 12**, County Local Powers Act.

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

**Com. Sub. for Senate Bill 12** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-eight new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50, §7-20-51 and §7-20-52, all relating generally to County Local Powers Act; fees, taxes and expenditures for county development; restating short title; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; amending authorization for county commissions to impose impact fees, services fees and other taxes; providing that certain fees and taxes collected may be deposited in special fund and used to pay debt service on revenue bonds issued to finance capital improvements or to finance them on a pay-as-you-go basis; making technical corrections; allowing county commissions and Commissioner of Highways to enter into intergovernmental agreements for construction and modernization of state roads, bridges and related infrastructure and financing in their respective counties; providing procedures for creation and finalization or project plans and amendments of plans; requiring notice to certain locally elected public officials and general public on proposed road, bridge and related infrastructure construction projects and project amendments with opportunity for public comment; providing means to finance cost of proposed road, bridge and related infrastructure construction projects and project amendments; allowing reallocation of ad valorem property taxes after ratification of constitutional amendment of certain property tax collections to

finance, in whole or in part, capital improvements to infrastructure; providing for applications for a construction project and the contents of applications; providing rule-making authority; creating special fund; requiring approval of boards of education for reallocation of regular property tax levies; providing for termination of reallocation of levies; authorizing Commissioner of Highways to issue revenue bonds and refunding bonds to finance road, bridge and related infrastructure projects financed, in whole or in part, by county commissions; providing that all bonds are exempt from tax, are negotiable and are lawful investments; providing procedures for issuance of bonds; allowing projects to also be constructed on pay-as-you-go basis; providing that these powers are supplemental powers of county commissions and Commissioner of Highways; requiring reports; exempting public officials from personal liability; providing a severability clause; and effective dates.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 12), 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

**Com. Sub. for Senate Bill 109**, Repealing code provisions related to certain reports by trustees for property.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, 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 123**, Treatment for sexually transmitted diseases.

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,

Ryan J. Ferns,  
*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 Health and Human Resources.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 148**, Board of Accountancy rules and rules of professional conduct.

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,

Craig Blair,  
*Chair.*

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

Senator Boso, 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 182**, DEP, Water and Waste Management rule relating to surface mining reclamation.

**Senate Bill 183**, DEP, Water and Waste Management rule relating to administrative proceedings and civil penalty assessment.

And,

**Senate Bill 185**, DEP, Water and Waste Management rule relating to aboveground storage tank administrative proceedings and civil penalty assessment.

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,

Gregory L. Boso,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 254**, Not allowing county park commissions to prohibit firearms in facilities.

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

**Com. Sub. for Senate Bill 254** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-11-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting county parks and recreation commissions from promulgating or enforcing rules and regulations which prohibit possession of firearms; and providing magistrate courts with concurrent jurisdiction.

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,

Craig Blair,  
*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 Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 261**, Bringing state code relating to daylight saving time in conformity with federal code.

And,

**Senate Bill 306**, Permitting sale of county or district property online.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 268**, Abolishing Council of Finance and Administration.

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

**Com. Sub. for Senate Bill 268** (originating in the Committee on Government Organization)—A Bill to repeal §5A-1-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §4-11-5 of said code; to amend and reenact §12-1-12a of said code; to amend and reenact §12-6-6 of said code; and to amend and reenact §12-6C-15 of said code, all relating to the Council of Finance and Administration; eliminating requirement for the Governor to receive a recommendation from the council on matters related to appropriation of federal funds; eliminating requirement for State Treasurer to submit reports to the council; eliminating requirement for West Virginia Investment Management Board to submit audits and information to the council; and eliminating requirement for West Virginia Board of Treasury Investments to submit audits, reports and information to the council.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Ferns, 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 286**, Creating Commission to Accelerate Statewide Coordination of Mental Health Services for Children and Adolescents.

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

**Com. Sub. for Senate Bill 286** (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 §49-2-127, relating to creating Commission to Accelerate Statewide Coordination of Mental Health Services for Children and Adolescents; and providing findings, requirements, reports, recommendations and termination.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 286), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Education has had under consideration

**Senate Bill 369**, Reducing legislative education reporting requirements.



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

**Com. Sub. for Senate Bill 369** (originating in the Committee on Education)—A Bill to repeal §18-2-5g of the Code of West Virginia, 1931, as amended; to repeal §18-2E-3g of said code; to repeal §18B-5-8 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-5 of said code; to amend and reenact §18-3-12 of said code; to amend and reenact §18-5-44 of said code; to amend and reenact §18-20-5 and §18-20-8 of said code; to amend and reenact §18A-2-3 of said code; to amend and reenact §18A-4-7a of said code; to amend and reenact §18A-5-1a of said code; to amend and reenact §18B-1-10 of said code; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-1D-8 of said code; to amend said code by adding thereto a new section, designated §18B-1D-8a; to amend and reenact §18B-1E-3 and §18B-1E-4 of said code; to amend and reenact §18B-2B-6 of said code; to amend and reenact §18B-2C-3 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-10-1 of said code; to amend and reenact §18B-13-5 of said code; to amend and reenact §18B-18-6 of said code; to amend and reenact §18C-3-4 of said code; to amend and reenact §18C-5-7 of said code; and to amend and reenact §18C-7-5 of said code, all relating to legislative education reporting requirements; repealing obsolete section providing for establishment of a special five-year demonstration professional development school project for improving academic achievement including requirement for status reports to commission; repealing requirement for review, evaluation and report to commission on reports required to be written by principals and teachers; repealing section requiring Higher Education Policy Commission to report to commission on in-state and out-of-state contracts and purchases; removing requirement for Office of Education Performance Audits to report to commission on each appeal of on-site review findings; removing requirement for report to the commission on the effectiveness of staff development resulting from expenditures from the Strategic Staff Development Fund; removing requirement for status report to commission relating to the Special Community Development School Pilot Program; removing requirement for report to

commission on the progress of implementation of early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the program; removing requirement for report to the commission and the Joint Committee on Government and Finance that addresses, at a minimum, certain early childhood education program issues; removing requirement for State Superintendent of Schools to review the rules, policies and standards of the state and federal law for serving the needs of certain exceptional children and removing requirement for report to commission on the findings of the review along with an accounting of the services provided and the costs thereof; removing requirement for annual report to commission, the Joint Committee on Education, the Legislative Commission on Juvenile Law and other agencies, as appropriate, which recommends policies, procedures and legislation for effectively providing early intervention services and reports on the status of existing programs; removing requirement for State Board of Education to review the status of employing prospective employable professional personnel and the requirement for an annual report to the commission which must include certain minimum prospective employable professional personnel-related items; removing requirement that county board of education submit a copy of its policy defining which policies are lateral positions to the state board within thirty days of any adoption or modification and the requirement that the state board compile a report and submit the report to the commission; removing the requirement that county boards report the number of students determined to be dangerous students to the state board and the requirement that the state board compile the statistics and report its findings to the commission; removing the reporting requirements on the cooperative relationship between Potomac State College and Eastern West Virginia Community and Technical College; removing the requirement that the Higher Education Policy Commission report on its performance, capital investment priorities and recommendations for statutory changes; listing certain reports that are not required to be made annually to the Legislature but instead requiring them to be combined with other reports, including certain personnel, classification, compensation and human resources reports, all capital appropriation requests,

priorities and campus and state capital development plans, all academic-related matters and reports, and all financial aid reports; removing obsolete requirements that the findings, conclusions and recommendations of the Revitalization Project for WVU-Tech study, together with the revitalization plan for implementation, shall be reported to the Higher Education Policy Commission and the governing board, that the revitalization plan be delivered to the Legislative Oversight Commission on Education Accountability, and that the commission consider the proposed plan and approve or disapprove; removing requirement that the chancellor report to the Legislative Oversight Commission on Education Accountability on the allocation of funds to support the revitalization project at WVU-Tech and on progress made in implementing the purposes and intent of the revitalization project article and the components of the revitalization plan; removing requirement that the Higher Education Policy Commission and governing board provide to the Legislative Oversight Commission on Education Accountability a detailed summary of all revitalization project activities undertaken; removing requirement that the Community and Technical College Council report on its performance, capital investment priorities, and recommendations for statutory changes; removing requirement for report on community and technical college progress toward meeting statutory goals and whether statewide independently accredited community and technical college should be created; removing requirement for status report on workforce development initiatives; removing requirement for annual report on auxiliary fees; removing requirement that Higher Education Policy Commission report on technical assistance and associated costs provided to qualified businesses within the higher education and industry partnership; removing the requirement for annual status report on the Eminent Scholars Endowment Trust Fund; removing the requirement of an annual report on the number of nursing scholarship recipients; removing requirement to report on the status of the Higher Education Adult Part-Time Student Grant Program; and removing the requirement for the annual recommendation to encourage PROMISE recipients to live and work in West Virginia after graduation.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

Senator Blair, 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 2101**, Eliminating obsolete government entities.

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.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Hall, Boso and Plymale:**

**Senate Bill 423**—A Bill to amend and reenact §36-8-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-8-2a, all relating to the specific escheat of United States savings bonds and all rights and legal title thereto; and defining terms.

Referred to the Committee on Finance.

**By Senators Boso, Blair, Karnes, Kessler, Kirkendoll, Leonhardt, Miller, Mullins, Snyder, Stollings, Sypolt, Takubo, Unger, Walters, Williams, Woelfel, Gaunch and Ferns:**

**Senate Bill 424**—A Bill to amend and reenact §7-1-3d of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-17-12 of said code, all relating to county commissions authorizing reasonable fees charged for fire department or fire company response to fires or other calls for assistance; describing the means to be used for calculating and charging fees for responding to fire or other calls for assistance; prohibiting fire company or fire department from seeking reimbursement where the property is assessed a fire service levy or fire service fee; and establishing the methodology for revising and reauthorizing the county fire service fee by the county commission.

Referred to the Committee on Government Organization.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 425**—A Bill to amend and reenact §24C-1-2 of the Code of West Virginia, 1931, as amended, relating to one-call system; and revising the definition of “underground facility”.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 426**—A Bill to amend and reenact §5B-2A-3 and §5B-2A-4 of the Code of West Virginia, 1931, as amended, all relating to continuing Office of Coalfield Community Development within Department of Commerce; allowing Secretary of the Department of Commerce to appoint a chief; and defining term.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Government Organization.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 427**—A Bill supplementing and amending by decreasing an appropriation and making a supplementary appropriation from the balance of moneys remaining as an unappropriated balance from the State Fund, State Excess Lottery Revenue Fund, to the Department of Revenue, Lottery Commission – Distributions to Statutory Funds and Purposes, fund 7213, fiscal year 2016, organization 0705, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 428**—A Bill to amend and reenact §29-22A-10 and §29-22A-10d of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all relating to ending discretionary transfers to Licensed Racetrack Modernization Fund; transferring funds remaining in Licensed Racetrack Modernization Fund and Historic Resort Hotel Modernization Fund to the General Revenue Fund of the state during the fiscal year ending June 30, 2016; and closing Licensed Racetrack Modernization Fund and Historic Resort Hotel Modernization Fund.

Referred to the Committee on Finance.

**By Senators Ashley and Gaunch:**

**Senate Bill 429**—A Bill to amend and reenact §33-24-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-25-6 of said code; to amend and reenact §33-25A-24 of said code; to amend and reenact §33-25D-26 of said code; to amend and reenact §33-40-1, §33-40-2, §33-40-3, §33-40-6 and §33-40-7 of said code; and to amend said code by adding thereto a new article, designated §33-40A-1, §33-40A-2, §33-40A-3, §33-40A-4, §33-40A-5, §33-40A-6, §33-40A-7, §33-40A-8, §33-40A-9, §33-40A-10, §33-40A-11 and §33-40A-12, all relating to risk-based capital reporting for health organizations; making health organizations subject to statutory provisions concerning risk-based capital

reporting; defining terms associated with risk-based capital reporting for health organizations; requiring domestic health organization to file risk-based capital report with Insurance Commissioner; requiring health organization to perform certain actions if risk-based capital report indicates a negative financial trend or hazardous financial condition; requiring Insurance Commissioner to conduct certain actions if risk-based capital report of a health organization indicates negative financial trend or hazardous financial condition; providing health organization right to a confidential hearing with respect to its risk-based capital report; making risk-based capital reports confidential; prohibiting use of risk-based capital reports in ratemaking of a health organization; granting Insurance Commissioner authority to promulgate rules; requiring foreign health organization to file a risk-based capital report with the Insurance Commissioner; and providing immunity to the Insurance Commissioner and his employees or agents for actions taken with respect to monitoring the financial stability of a health organization.

Referred to the Committee on Banking and Insurance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 430**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to authorizing transportation network companies to operate in the state; providing that transportation network companies and transportation network company drivers are not common carriers or motor carriers; requiring permit from Division of Motor Vehicles to operate a transportation network company; setting forth requirements for obtaining permit; requiring an agent for service of process; authorizing transportation network companies to charge fare for services; setting forth requirements for fare collection; requiring identification of transportation network company vehicles and drivers; requiring an electronic receipt; requiring automobile insurance; requiring disclosures from transportation network company to transportation

network company drivers; providing terms, conditions and allowable exclusions from insurance coverage; setting limitations on transportation network companies; providing zero tolerance policy for drug and alcohol use while working as transportation network company driver; setting minimum requirements to become transportation network company driver; requiring transportation network company vehicles to pass state inspection; prohibiting solicitation and street hails; prohibiting cash payments; requiring no-cash payment policy; requiring policy of nondiscrimination; requiring recordkeeping; providing for controlling authority to regulate transportation network companies; providing exemption from certain taxes, fees and licensing requirements; providing for limitations and restrictions; and defining terms.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 431**—A Bill to amend and reenact §16-46-3, §16-46-5 and §16-46-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-46-3a, all relating to authorizing pharmacist or pharmacy intern to dispense, pursuant to a protocol, an opioid antagonist without a prescription; requiring Board of Pharmacy, in consultation with Bureau for Public Health, to develop a protocol; requiring patient counseling; requiring educational materials; requiring documentation of distribution of opioid antagonists in West Virginia Controlled Substances Monitoring Program database; revising existing reporting requirements; providing limited liability to pharmacist and pharmacy interns; revising reporting requirements; and reorganizing existing code language.

Referred to the Committee on Health and Human Resources.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 432**—A Bill to amend and reenact §11-8-6a of the Code of West Virginia, 1931, as amended, relating to levies on classifications of property by Board of Public Works; removing



antiquated language requiring Board of Public Works to levy property tax rates to meet requirements of state road bonds issued prior to November 8, 1932; and removing references to corresponding levy rates.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Takubo, Stollings and Plymale:**

**Senate Bill 433**—A Bill to amend and reenact §16-5-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-30-3 and §16-30-25 of said code, all relating to allowing advance practice registered nurses and physician assistants to complete physician orders for scope of treatment; allowing advance practice registered nurses and physician assistants to sign death certificates; and defining terms.

Referred to the Committee on Health and Human Resources.

**By Senators Karnes and Takubo:**

**Senate Bill 434**—A Bill to amend and reenact §19-35-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-35-5, all relating to permitting sale of home-based, micro-processed foods at farmers markets; defining a term; establishing standards; permitting fees; and providing for rulemaking.

Referred to the Committee on Agriculture and Rural Development.

**By Senators Leonhardt, Walters, Williams, Miller, Trump, Woelfel, Unger and Plymale:**

**Senate Bill 435**—A Bill to amend and reenact §60-1-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3b of said code; and to amend and reenact §60-8-3 of said code, all relating to permitting farm winery licensure as alternating wine proprietorships; and permitting farm wineries to provide samples and off-premises sales at separately licensed fairs and festivals.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Government Organization.

Senators Maynard, Stollings, Woelfel and Plymale offered the following resolution:

**Senate Concurrent Resolution 15**—Requesting Division of Highways name bridge number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U. S. Army SFC Jesse Muncy Memorial Bridge”.

Whereas, Sergeant First Class Muncy was born in Mingo County on September 15, 1921, the son of Jeff and Sally (Sallie) Muncy. Growing up in Kermit with his sisters Lucy (later Marcum), Dicie (Hodge) and Mary (Waller), and his brother Birdie, he attended local schools through the elementary grades; and

Whereas, Following his July 17, 1941, enlistment, Sergeant First Class Muncy married Loda Lowe, with whom he had three children, Clyde, Sally (“Dot”) and Peggy Carol; and

Whereas, Serving with the Company G, 13th Infantry Regiment, 8th Infantry, Sergeant First Class Muncy received a Silver Star for gallantry in action on April 9, 1945, when, in the vicinity of Olpe, Germany, his company encountered two German tanks during an attack and Sergeant First Class Muncy, along with four other men, knocked out the tanks; and

Whereas, On October 15, 1945, Sergeant First Class Muncy received the Silver Star. The citation reads, “By direction of the President, under the provisions of AR 600-45, 22 September 1943, as amended, the Silver Star is awarded to: Staff Sergeant Jesse Muncy, 35210666, Infantry, Company G, 13th Infantry Regiment, for gallantry in action on 9 April 1945 in the vicinity of Olpe, Germany. When his company encountered two German tanks during an attack, Sergeant Muncy, with four other men, proceeded into enemy lines in an attempt to knock out the tanks. Under direct

enemy small arms, machine gun and tank fire, Sergeant Muncy, after directing his men to give him covering fire, maneuvered to within fifty yards of an enemy tank and, firing three rounds from his bazooka, knocked out the tank, captured seven enemy soldiers and wounded five others. Moving alone to another position, Sergeant Muncy placed fire upon a German convoy, capturing 23 enemy soldiers. Sergeant Muncy's outstanding courage and devotion to duty were in keeping with the highest traditions of the military service. Entered the military service from West Virginia"; and

Whereas, Sergeant First Class Muncy also received the Good Conduct Medal, the American Defense Service Medal, and the European-African-Middle Eastern Theater Service Medal, as well as a Bronze Star for heroic and meritorious service; and

Whereas, After his honorable discharge on October 18, 1945, Sergeant First Class Muncy returned to southern West Virginia and the coal mines and settled into a seemingly normal life. But life in the mines had its ups and downs, and when fighting erupted in Korea, Sergeant First Class Muncy willingly reenlisted. As a decorated war soldier and experienced infantryman, he became a participant in what is now known as "Bloody Ridge" in North Korea during August and September 1951; and

Whereas, Sergeant First Class Muncy was involved in fierce fighting – undoubtedly as harrowing as anything he had seen in World War II – had been going on for months, as reported in the following account: "After securing Hill 773 on the last day of August, the 9th Infantry struck anew at the two remaining peaks on 'Bloody Ridge', Hills 983 and 900. The hilly terrain made any forward movement difficult, to say the least, and the intense fighting had scorched the earth. But the 9th Infantry persevered: Dirty, unshaven, and miserable they backed down, tried again, circled, climbed, slid, suffered, ran, rolled, crouched and grabbed upward only to meet again the murderous fire, the blast of mortar and whine of bullets and jagged fragments. Minutes seemed like hours, hours like days, and days like one long, terrible, dusty, blood-swirled night-mare shivering at night, sweat clogged at day"; and

Whereas, It was in this hard-fought battle that Sergeant First Class Muncy lost his life on September 1, 1951. Sergeant First Class Muncy received a second Silver Star for his service in Korea, as well as the Purple Heart. His remains were interred in a family cemetery near Kermit on December 18, 1951. His funeral notice in the *Williamson Daily News*, December 17, 1951, described him as a “professional soldier”; and

Whereas, On August 10, 1951, less than a month before his death, Sergeant First Class Muncy wrote a letter to his wife and children reiterating his love for them but inserting his uneasy concern for what his unit was about to face: “I will drop you a few lines tonight to let you know I am well and I miss you and the babies a lot. Honey, I am moving up tonight and we are all pretty quiet. Nobody has got anything to say, but you can tell [what] they’re thinking. Some of them are worried some, and I am for one, but they don’t know it, and honey I am thinking of you and the babies and if I will get to see you anymore... Well, honey, if this should be the last letter, take good care of the babies and keep them together and tell them that I love them....So tell all the family hello and answer real soon, and tell Mom hello for me. So I will close with all my love... P.S. Take good care of my pup. Love, Dad”; and

Whereas, Sergeant First Class Muncy’s widow, Loda Muncy, never remarried, preferring to raise her “babies” in the home where they planned to spend the rest of their lives. In a 2013 interview, Sally (“Dot”) explained that she and Peggy Carol worked for many years at an Ohio packing plant. Peggy still lives in that state while Dot has returned in her retirement to the old home place on Jennie’s Creek in Wayne County. Clyde, not yet retired, still works at a machine shop in Kenova. The family is determined that the legacy of Sergeant First Class Muncy and Loda Muncy not be forgotten and they recall with pride that anyone who claims to have met Sergeant First Class Muncy during his years in the service has offered thanks for his selfless sacrifice; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army Sergeant First Class Muncy, a native son who gave the ultimate sacrifice for his state and his country, by naming bridge number 50-52-54.27 (50A115) (37.85563, -

82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U. S. Army SFC Jesse Muncy Memorial Bridge”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U. S. Army SFC Jesse Muncy 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 SFC Jesse Muncy Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family members of U. S. Army Sergeant First Class Jesse Muncy.

Which, under the rules, lies over one day.

Senators Miller, Stollings, Woelfel, Yost, Kessler, Unger, Williams and Plymale offered the following resolution:

**Senate Resolution 14**—Designating January 29, 2016, as Earned Income Tax Credit Awareness Day at the Legislature.

Whereas, The Earned Income Tax Credit is one of the best tools we have for preventing poverty and expanding opportunity for low-income workers and their families; and

Whereas, The Earned Income Tax Credit has been expanded by every president in office since 1975 and now enjoys more than 40 years of helping workers keep more of what they have earned; and

Whereas, Despite the Earned Income Tax Credit's proven benefits, one out of every five eligible workers does not claim it. This is often due to a lack of awareness of the credit; and

Whereas, Those most at risk of overlooking their eligibility for the Earned Income Tax Credit include people with disabilities, grandparents raising children, English-language learners and workers in remote areas; and

Whereas, Volunteer Income Tax Assistance (VITA) programs offer free tax preparation for lower-income workers to help them make the most of their tax returns. VITA sites raise awareness of the Earned Income Tax Credit in their communities and help to ensure that all eligible workers receive the credit; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 29, 2016, as Earned Income Tax Credit Awareness Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives with Earned Income Tax Credit Awareness Day.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Stollings, Yost, Kessler, Unger, Williams and Plymale offered the following resolution:

**Senate Resolution 15**—Designating January 29, 2016, as School Counselors Day at the Legislature.

Whereas, School counselors are vital members of the education system in West Virginia; and

Whereas, School counselors are employed in public and private schools to help students reach their full potential; and

Whereas, School counselors are actively committed to helping students explore their abilities, strengths, interests and talents as these traits relate to career awareness and development; and

Whereas, School counselors help parents focus on ways to further the educational, personal and social growth of the children; and

Whereas, School counselors work with teachers and other educators to help students explore their potential and set realistic goals for themselves; and

Whereas, School counselors seek to identify and utilize community resources that can enhance and complement comprehensive school counseling programs and help students become productive members of society; and

Whereas, Comprehensive developmental school counseling programs are considered an integral part of the educational process that enables all students to achieve success in school; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 29, 2016, as School Counselors 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 School Counselors Association.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senator Beach presented a petition from the West Virginia University Institute of Technology Faculty Assembly, endorsing the relocation of West Virginia University Institute of Technology from Montgomery, West Virginia, to Beckley, West Virginia.

Referred to the Committee on Education.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 2**, Urging Congress provide funding for WV National Guard.

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 14**, U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 14**, Limiting successor corporation asbestos-related liabilities.

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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. Com. Sub. for S. B. 14) 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 146,** Establishing instruction standards for early childhood 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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. Com. Sub. for S. B. 146) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2016.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. Com. Sub. for S. B. 146) takes effect July 1, 2016.

*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 202,** Authorizing Department of Commerce 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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. Com. Sub. for S. B. 202) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. Com. Sub. for S. B. 202) 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 216**, Authorizing Human Rights Commission promulgate legislative rule relating to Pregnant Workers' Fairness 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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. Com. Sub. for S. B. 216) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. Com. Sub. for S. B. 216) 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.

**Senate Bill 15**, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

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 27**, Permitting county commissions hire outside attorneys for collection of taxes through 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 150**, Authorizing Department of Transportation promulgate legislative rules.

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 288**, Creating one-day special license for charitable events to sell nonintoxicating beer and wine.

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

**Senate Bill 329**, Eliminating sunset provision for commission to study residential placement of children.

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 338**, Compiling and maintaining Central State Mental Health Registry.

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

**Senate Bill 379**, Relating to candidate filing fees.

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.

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

**Senate Bill 271**, Conforming definition of attest services to Uniform Accountancy Act.

**Senate Bill 333**, Taking and registering of wildlife.

**Senate Bill 334**, Identifying coyote as fur-bearing animal and woodchuck as game animal.

**Senate Bill 336**, Relating to crossbow hunting.

And,

**Com. Sub. for Senate Bill 343**, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Palumbo and Carmichael.

At the request of Senator Palumbo, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of Virginia M. Ellars, former Journal Editor for the West Virginia Senate.

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

The Senate again proceeded to the twelfth order of business.

Remarks were made by Senator Plymale.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Beach.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 1, 2016, at 11 a.m.

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## MONDAY, FEBRUARY 1, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Rabbi Victor Urecki, B'Nai Jacob Synagogue, Charleston, West Virginia.

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

Pending the reading of the Journal of Friday, January 29, 2016,

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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4227**—A Bill to amend and reenact §30-38-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board; changing the requirements for membership on the board; providing for continued service of qualifying board members; and providing for the disqualification of certain members who become licensees.

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 4230**—A Bill to amend and reenact §30-13-4 and §30-13-5 of the Code of West Virginia, 1931, as amended, all relating to the Board of Registration for Professional Engineers; changing the qualifications for membership on the board; providing for continued service of qualifying board members; creating an emeritus status; and providing for the disqualification of certain members who become licensees.

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 4238**—A Bill to amend and reenact §30-13A-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Board of Professional Surveyors; changing qualifications for membership on the board; providing for continued service of qualifying board members; providing for the disqualification of certain members who become licensees; and providing that citizen member appointments represent different congressional districts.

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 4241**—A Bill to amend and reenact §30-40-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Commission; changing the qualifications for membership on the commission; providing for continued service of qualifying board members; adding party affiliation limitation; and providing for the disqualification of certain members who become licensees.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Walters, 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 16**, Providing tax credit for providing broadband to certain census blocks.

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

**Com. Sub. for Senate Bill 16** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code



of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13BB-1, §11-13BB-2, §11-13BB-3, §11-13BB-4, §11-13BB-5, §11-13BB-6 and §11-13BB-7, all relating generally to providing tax credit for providing broadband service and wireless broadband service to unserved areas; requiring Tax Commissioner to propose rules for legislative approval to administer this article; providing definitions; specifying amount, application, restrictions, timing and cap on tax credit; and permitting a carryover of credit to subsequent tax year.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 16), 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

**Senate Bill 40**, Changing definition of facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

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

**Com. Sub. for Senate Bill 40** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-26-2 of the Code of West Virginia, 1931, as amended, relating to modifying funding assistance from Courthouse Facilities Improvement Authority; and changing definition of facilities that are eligible for funding assistance from courthouse facilities that are occupied by

county or judicial officials to ones that are currently occupied by those officials or upon renovation will be county owned and occupied by county or judicial officials or programs.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, 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 4005**, Repealing prevailing hourly rate of wages requirements.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Kirkendoll, Boley, Mullins and Walters:**

**Senate Bill 436**—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to animal cruelty; and defining adequate shelter for dogs and cats.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 437**—A Bill to amend and reenact §29-5A-1, §29-5A-15 and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to regulation of events by State Athletic Commission; authorizing delegation of commission authority to approve certain event changes; eliminating requirements for certain bonds; and providing for rules to govern amateur mixed martial arts.

Referred to the Committee on Government Organization.

**By Senator Ferns:**

**Senate Bill 438**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-6A-2a, relating to notification and recommendation of Department of Health and Human Resources with regard to placement of criminal defendants committed to the department's care and custody.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Hall and Plymale:**

**Senate Bill 439**—A Bill to amend and reenact §11B-2-27 of the Code of West Virginia, 1931, as amended, relating to approval of requisitions for payment of personal services by budget director; and exceptions.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 440**—A Bill to amend and reenact §18B-3D-1 and §18B-3D-4 of the Code of West Virginia, 1931, as amended, all relating to Workforce Development Initiative Program and expanding the Learn and Earn Program; eliminating authority for Workforce Development Initiative Program grant funding for equipment; and eliminating exception to dollar-for-dollar grant funding match from private sector partners.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 441**—A Bill supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2016, organization 0803, for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 442**—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, 2016, to the Public Services Commission – Motor Carrier Division, fund 8743, fiscal year 2016, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 443**—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, 2016, to the Department of Health and Human Resources, Consolidated Medical Service Fund, fund 8723, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Human Rights Commission, fund 8725, fiscal year 2016, organization 0510, and the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 444**—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, 2016, to the Department of Health and Human Resources, Division of Health — West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services — Medical Services Trust Fund, fund 5185, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 445**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents by well operators and pipeline operators; defining terms; establishing reporting requirements; establishing obligations of local emergency telephone operators; providing for recording and handling of calls; setting forth administrative civil penalty; and providing appeal process.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 446**—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, 2016, to the Department of Education, State Board of Education – School Lunch Program, fund 8713, fiscal year 2016, organization 0402, and the Department of Education, State Board of Education – Vocational Division, fund 8714, fiscal year 2016, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 447**—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, 2016, to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act, fund 8749, fiscal year 2016, organization 0323, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 448**—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, 2016, to the Department of Revenue, Tax Division – Wine Tax Administration Fund, fund 7087, fiscal year 2016, organization 0702, and the Department of Revenue, Tax Division – Local Sales Tax and Excise Tax Administration Fund, fund 7099, fiscal year 2016, organization 0702, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 449**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2016, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 450**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health, fund 0407, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 451**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, West Virginia Parole Board, fund 0440, fiscal year 2016, organization 0605, and to the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2016, organization 0621, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 452**—A Bill to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-4, §18-9A-5, §18-9A-7, §18-9A-10 and §18-9A-11 of said code, all relating to public school finance; eliminating authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to a growth county school facilities act fund; adjusting the formula for foundation allowance for professional educators; adjusting the formula for foundation

allowance for service personnel; adjusting and eliminating certain adjustments of the foundation allowance for transportation costs; adjusting the calculation for the foundation allowance to improve instructional programs; and eliminating certain restrictions in the computation of local share.

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

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 453**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21A-1-9, relating to creating the Self-Employment Assistance Act; providing assistance to eligible participants engaged full-time in starting a business and becoming self-employed; and granting rule-making authority.

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

**By Senator Kessler (By Request of the Executive):**

**Senate Bill 454**—A Bill to amend and reenact §60A-9-4, §60A-9-5, §60A-9-5a, §60A-9-7 and §60A-9-8 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Controlled Substances Monitoring Program database; requiring reporting when an opioid antagonist is dispensed by certain persons; clarifying code language related to 72-hour prescriptions; prohibiting licensing boards from issuing or reissuing licenses to practitioners who have not registered for West Virginia Controlled Substances Monitoring Program database; establishing fine for failure to register for West Virginia Controlled Substances Monitoring Program database; establishing fine for failure to access West Virginia Controlled Substances Monitoring Program as mandated by the code; clarifying language related to Fight Substance Abuse Fund; placing administrative authority over Fight Substance Abuse Fund with the Bureau for Public Health; revising code language to use defined terms; and reorganizing existing code language.



Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Sypolt, Blair, Karnes, Mullins, Takubo, Trump and Leonhardt:**

**Senate Joint Resolution 9**—Proposing an amendment to the Constitution of the State of West Virginia, amending section six, article III thereof, relating to protecting the electronic communication and data of citizens from unreasonable searches and seizures; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senators Romano, Facemire, Williams and Stollings offered the following resolution:

**Senate Concurrent Resolution 16**—Requesting Division of Highways name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the “U. S. Army CPL John Belcastro Bridge”.

Whereas, John Belcastro was born on June 12, 1922, in Shinnston, West Virginia. He was the first born of one of the first set of twins born in Shinnston and one of six sons born to Frank and Anita Bartolo Belcastro. After graduation from Shinnston High School in 1942, John Belcastro spent four years in the U. S. Army during World War II. He entered the U. S. Army in October of 1942, attained the rank of Corporal T/5 and was honorably discharged on January 18, 1946. Mr. Belcastro was a member of the 10th Armored Division, 90th Reconnaissance Cavalry, 3rd Army under General George Patton. He spent Christmas of 1944 fighting in the Battle of the Bulge in which the 10th Armored Division led the 3rd Army all the way to Austria. He also fought in the Ardennes Forest, the Rhineland and Central Europe. In May of 1945, Mr. Belcastro was chosen to be a part of a secret mission. As soon as the war ended, he was part of the team hand-picked to rescue 118 German scientists who were defecting to America.

Those German scientists included Wernher Von Braun who was instrumental in starting the American space program in Huntsville, Alabama; and

Whereas, CPL Belcastro received a Purple Heart, a Bronze Star for bravery, the Croix De Guerre Presidential Citation and Good Conduct Medal. He also was awarded the American Theater Ribbon, the Middle Eastern Theater Ribbon, the World War II Victory Ribbon, the Diplome from the Republique Francais' Ministere De La Defense Liberation of France and the Knight of the French Legion of Honor; and

Whereas, When the war ended, CPL Belcastro returned to Shinnston where he worked in the coal industry for forty-three years. While working in the mines, he volunteered to be a member of the mine rescue squad, serving in that capacity from 1950 to 1964 during which time he helped in rescue efforts in twelve explosions and fires. Mr. Belcastro received Consol Safety Award for twenty-five years with no lost time accidents. He was a member of United Mine Workers Local #1501 where he held many offices including serving on the COMPAC committee for twelve years, holding the office of treasurer for eight years and social chairman for eighteen years; and

Whereas, John Belcastro displayed his talent as an imitator and impersonator by being named the winner of the Wilken's Amateur Hour held in Pittsburgh; the winner of the All Stars Amateur Hour held at the Ritz Theater in Clarksburg; performed with the Paul Whitman Orchestra at the Warner Theater in Morgantown; with Vaughn Monroe at the Ritz in Clarksburg; and Frank Yankovic's Polish Band at the Clarksburg Armory; and

Whereas, John Belcastro and Sylvia, his wife of sixty-eight years, are members of St. Ann's Catholic Church where he has served as an usher, lector and president of the men's Holy Name Society for three terms. He served as both Vice President and Treasurer of the Clarksburg Deanery of the Holy Name Society and on the Board of Directors for the Wheeling-Charleston Diocese. He is also a member of the Knights of Columbus #942 and a weekly adorer in the Perpetual Adoration Chapel. For years he was the

“Voice of the Spartans” as he served as the announcer for the Shinnston High football games and also for the Shinnston Little League baseball games. Mr. Belcastro held the position of Cub Master for Pack 59 for the Shinnston Area Boy Scouts. He belongs to the Clarksburg Senior Citizens and delivered Meals on Wheels. He is a Life Member of the Veterans of Foreign Wars #573 in Clarksburg, AARP, and a Life Member of the Shinnston American Legion Post 31 where he served on the Color Guard and as chairman of various committees as well as serving as Service Officer for the VA Hospital and the Old Soldier’s Home in Weston. John Belcastro was captain of the seven-time winning Italian Trivia Team in conjunction with the Italian Heritage Festival and received a diploma from the University of Hard Knocks at Alderson-Broadus College in 1999. He is one of the longest serving members of the Board of Directors of the Monongahela Valley Association of Health Centers Fairmont Clinic, having served for over forty years; and

Whereas, On June 12, 2016, Mr. Belcastro will celebrate his 94th birthday. He has lived all his life in Shinnston. He is a long-time pillar of his community and it is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the “U. S. Army CPL John Belcastro Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL John Belcastro Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard, Plymale and Stollings offered the following resolution:

**Senate Concurrent Resolution 17**—Requesting Division of Highways name bridge that traverses the left fork of Wilson Creek on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, bridge number 50A026, latitude +39.33852, longitude -82.38409, as the “Charles Edward Smith Memorial Bridge”.

Whereas, Charles Edward Smith was born on October 24, 1921; and

Whereas, Charles Edward Smith, who served in the United States Army during World War II, received the Purple Heart, Good Conduct Medal and Eastern Service Ribbon as the result of the courage he displayed in battle, serving in the Ardennes in Northern France and being wounded in combat on December 30, 1944, in Belgium; and

Whereas, Charles Edward Smith passed away on April 6, 2013; and

Whereas, It is fitting and proper to memorialize the courageous and honorable actions committed on behalf of this country by Charles Edward Smith; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name the bridge that traverses the left fork of Wilson Creek on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, bridge number 50A026, latitude +39.33852, longitude -82.38409, as the “Charles Edward Smith 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 “Charles Edward Smith Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the Wayne County Veterans' Association.

Which, under the rules, lies over one day.

Senators Unger, Snyder, Plymale, Trump, Blair, Williams and Stollings offered the following resolution:

**Senate Resolution 16**—Recognizing Leadership Berkeley for its service, dedication and commitment to Berkeley County.

Whereas, The objective of Leadership Berkeley is to promote knowledge and awareness of the problems, opportunities and issues facing Berkeley County; and

Whereas, Leadership Berkeley 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 in order to encourage local participation in the growth of Berkeley County; and

Whereas, The membership of Leadership Berkeley includes individuals from nearly every facet of Berkeley 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 2016 membership of Leadership Berkeley consists of Amy D. Bender, CNB Bank Inc.; Ryan A. Byrd, Berkeley Senior Services; Michael A. Bush, Bowles Rice LLP; Angi Cornwell, Hornby Publishing; David Ekmark, Department of Veterans Affairs; Kristie R. Hadley, Bank of Charles Town; Stephanie N. Harrison, Allstate Insurance-The Kelley Agency; James G. Hersick, Jr., Native Design and Brand Communications; Amanda J. Malcolm, Eastern Panhandle Transit Authority; Tanya A. Mock, Arndt-McBee Insurance; Jennifer L. O'Brien, Eastern Panhandle Regional Planning and Development Council; Joseph P. Reasbeck, Frontier; Teresa Scott, RMS Shredding; Megan E. Shaffer, United Bank; Karen A. Spence, Johnnies Express; Taylor

N. Tibyash, Blue Ridge Community and Technical College; Roxie Vannoy, FASTSIGNS; Anissa P. Wade, CNB Bank; Kewnneth W. Walker, Trinity United Methodist Church; Jeffrey S. Wilkerson, City of Martinsburg, WV; Laura N. Wilson, Shenandoah Community Health; Brittany R. Young, Catholic Charities West Virginia; Clyde R. Young, Cox Hollida & Professionals; and Tina H. Combs, Martinsburg-Berkeley County Chamber of Commerce; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Leadership Berkeley for its service, dedication and commitment to Berkeley 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 Berkeley.

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.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Miller, Plymale, Yost, Williams, Stollings and Unger offered the following resolution:

**Senate Resolution 17**—Recognizing the West Virginia School of Osteopathic Medicine for excellence in medical education and its many contributions to the State of West Virginia.

Whereas, The West Virginia School of Osteopathic Medicine's main campus is located in Lewisburg, West Virginia, and its statewide campus offices are located throughout the Mountain State; and

Whereas, The mission of the West Virginia School of Osteopathic Medicine is to educate students from diverse backgrounds as lifelong learners in osteopathic medicine and complementary health-related programs; to support and develop graduate medical education training; to advance scientific knowledge through academic, clinical and basic science research; and to promote patient-centered, evidence-based medicine; and

Whereas, The West Virginia School of Osteopathic Medicine is dedicated to serving, first and foremost, the State of West Virginia and the health care needs of its residents, emphasizing primary care in rural areas; and

Whereas, The West Virginia School of Osteopathic Medicine is a leader in producing graduates who practice in rural settings and has a nationally recognized faculty and innovative programs, such as the Rural Health Initiative Program; and

Whereas, *U. S. News & World Report* has ranked the West Virginia School of Osteopathic Medicine among the top medical schools in the nation in primary care, rural and family medicine for the past seventeen years, solidifying the school's reputation as a place where scientific study and compassion are joined in one curriculum; and

Whereas, The West Virginia School of Osteopathic Medicine is known nationwide for its efforts in rural, family and primary care medicine and has earned many accolades to support its efforts, including: First among all medical schools in the United States graduating physicians who practice in rural areas (*Academic Medicine*, 2010 Study); third in the nation for percentage of medical school graduates entering primary care residency specialties (*U. S. News & World Report* 2015); thirteenth in the nation for family medicine (*U. S. News & World Report* 2015); and fourteenth in the nation for rural medicine (*U. S. News & World Report* 2015); and

Whereas, Third- and fourth-year students from the West Virginia School of Osteopathic Medicine completed 1,436 rural clinical rotations in West Virginia this past academic year; and

Whereas, WVSOM has been recognized by *The Chronicle of Higher Education* for five consecutive years as a “Great College to Work For”, the first institution in West Virginia to receive this honor; and

Whereas, Graduates of the West Virginia School of Osteopathic Medicine practice medicine in forty-seven of West Virginia’s fifty-five counties and in forty-eight states and the District of Columbia, and making a significant contribution to the health care needs of the citizens of West Virginia and the nation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia School of Osteopathic Medicine for excellence in medical education and its many 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 West Virginia School of Osteopathic Medicine.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order, which agenda includes the making of main motions.

Senator Miller moved that a fiscal note be prepared for Engrossed House Bill 4005 (*Repealing prevailing hourly rate of wages requirements*).

Following discussion,



The question being on the adoption of Senator Miller's aforestated motion, and on this question, Senator Miller demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Unger regarding the adoption of Senator Miller's aforestated motion were ordered printed in the Appendix to the Journal.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 15**, U. S. Army SFC Jesse Muncy Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 15**, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 15) 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 27**, Permitting county commissions hire outside attorneys for collection of taxes through 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 27) 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 150**, Authorizing Department of Transportation 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 Senate Bill 150 pass?”

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

The nays were: Kessler—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. 150) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Kessler—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. 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.

**Eng. Com. Sub. for Senate Bill 288**, Creating one-day special license for charitable events to sell nonintoxicating beer.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 288) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 288) 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 329**, Eliminating sunset provision for commission to study residential placement of 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 329) 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 338**, Compiling and maintaining Central State Mental Health Registry.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings,

Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 338) 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 379**, Relating to candidate filing fees.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 379) 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 379**—A Bill to amend and reenact §3-5-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-8-5b of said code, all relating to candidate filings; directing candidates for circuit and family court judge to pay their

filing fees to the election official with whom certificate of announcement is to be filed; providing for apportionment of certain candidate filing fees to counties; and requiring campaign finance statements for circuit and family court judges to be filed with Secretary of State.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 379) 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.

**Senate Bill 271**, Conforming definition of attest services to Uniform Accountancy Act.

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

**Senate Bill 333**, Taking and registering of wildlife.

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

**Senate Bill 334**, Identifying coyote as fur-bearing animal and woodchuck as game animal.

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

**Senate Bill 336**, Relating to crossbow hunting.

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 343**, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records.

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 eleven, line eighteen, after the word “officer” by inserting the words “or investigator for legitimate investigative purposes”.

The bill (Com. Sub. for S. B. 343), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 109**, Repealing code provisions related to certain reports by trustees for property.

**Senate Bill 123**, Treatment for sexually transmitted diseases.

**Com. Sub. for Senate Bill 254**, Not allowing county park commissions to prohibit firearms in facilities.

**Senate Bill 261**, Bringing state code relating to daylight saving time in conformity with federal code.



**Com. Sub. for Senate Bill 268**, Abolishing Council of Finance and Administration.

**Senate Bill 306**, Permitting sale of county or district property online.

**Com. Sub. for Senate Bill 369**, Reducing legislative education reporting requirements.

And,

**Eng. Com. Sub. for House Bill 2101**, Eliminating obsolete government entities.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Woelfel, Carmichael and Blair.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Woelfel were ordered printed in the Appendix to the Journal.

At the request of Senator Walters, unanimous consent being granted, the remarks by Senators Carmichael and Blair were ordered printed in the Appendix to the Journal.

The Senate then proceeded to the thirteenth order of business.

Senator Kessler called attention to today being the birthday of Kevin Baker, Counsel to the Senate Minority Leader, and on behalf of the Senate extended felicitations and good wishes to Kevin Baker.

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 2, 2016, at 11 a.m.

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## TUESDAY, FEBRUARY 2, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Mark Flynn, Morris Memorial United Methodist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Kent Leonhardt, a senator from the second district.

Pending the reading of the Journal of Monday, February 1, 2016,

Senator Unger arose to the following point of order:

Mr. President, point of order. I just want to point to in the Journal it states that the Senate Government Organization has reported out Engrossed House Bill 4005, repealing prevailing wage hours, and then the bill itself it talks about on behalf of the public authorities engaged in construction in public improvements.

I evoke Rule Number 15a that indicates that “[p]rior to any committee reporting a bill to the floor, any bill which either increases or decreases the revenues or fiscal liability of the State or any county, municipality or subdivision of the State or in any manner changes or modifies any existing tax[es] or rate of tax[es that] such [shall] bill shall have attached thereto a fiscal note, if available.”

We had heard from the Senator from Putnam yesterday, the Finance Chair, that this would indeed have an impact on the municipals, and the counties. And also we heard from the Senator from Jackson that we have that information so I ask also that that would be granted.

Also I want to indicate that on Senate Rule Number 61 has not been evoked to, take this away and that is that rule that would allow for the suspension of rules, Mr. President, “[u]nless there be

unanimous consent, no standing rule or order of the Senate shall be suspended except by two-thirds vote of the members present.” I don't recall, and nor does the Journal reflect, the two-thirds vote regarding revoking that Rule Number 15.

Mr. President, I know yesterday a member of this body put forward, the Senator from Greenbrier put forward, a motion to let the body discuss this and brought this to the body's attention. Well, Mr. President, I'm going to bring this to your attention. As you know under Article 6, Section 24, each house shall determine its rules and its proceedings and also shall choose from its own body a President. And under Senate Rule Number 3, the duties of the President “shall perform all [of] the duties of the office of [Senate] President without limitation, including any duties imposed by the Constitution of West Virginia, any statute, the Senate Rules and any [adopted] Joint Rules of the Senate and House of Delegates . . . .” So Mr. President, I'm actually calling upon you as President of your office to exercise your duties to uphold the Senate Rules in the sense that there is evidently a fiscal note cause [sic] all the information's available. I ask that that be given to the members and also allow for the public to know exactly what the cost is. Mr. President, it's not good policy to hide or to try to conceal any information from the public so I ask that Rule Number 15a be honored.

Which point of order, the President ruled not well taken, stating:

With respect to the Senior Senator of the Sixteenth, it's the Chair's opinion, as we look at 15a, any bill with which either increases or decreases the revenue or fiscal liability, and in the case, in the case here, it does neither. Your point is not well taken.

Senator Unger then appealed the ruling of the Chair, and on this question, Senator Unger demanded the yeas and nays.

Following discussion,

The question being “Shall the Chair be sustained?”

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the Chair sustained.

At the request of Senator Unger, unanimous consent being granted, the remarks by Senators Unger, Cole (Mr. President), Trump and Carmichael regarding Senator Unger's appeal of the ruling of the Chair were ordered extended in the Journal as follows:

SENATOR UNGER: [Inaudible] for the yeas and the nays.

MR. PRESIDENT: Senior Senator from the Sixteenth challenges the, appeals the ruling of the Chair and requests the yeas and the nays.

MR. PRESIDENT: The question is, is whether the decision of the Chair be sustained. Is there discussion? Is there discussion? Senior Senator from the Sixteenth—Seventeenth? Sixteenth. Senior Senator from the Sixteenth.

SENATOR UNGER: Thank you, Mr. President. With all due respect, the whole debate centered around this particular bill is saying that there will be a savings to municipalities, to political subdivisions, because of market forces would allow for lower wages by repealing prevailing wage which has been discussed quite a bit. So with that alone, and also, Mr President, from the rhetoric that's been out there surrounding this bill talking about jobs creation surely any types of decrease of wages or job creations or anything like that would increase or decrease the revenue of these, these bodies, so with all due respect I disagree with your ruling and would ask members to vote against sustaining your ruling.

MR. PRESIDENT: Is there further discussion? The Senator from Morgan.

SENATOR TRUMP: Thank you, Mr. President. I disagree with my learned and distinguished friend and fellow senator from Berkeley County. Rule 15a is quite explicit. In order for the requirement of a fiscal note to apply, the bill must either increase or decrease the revenue or fiscal liability of the state or one of its political subdivisions. This bill, the bill being reported from the Committee on Government Organization, does not increase the revenue of the state or the fiscal liability of the state or of any political subdivision. And it does not decrease the revenue of the state or the fiscal liability of the state or of any political subdivision. Now the requirement of a fiscal note also applies if a bill modifies an existing tax or rate of taxation and this bill doesn't do that either. So the requirement embodied in the Rules of the Senate, Mr. President, for a fiscal note with respect to certain pieces of legislation clearly—clearly—does not apply to the bill reported from the Committee on Government Organizations and I would urge the body to sustain the Chair's ruling in this regard.

MR. PRESIDENT: Further discussion? The Senator from Jackson.

SENATOR CARMICHAEL: Thank you, Mr. President. I urge a “yes” vote, a “yes” vote on this question, which is “Shall the ruling of the Chair be sustained?” for the reasons enunciated by my good friend from Morgan. This is an issue, this is a ruling is based on the fact that it does not increase or decrease the revenue or fiscal liability of the state, county or municipality. What we can say if we would require a fiscal note on something like this is that every job-creating measure that we introduce and adopt that could potentially affect the macro-economic labor force would require a fiscal note that would be impossible to project and so for those reasons I urge a “yes” vote on the ruling on this question “Shall the Chair's ruling be sustained?”

MR. PRESIDENT: Recognize the Senior Senator from the Sixteenth to close.

SENATOR UNGER: Thank you, Mr. President. The Senator from Jackson said yesterday we have all the information on this bill. All I'm asking is that we reveal that information to let the people know exactly what this bill will do. If there's information that's being hidden or kept from the public, that's what I'm trying to draw out here and a fiscal note would allow for that information to be revealed to the people of West Virginia to know exactly what we're voting on. I can't understand, Mr. President, that if the information's already available and we have all the information regarding this bill, why this isn't forthcoming? Why this isn't given to us as members of this body and, more importantly, why this information's not given to the people of West Virginia. So, for that reason, Mr. President, I ask that we reject your ruling as sustaining the Chair's on this. And by voting "no" it's sending a message saying that we want that information and we want the people of West Virginia to have that information.

Thank you.

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Thereafter, at the request of Senator Kessler, 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. House Bill 4235**—A Bill to amend and reenact §44-3A-4, §44-3A-4a and §44-3A-32 of the Code of West Virginia, 1931, as amended, relating to notice requirements for claims against an estate; time limits on short form settlements of estates; and barring recovery for claims against an estate not presented within specified time period.

Referred to the Committee on the Judiciary.

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

**Senate Bill 29**, Tolling statute of limitations in certain cases.

And,

**Senate Bill 385**, Allowing defendants 180 days to identify nonparties wholly or partially at fault in civil actions.

And reports the same back with the recommendation that they each 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 Bills 148, 151, 152, 153, 154, 158, 159, 160, 161, 162, 170, 171, 207, 208, 209, 214, 221, 223, 225, 227, 228, 229, 230, 231, 234, 235, 236, 237, 238, 239 and 240**, Board of Examiners in Counseling rule relating to licensing.

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

**Com. Sub. for Senate Bill 159** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by various executive or administrative agencies of the state; authorizing

certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications and amendments presented to and recommended by the Legislative Rule-Making Review Committee; directing various agencies to amend and promulgate certain legislative rules; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensing; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education requirements; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapists licensing; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family license renewal and continuing professional education requirements; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Department of Agriculture to promulgate a legislative rule relating to the inspection of nontraditional domesticated animals; authorizing the Department of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas; authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Department of Agriculture to promulgate a legislative rule relating to captive cervid farming; directing the Department of Agriculture to amend and promulgate a legislative rule relating to industrial hemp; authorizing the State Conservation Committee to promulgate a legislative rule relating to the West Virginia Conservation Agency Financial Assistance Program; authorizing the Board of Dentistry to promulgate a legislative rule relating to continuing education requirements; authorizing the Board of Dentistry to promulgate a legislative rule relating to expanded duties of dental hygienists and dental assistants; authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance;



authorizing the State Election Commission to promulgate a legislative rule relating to the West Virginia Supreme Court of Appeals public campaign financing program; authorizing the State Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice of professional engineers; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement training and certification standards; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board; authorizing the Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; 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 the licensure of wholesale drug distributors, third-party logistics providers and manufacturers; authorizing the Property Valuation and Procedures Commission to promulgate a legislative rule relating to tax map sales; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Secretary of State to promulgate a legislative rule relating to registration forms and receipts; authorizing the Secretary of State to promulgate a legislative rule relating to the elimination of precinct registration books; authorizing the Secretary of State to promulgate a legislative rule relating to absentee voting by military voters who are members of reserve units called to active duty; authorizing the Secretary of State to promulgate a legislative rule relating to the Freedom of Information Act database; authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech pathology and audiology;

and authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to speech-language pathology and audiology assistants.

With the recommendation that the 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 265**, Allowing library volunteers necessary access to user records.

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

**Com. Sub. for Senate Bill 265** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §10-1-22 of the Code of West Virginia, 1931, as amended, relating to confidentiality of certain library records; and clarifying that unpaid library volunteers may have necessary access to user records.

With the recommendation that the 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 270**, Repealing code relating to insurance policies.

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

**Com. Sub. for Senate Bill 270** (originating in the Committee on the Judiciary)—A Bill to repeal §19-25-7 of the Code of West Virginia, 1931, as amended, relating to insurance policies and such policies impact on liability of landowners or insurers of landowners who open their property for use by others for military, law-enforcement or homeland-defense training or recreational or wildlife propagation purposes.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, 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 330**, Requiring automobile liability insurers provide 7 days' notice of intent to cancel.

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

**Com. Sub. for Senate Bill 330** (originating in the Committee on Banking and Insurance)— A Bill to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to automobile liability insurers' duty to provide a policyholder ten days' notice of an insurer's intent to cancel an automobile liability insurance policy if the reason for cancellation is nonpayment of a premium.

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,

C. Edward Gaunch,  
*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 Banking and Insurance.

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 387** (originating in the Committee on Agriculture and Rural Development), Shared animal ownership agreements to consume raw milk.

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

**Com. Sub. for Com. Sub. for Senate Bill 387** (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 §19-1-7, relating to shared animal ownership agreements to consume raw milk; permitting a responsible party to acquire a percentage ownership interest to consume raw milk; setting forth required provisions for shared animal ownership agreements; requiring responsible party to acquire percentage ownership interest in milk-producing animal; requiring payment for percentage ownership for care and boarding of milk-producing animal; providing for receipt of a share of raw milk pursuant to an agreement; requiring written document acknowledging the inherent dangers of consuming raw milk; providing immunity to herd seller for inherent dangers of consuming raw milk; providing no waiver of immunity to herd seller for dangers caused by

negligence of herd seller; prohibiting responsible party from distributing, selling or reselling raw milk received pursuant to shared ownership agreement; requiring herd seller to file shared animal ownership agreement with Commissioner of Agriculture; requiring certain additional information be provided by herd seller to Commissioner of Agriculture; requiring herd seller meet animal health requirements established by state veterinarian; requiring parties and physicians to report illnesses related to consumption of raw milk; requiring parties to shared animal ownership agreement and physicians to report illnesses directly related to consuming raw milk; requiring Commissioner of Agriculture contact other parties consuming raw milk from same herd seller upon receipt of report of illness; providing administrative penalties; permitting a person against whom a penalty is imposed to administratively contest that penalty; and providing rule-making authority.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, 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 415**, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold.

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

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

Senator Karnes, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 435**, Allowing farm winery enter alternating wine proprietorship agreements with farm owners.

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

Respectfully submitted,

Robert Karnes,  
*Chair.*

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

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Walters and Boso:**

**Senate Bill 455**—A Bill to amend and reenact §29-22B-503 and §29-22B-504 of the Code of West Virginia, 1931, as amended, all relating to allowing a person to be both a limited video lottery operator and retailer.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 456**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-

16-8a, relating to air ambulance fees for emergency treatment or air transportation; allowing providers of air ambulance services not under contract to collect an amount up to the equivalent paid for federal reimbursement for services rendered to employees or dependents; and requiring providers of air ambulance services that enter into a subscription service agreement with employees or dependents to accept the subscription fee as payment in full for services rendered.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 457**—A Bill to amend and reenact §21A-10-11 of the Code of West Virginia, 1931, as amended, relating to authorizing information sharing by WorkForce West Virginia related to administration of the Workforce Innovation and Opportunity Act with agencies of state government responsible for vocational rehabilitation, employment and training.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 458**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-14; and to amend said code by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4 and §18-5E-5, all relating to Innovation in Education Schools and Innovation Zones; terminating funding for Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones; setting forth purpose of Innovation in Education Act; establishing and authorizing Innovation in Education school designation; setting forth components and requirements for Innovation in Education plan; requiring evaluations of Innovation in Education designated schools; authorizing amendment and suspension of components of Innovation in Education plans; authorizing

termination of designation of a school as an Innovation in Education school; requiring promulgation of rule by state board; creating Innovation in Education Fund; authorizing expenditures from Innovation in Education Fund; and authorizing investment of Innovation in Education Fund moneys.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 459**—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to requiring promulgation of a rule to provide for payment of tuition by county boards of education to Mountaineer Challenge Academy for students graduating with a high school diploma from Mountaineer Challenge Academy.

Referred to the Committee on Education.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 460**—A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §16-5X-1, §16-5X-2, §16-5X-3, §16-5X-4, §16-5X-5, §16-5X-6, §16-5X-7, §16-5X-8, §16-5X-9, §16-5X-10 and §16-5X-11; and to amend and reenact §60A-9-5 of said code, all relating to licensing and regulation of medication-assisted treatment programs for substance use disorders; repealing regulation of opioid treatment programs; providing definitions; creating licenses for medication-assisted treatment programs, including providers and clinics; providing for regulation and oversight by Office of Health Facility Licensure and Certification; designating necessity for a medical director and prescribing minimum training and performance requirements; allowing enrollment as a Medicaid provider; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards and patient treatment standards for



any provider or clinic prescribing or dispensing medication-assisted treatment medications; restricting the location of medication-assisted treatment clinics; allowing for variances from certification or licensure standards; permitting inspection warrants; providing for an administrative review and appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules, including emergency rules; establishing state authority and state oversight authority for medication-assisted treatment programs; mandating data collection; and granting Office of Health Facility Licensure and Certification access to the Controlled Substances Monitoring Database for use in certification, licensure and regulation of health facilities.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 461**—A Bill to amend and reenact §5B-2B-1, §5B-2B-2, §5B-2B-3, §5B-2B-4, §5B-2B-4a, §5B-2B-5, §5B-2B-6 and §5B-2B-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5B-2B-4b, all relating to West Virginia Workforce Development Board; updating West Virginia Workforce Investment Act to West Virginia Innovation and Opportunity Act; defining terms; creating West Virginia Workforce Development Board; providing for composition of West Virginia Workforce Development Board; setting forth requirements for board members; setting forth duties of board; updating reporting requirements; requiring open proceedings of board; and updating language.

Referred to the Committee on Government Organization.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 462**—A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to reducing distributions to the West Virginia Infrastructure Fund to \$30

million for fiscal year 2017; and increasing the percentage of funds available for grants therefrom.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 463**—A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended, relating to the dedication and deposit of certain tax proceeds; reducing the amount of sales tax proceeds annually dedicated to the School Major Improvement Fund by \$999,996 for fiscal year 2017; and reducing the amount of sales tax proceeds annually dedicated to the School Construction Fund by \$3 million for fiscal year 2017.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 464**—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, 2016, to the Department of Environmental Protection, Division of Environmental Protection – Protect Our Water Fund, fund 3017, fiscal year 2016, organization 0313, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

**By Senators Carmichael, Gaunch, Maynard, Karnes, Sypolt and Walters:**

**Senate Bill 465**—A Bill to amend and reenact §33-31-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-46A-9 of said code, all relating to allowing professional employer organization to insure certain risks through a pure insurance captive.

Referred to the Committee on the Judiciary.

**By Senators Hall, Ashley, Carmichael and Gaunch:**

**Senate Bill 466**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to production of medical records; providing in certain circumstances that medical records must be produced without court order; prohibiting unilateral restrictions on maintenance, use or retention of medical records; requiring Insurance Commissioner to promulgate rules; providing that objection to production of medical records is not limited; providing that court-ordered production of medical records does not affect application of this section; establishing that an order protecting privacy of medical records may be entered; and establishing that any action related to unauthorized distribution of medical records is unaffected.

Referred to the Committee on the Judiciary.

**By Senators Ferns, Ashley, Karnes, Leonhardt, Takubo, Trump, Walters, Laird, Palumbo, Plymale, Prezioso, Stollings and Unger:**

**Senate Bill 467**—A Bill to repeal §16-2D-4a, §16-2D-4b, §16-2D-5a, §16-2D-5b, §16-2D-5c, §16-2D-5d, §16-2D-5e and §16-2D-7a of the Code of West Virginia, 1931, as amended; to amend and reenact §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-6, §16-2D-7, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14 and §16-2D-15 of said code; and to amend said code by adding thereto six new sections, designated §16-2D-16, §16-2D-17, §16-2D-18, §16-2D-19, §16-2D-20 and §16-2D-21, all relating to certificate of need process; providing legislative findings; defining terms; providing powers to the authority; providing duties to the authority; providing rule-making authority; continuing special revenue account; providing process to update certificate of need standards; providing process to update state health plan; providing process to review cost effectiveness of the certificate of need standards; providing process for Health Care Authority to review whether certificate of need is required; providing health services that require a certificate of need; providing an exemption process; providing exemptions to certificate of need requirement; providing criteria the authority

shall use to determine whether to grant certificate of need; changing the certificate of need process; requiring the creation of process to review an uncontested certificate of need application; requiring the authority to make certain findings to approve a certificate of need; providing an appeal process; prohibiting the transfer of a certificate of need; permitting the authority to perform a compliance review of an issued certificate of need; creating an injunction process; establishing a statute of limitations; and establishing a civil penalty.

Referred to the Committee on Health and Human Resources.

**By Senators Gaunch and Ashley:**

**Senate Bill 468**—A Bill to amend and reenact §46A-6K-3 of the Code of West Virginia, 1931, as amended, relating to accrual of interest during the rescission period on a loan where a right of rescission applies.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Williams and Sypolt:**

**Senate Bill 469**—A Bill to amend and reenact §38-8-1 of the Code of West Virginia, 1931, as amended, relating to exemptions of personal property from execution or other process; removing wages and salary from list of items subject to the one-time \$15,000 exemption; providing that wages and salary are automatically exempted from levy execution up to a certain amount; and clarifying that wages and salary above that automatic exemption amount may not be exempted from levy.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Boso and Prezioso:**

**Senate Bill 470**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-2-13, relating to requiring official business and records of the state and its political subdivisions be conducted in English; and providing exceptions, limitations and definition.

Referred to the Committee on Government Organization.

**By Senators Kessler, Beach and Laird:**

**Senate Bill 471**—A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended, relating to the Equal Pay Act of 2016; making it unlawful for an employer to require, as a condition of employment, that an employee refrain from disclosing information about his or her wages, benefits or other compensation or sharing information about another employee's wages, benefits or other compensation; and making it unlawful for employer to prohibit employees from disclosing information about his or her wages, benefits or other compensation or sharing information about another employee's wages, benefits or other compensation.

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

**By Senators Gaunch, Ashley, Trump and Prezioso:**

**Senate Bill 472**—A Bill to amend and reenact §61-3C-14a of the Code of West Virginia, 1931, as amended, relating to providing that conduct allowed under West Virginia Consumer Credit and Protection Act is likewise not a violation of West Virginia Computer Crime and Abuse Act.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Maynard, Ashley, Boso, Facemire, Miller, Snyder, Takubo, Trump, Plymale, Prezioso and Williams:**

**Senate Bill 473**—A Bill to amend and reenact §22-15A-22 of the Code of West Virginia, 1931, as amended, relating to removing prohibition of disposal of certain electronics in landfills.

Referred to the Committee on the Judiciary.

**By Senators Boso, Ashley, Facemire, Miller, Snyder, Takubo, Trump and Plymale:**

**Senate Bill 474**—A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting Department of Environmental Protection's construction or reclamation contracts from review and approval requirements of the Division of Purchasing.

Referred to the Committee on Government Organization.

**By Senators Ferns and Kessler:**

**Senate Bill 475**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to whom Workers' Compensation Fund is disbursed; and including rebuttable presumptions for certain injuries and diseases for firefighters, volunteer firefighters, municipal, county and State Police officers.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Beach, Plymale and Kessler:**

**Senate Bill 476**—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; authorizing county boards of education to expand school zones to a road adjacent to school property by formal request; and requiring Division of Highways to expand school zones accordingly within thirty days of receiving the formal request.

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

**By Senators Miller, Plymale, Kessler and Laird:**

**Senate Bill 477**—A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended, relating to the Equal Pay Act of 2016; making it unlawful for an employer to require, as a condition of employment, that an employee refrain from disclosing information about his or her wages, benefits or other compensation or sharing information about another employee's wages, benefits or other compensation; and making it unlawful for employer to prohibit employees from disclosing information about his or her wages, benefits or other compensation or sharing information about another employee's wages, benefits or other compensation.

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

**By Senators Walters and Palumbo:**

**Senate Bill 478**—A Bill to amend and reenact §11-16-6b of the Code of West Virginia, 1931, as amended, relating to authorizing licensee's authorized to sell growlers of nonintoxicating beer to offer complimentary samples to patrons from their licensed premises.

Referred to the Committee on the Judiciary.

**By Senators Trump, Miller, Ashley, Boso, Carmichael, Gaunch, Karnes, Leonhardt, Plymale and Prezioso:**

**Senate Bill 479**—A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for transporting controlled substances into the state; and exempting marihuana from this provision.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill 480**—A Bill to amend and reenact §5-10-15 of the Code of West Virginia, 1931, as amended, relating to military general discharge as qualification for service credit towards pension benefits.

Referred to the Committee on Finance.

**By Senator Walters:**

**Senate Bill 481**—A Bill to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating to authorizing operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises if purchased and consumed at a restaurant operating on the premises of the distillery or mini-distillery.

Referred to the Committee on the Judiciary.

**By Senators Trump, Gaunch, Boso, Leonhardt, Ashley, Miller, Romano, Williams, Carmichael, Palumbo, Snyder, Plymale, Stollings and Prezioso:**

**Senate Bill 482**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-9d, relating to crimes against the person; providing that strangling is a criminal offense; defining bodily injury and strangling; providing a felony offense of strangling another; and providing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Boley, Plymale and Ferns:**

**Senate Bill 483**—A Bill to amend and reenact §18-5A-3a of the Code of West Virginia, 1931, as amended, relating to granting a local school improvement council waiver for the purpose of increasing compulsory school attendance age in Marshall County.

Referred to the Committee on Education.

**By Senators Romano, Leonhardt, Plymale and Kessler:**

**Senate Bill 484**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-17-1, §21-17-2, §21-17-3, §21-17-4, §21-17-5, §21-17-6, §21-17-7, §21-17-8, §21-17-9, §21-17-10 and §21-17-11, all relating to creating Service Member's Employment Protection Act; designating a short title; stating public policy behind the act; defining terms; requiring employers to restore service members to positions of employment under certain circumstances; requiring employers to provide copy of a job offer under certain circumstances; designating terms of restoration required under the article; authorizing a stay of civil proceedings in certain circumstances; authorizing credit or refund of school tuition in certain circumstances; creating civil penalty assessed by Division of Labor against employers for violating the article; creating exceptions to the article; and requiring Division of Labor maintain a public list of employers who have been fined for violating the article.

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



Senators Williams, Sypolt and Plymale offered the following resolution:

**Senate Concurrent Resolution 18**—Requesting Division of Highways name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the “Wilbur Lee Clayton Memorial Bridge”.

Whereas, Wilbur Lee Clayton was born in the small town of Moorefield, West Virginia, and attended elementary and high school there before heading off to Potomac State College, followed by West Virginia University; and

Whereas, Wilbur Lee Clayton’s college education was interrupted when he joined the United States Air Force in July, 1963, attended basic training at Lackland Air Force Base in San Antonio, Texas, and spent eleven months at Chanute Air Force Base in Rantoul, Illinois, being trained in Minuteman Missile maintenance; and

Whereas, In July, 1964, he was assigned to the 341st Missile Maintenance Squadron at Malmstrom Air Force Base in Great Falls, Montana, where his work involved primarily the alignment and targeting of Minuteman Missiles; and

Whereas, After being honorably discharged in July, 1967, Wilbur Lee Clayton resumed his education at Eastern Montana College in Billings, Montana, and following tradition established by his grandfather and grandmother, earned a Bachelor’s Degree in Education; and

Whereas, In 1970 he returned east to Franklin County, Virginia, to be closer to his parents. He remained there until 1978, at which time he was hired to teach social studies at Moorefield High School, fulfilling a desire to return home to Hardy County and the family farm where he grew up. There, he then built his home, raised his three children and happily remained until his untimely death in 1992; and

Whereas, Being a positive influence in the lives of hundreds of his junior high and high school students during his twenty-four years of teaching was without question Wilbur Lee Clayton's greatest contribution to the State of West Virginia; and

Whereas, Being highly respected and genuinely loved by students and colleagues, he was a man of quiet mannerism and subtle sense of humor that was reflected in his teaching style; and

Whereas, Wilbur Lee Clayton's classroom became a place where students felt comfortable and confident knowing there was an even playing field. All were treated the same; consequences were dealt out fairly; rewards were given equally; and

Whereas, There was a two-way exchange of respect between teacher and student; and

Whereas, After all these years after his unexpected death at age fifty-two, his former students praise him for the competent, compassionate, humorous teacher that he was and still acclaim him as their favorite teacher ever; and

Whereas, There can be no greater contribution than to be this quiet, unassuming man who served his country proudly and then set for himself the task of being a wonderful, competent and compassionate teacher and positive role model. Wilbur Lee Clayton lived a simple life devoted to helping students succeed not only in school, but more importantly, in life; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the "Wilbur Lee Clayton Memorial Bridge"; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Wilbur Lee Clayton 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 Miller, Plymale, Stollings, Unger, Prezioso, Kessler and Laird offered the following resolution:

**Senate Resolution 18**—Designating February 2, 2016, as Library Day at the Legislature.

Whereas, Libraries create potential and opportunity within their communities, campuses and schools; and

Whereas, Libraries provide free access to information that is essential in a democratic society; and

Whereas, Dedicated, trained and tech-savvy library staff help people of all ages and backgrounds find and interpret the information they need to live, learn, work and contribute to the future of West Virginia; and

Whereas, Libraries work tirelessly to meet the changing needs of their communities, providing materials from a variety of viewpoints in a variety of formats and technology that enables the sharing of materials among libraries; and

Whereas, Libraries offer places to discover and discuss ideas, to learn new skills, to seek employment and expand knowledge of self and the world; and

Whereas, Libraries continuously grow and evolve in how they provide for the needs of every member of their communities, campuses and schools; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 2, 2016, as Library Day at the Legislature; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Library Day.

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

Senators Cole (Mr. President), Plymale and Stollings offered the following resolution:

**Senate Resolution 19**—Recognizing UniCare Heath Plan of West Virginia for providing CPR training kits to all Mercer County high schools.

Whereas, Eighty-eight percent of cardiac arrests occur at home and more than 300,000 cardiac arrest cases happen outside of a hospital each year, making it important that people, including high school students, know how to perform CPR; and

Whereas, Schools are excellent places to offer CPR training, whether it's for graduation requirements, to help students with after-school or summer job requirements or simply to improve cardiac survival rates in their community; and

Whereas, A bystander who administers CPR to a sudden cardiac arrest victim can as much as triple the victim's chances of survival; and

Whereas, During the 2015 legislative session, Senate Bill 7 passed unanimously and put in place the requirement for each West Virginia student to complete a CPR training course before graduating high school; and

Whereas, UniCare Heath Plan of West Virginia is working to transform health care with trusted and caring solutions; and

Whereas, Thanks to a grant from UniCare Health Plan of West Virginia, every high school in Mercer County will now have a CPR training kit to help teach students how to properly administer CPR; and

Whereas, The training high school students receive may one day help save the life of someone in distress; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes UniCare Health Plan of West Virginia for providing CPR training kits to all Mercer County high schools; and, be it

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

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Williams, Walters, Hall, Plymale, Stollings and Unger offered the following resolution:

**Senate Resolution 20**—Recognizing the Putnam Area Robotics Team for its commitment to science, engineering and technology skills.

Whereas, In 2011, Winfield High School formed a team with eight students known at that time as the “RoboGens”. The team began to grow and students from other Putnam County High Schools began to opportunity to join. Born from that was the Putnam Area Robotics Team, known as P.A.R.T.s 3492. The team continues to be one of only four FIRST Robotics teams in West Virginia; and

Whereas, Its mission is to inspire young people to be science and technology leaders, by engaging them in exciting mentor-based programs that build science, engineering and technology skills, that

inspire innovation and that foster well-rounded life capabilities, including self-confidence, communication and leadership; and

Whereas, FIRST (For Inspiration and Recognition of Science and Technology) participation is proven to encourage students to pursue education and careers in STEM-related fields, inspire them to become leaders and innovators, and enhance their twenty-first century work-life skills; and

Whereas, The P.A.R.T.s 3492 Team Accomplishments include: 2011 FIRST Robotics FRC Rookie Inspiration Award; 2014 FIRST Robotics FRC Engineering Inspiration Award; three regional competition wins, which earned the team a trip to the FIRST Worlds Championships in St. Louis in 2011, 2014 and 2015; mentored over 400 Putnam County students ages 5-12 with hands-on STEM Education projects; introduced over 700 elementary and middle school students in Putnam County to FIRST Robotics; created a VEX Robotics and FTC Robotics Team; and mentored FLL (First Lego League) teams in Putnam County; and

Whereas, January, 2016, brought P.A.R.T.s to the West Virginia State Capitol and the team began to participate in the legislative process. Team members met and presented on STEM Education and FIRST Robotics with delegates from Putnam County. They are continuing to follow the judicial process STEM education bills that are in current legislation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Putnam Area Robotics Team for its commitment to science, engineering and technology skills; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Putnam Area Robotics Team.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Takubo, Cole (Mr. President), Plymale, Stollings, Prezioso, Kessler and Unger offered the following resolution:

**Senate Resolution 21**—Designating February 5, 2016, as Go Red for Women Day.

Whereas, Heart disease and stroke kill one in three women in the U. S., yet eighty percent of cardiac events may be prevented; and

Whereas, Cardiovascular diseases and stroke kill one woman every 80 seconds in the U. S.; and

Whereas, An estimated 44 million women in the U. S. are affected by cardiovascular diseases; and

Whereas, Ninety percent of women have one or more risk factors for developing heart disease, yet only one in five American women believe that heart disease is her greatest health threat; and

Whereas, Women comprise only 24 percent of participants in all heart-related studies; and

Whereas, Women are less likely to call 911 for themselves when experiencing symptoms of a heart attack than they are if someone else were having a heart attack; and

Whereas, Only 36 percent of African American women and 34 percent of Hispanic women know that heart disease is their greatest health risk, compared with 65 percent of caucasian women; and

Whereas, Women involved with the American Heart Association's Go Red For Women movement live healthier lives, and nearly ninety percent have made at least one healthy behavior change; and

Whereas, Go Red For Women encourages women to take charge of their health and schedule a well-woman visit to learn about health status and risk for diseases; and

Whereas, Go Red For Women is asking all Americans to Go Red by wearing red and speaking red; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 5, 2016, as Go Red for Women Day; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Go Red for Women Day.

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.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Concurrent Resolution 16,** U. S. Army CPL John Belcastro Bridge.

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 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 17**, Charles Edward Smith Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 271**, Conforming definition of attest services to Uniform Accountancy 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 271) 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 333**, Taking and registering of wildlife.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings,

Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 333) passed.

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

**Eng. Senate Bill 333**—A Bill to amend and reenact §20-2-4, §20-2-21 and §20-2-22 of the Code of West Virginia, 1931, as amended, all relating to wildlife; clarifying that it is unlawful to possess live wildlife unless authorized by law; and clarifying electronic registration and tagging of certain wildlife.

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

**Eng. Senate Bill 334**, Identifying coyote as fur-bearing animal and woodchuck as game animal.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 334) 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 336**, Relating to crossbow hunting.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 336) 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 343**, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings,

Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 343) 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 343**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-2-11, relating to grand juries generally; authorizing prosecuting attorneys to designate law-enforcement officers and investigators as custodians of records, documents and other evidence subpoenaed by grand jury; authorizing designated custodians use subpoenaed records, documents and other evidence for investigative purposes prior to such records, documents or other evidence being presented to grand jury; requiring custodians execute disclosure statements to preserve grand jury secrecy; authorizing custodian to share subpoenaed materials with other law-enforcement officers and investigators for legitimate investigative purposes; allowing for successor custodians; requiring presentation of subpoenaed materials held by custodian be presented to the next session of the grand jury meeting after receipt; limiting law-enforcement use of such subpoenaed materials to legitimate investigative and prosecutorial purposes relevant to investigation underlying the issuance of subpoena; and defining “prosecuting attorney” and “investigator”.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt,

Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 343) 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 Senate Bill 109**, Repealing code provisions related to certain reports by trustees for property.

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

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

**Senate Bill 123**, Treatment for sexually transmitted diseases.

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 254**, Not allowing county park commissions to prohibit firearms in facilities.

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

**Senate Bill 261**, Bringing state code relating to daylight saving time in conformity with federal 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 268**, Abolishing Council of Finance and Administration.

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

**Senate Bill 306**, Permitting sale of county or district property online.

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 369**, Reducing legislative education reporting requirements.

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 2101**, Eliminating obsolete government entities.

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:

That §29-12C-1 and §29-12C-2 of the Code of West Virginia, 1931, as amended, be repealed.

**§2. Repeal of article relating to the Patient Injury Compensation Plan Study Board.**

§29-12C-1 and §29-12C-2 of the Code of West Virginia, 1931, as amended, are hereby repealed.

At the request of Senator Carmichael, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2101) was laid over one

day, retaining its place on the calendar, with the Government Organization committee amendment pending.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 40**, Changing definition of facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

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

**Eng. House Bill 4005**, Repealing prevailing hourly rate of wages requirements.

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

In accordance with Senate Rule 22, Senator Kessler moved that the bill be rejected.

Following discussion,

The question being on the adoption of Senator Kessler's aforestated motion, and on this question, Senator Kessler demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

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

Thereafter, the bill (Eng. H. B. 4005) was then ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Stollings and Hall.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 3, 2016, at 11 a.m.

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## WEDNESDAY, FEBRUARY 3, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Father Matthew Moore, St. John Greek Orthodox Church, Charleston, West Virginia.

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

Pending the reading of the Journal of Tuesday, February 2, 2016,

At the request of Senator Laird, 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, to take effect from passage, of

**Eng. Senate Bill 364**, Supplemental appropriation expiring funds to General Revenue.

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 4175**—A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating generally to home schooling; clarifying that student who is home schooled may not be classified as habitually absent; requiring superintendent to show probable cause when seeking order to deny home instruction; changing requirement that parent of child who is to be home schooled notify county superintendent annually of intent to home school to a one time notification; requiring notice upon change in county of residence; requiring notice of intent to home school to include certain assurances; removing requirement for notice of intent two weeks prior to withdrawal from school; removing requirement that person providing home instruction have a high school diploma or equivalent; removing requirement that person providing home instruction outline plan of instruction for ensuing year; removing requirement to submit results of required student assessments to superintendent annually; removing requirement for parent or legal guardian to pay assessment cost when given outside public school; requiring use of test normed within ten years; permitting parent to administer required nationally normed standardized test; providing that student has made acceptable academic progress if it is within or above the fourth stanine rather than fiftieth percentile, or if below that stanine then the student must show improvement from the previous year; removing requirement to provide written narrative of portfolio assessment to superintendent annually; requiring certified teacher to review a student's progress and provide written narrative; removing requirement to provide certification number of the

certified teacher; requiring parent or legal guardian to keep academic assessments for three years; providing that county board may only notify parent or legal guardian of availability of certain special education assistance and services if parent or legal guardian requests it; and requiring parent or legal guardian to submit to superintendent results of required assessments at grade levels three, five, eight and eleven by certain date.

Referred to the Committee on Education.

The Senate proceeded to the fourth order of business.

Senator Walters, 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 45**, Tourist-Oriented Directional Sign Program.

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,

Chris Walters,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Transportation and Infrastructure pending.

Senator Ferns, 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 68**, Disallowing Health Care Authority to conduct rate review and set rates for hospitals.

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

**Com. Sub. for Senate Bill 68** (originating in the Committee on Health and Human Resources)—A Bill to repeal §16-29B-19, §19-29B-19a, §16-29B-20, §16-29B-21 and §16-29B-21a of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-29B-10 of said code, relating generally to powers and duties of the Health Care Authority; eliminating authority of the Health Care Authority to conduct rate review and set rates for hospitals; and eliminating antiquated studies to be conducted by the Health Care Authority.

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,

Ryan J. Ferns,  
*Chair.*

At the request of Senator Hall, 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 Health and Human Resources.

Senator Walters, 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 141**, Removing CDL requirement when towing vehicle is below certain gross vehicle weight rating.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

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

Senator Boso, 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 184**, DEP, Water and Waste Management rule relating to aboveground storage tank fee assessments.

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,

Gregory L. Boso,  
*Chair.*

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

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 326**, Repeal, revise, relocate and recodify law relating to contributing to delinquency of minor child.

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

**Com. Sub. for Senate Bill 326** (originating in the Committee on the Judiciary)—A Bill to repeal §49-4-901 and §49-4-902 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8D-10, relating to repealing the criminal offense of contributing to the delinquency or neglect of a child; creating the criminal offense of contributing to the delinquency of a minor; establishing elements of offense; setting penalties; allowing for additional terms and conditions to be imposed upon conviction; and authorizing restitution.

With the recommendation that the 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 361**, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly.

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

**Com. Sub. for Senate Bill 361** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-10a of the Code of West Virginia, 1931, as amended, relating to limiting applicability of sentence suspension with a condition of public service to misdemeanor assault and battery offenses against the elderly; eliminating language affording the possibility of public service for malicious wounding, unlawful wounding and violence to an elderly person during commission of a felony; prohibiting

persons convicted of misdemeanor assault or battery where the victim is elderly from performing public service involving the elderly; and removing provision relating to the section's applicability to persons convicted of certain felonies.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Walters, 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 5**, Coach Bill Stewart Exit.

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

Respectfully submitted,

Chris Walters,  
*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 4007**, Relating generally to appointment of attorneys to assist the Attorney General.

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.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Karnes, Maynard, Plymale and Boso:**

**Senate Bill 485**—A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10 and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4 and §20-15-5 of said code, all relating to establishing regional recreation authorities and regional recreation areas; providing for law-enforcement services to be provided by natural resources police officers or county sheriffs under reimbursement by regional recreation authority; authorizing creation of regional recreation authority as joint development entity formed by contiguous counties; setting forth definitions; establishing powers and composition of governing board; providing for financial review and oversight of public funds; prohibiting certain conduct in recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; limiting liability; clarifying duties and responsibilities of participants to landowners and lessors in the regional recreation area; and establishing criminal penalties and civil remedies.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Walters and Gaunch:**

**Senate Bill 486**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §64-5-2, relating to reauthorizing, with amendment, as one rule, the

legislative rules contained in title sixty-four, series eleven and series seventy-four of the Code of State Rules relating to licensure of behavioral health centers (64 CSR 11) and behavioral health consumer rights (64 CSR 74).

Referred to the Committee on the Judiciary.

**By Senators Plymale, Stollings, Prezioso, Williams and Unger:**

**Senate Bill 487**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; and exempting social security benefits from personal income tax.

Referred to the Committee on Finance.

**By Senators Takubo, Stollings and Plymale:**

**Senate Bill 488**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to establishing protocols and protections to limit and treat injury to youth athletes and students; creating Leland's Law; setting out legislative findings; establishing requirement for an emergency action plan at all high school and middle school athletic activities; defining certain terms; requiring promulgation of certain rules; and setting forth certain minimum provisions of rules.

Referred to the Committee on Education.

**By Senators Takubo, Stollings, Plymale and Ferns:**

**Senate Bill 489**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6, §11-13DD-7, §11-13DD-8 and §11-13DD-9, all relating to establishing tax credit for certain physicians who relocate to this state to practice; providing for criteria for tax credit; establishing education requirements; setting forth time limit to claim tax credit; setting forth length or residency requirements; setting forth finding; defining terms; authorizing the credit; specifying amount of tax credit; providing how credit may be



asserted; specifying no tax credit carryover; allowing forms and schedules to be established by Tax Commissioner in rule; setting maximum amount per taxpayer per year; authorizing Tax Commissioner to promulgate rules; and setting effective date.

Referred to the Committee on Finance.

**By Senators Takubo and Stollings:**

**Senate Bill 490**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-25H-1, §33-25H-2 and §33-25H-3, all relating to requiring managed care programs to participate with any willing health provider who provides delivery of services to persons receiving Medicaid; providing exclusions; allowing for a plan or correction; and defining terms.

Referred to the Committee on Health and Human Resources.

**By Senators Takubo, Stollings and Plymale:**

**Senate Bill 491**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §47-11A-12b, relating to noncompete clauses in contracts; providing that contract which restrains lawful profession, trade or business is void; and including exceptions.

Referred to the Committee on the Judiciary.

**By Senators Hall, Plymale and Boso:**

**Senate Bill 492**—A Bill to amend and reenact §15-2-4 of the Code of West Virginia, 1931, as amended, relating to establishing a fee schedule; and collecting fees for recovering costs associated with the West Virginia State Police Forensic Laboratory providing forensic service to all law-enforcement agencies.

Referred to the Committee on Finance.

**By Senator Trump:**

**Senate Bill 493**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §44D-5-503a, §44D-5-503b and §44D-5-503c; and to amend and

reenact §44D-5-505 of said code, all relating to allowing the creation of self-settled spendthrift trusts.

Referred to the Committee on the Judiciary.

**By Senators Beach and Plymale:**

**Senate Bill 494**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4 and §17-29-5, all relating to creating Legislative Oversight Commission on Department of Transportation Accountability; setting forth findings, purpose and intent; defining terms; designating makeup and compensation of commission; authorizing meetings of commission; stating powers and duties of commission; providing a limited subpoena power to commission; and requiring certain legislative reports.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senator Walters:**

**Senate Bill 495**—A Bill to amend and reenact §55-2-3 of the Code of West Virginia, 1931, as amended, relating to entry upon or recovery of lands by infants, insane persons, military personnel or reservists.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Ferns and Palumbo:**

**Senate Bill 496**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-11G-1, §62-11G-2, §62-11G-3, §62-11G-4, §62-11G-5, §62-11G-6, §62-11G-7, §62-11G-8 and §62-11G-9, all relating to the creation of the 24/7 Sobriety Program to be administered by the Office of the Attorney General; establishing the 24/7 Sobriety Fund, and to make an appropriation for the fund; providing that sheriffs, the Division of Corrections and the Administrative Office of the Supreme Court of Appeals may participate in the 24/7 Sobriety Program for electronic alcohol monitoring device testing of persons under their control; promulgation of rules and

distribution of fees from the program; providing that participation in program may be made a condition of bond or pretrial release, of suspended sentence or probation, as condition of child placement or return or as condition of parole; when fees are to be paid; sanctions for failure to pay electronic alcohol monitoring or ignition interlock device testing fees; and providing for an annual review of the 24/7 Sobriety Program fees and collection procedures.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Trump, Palumbo, Stollings, Williams, Gaunch and Blair:**

**Senate Bill 497**—A Bill to amend and reenact §60-1-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-11 of said code; and to amend and reenact §60-6-7 and §60-6-8 of said code, all relating to banning and providing for criminal penalties for the manufacture, possession, use, sale and furnishing of powdered alcohol; and defining a term.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Ashley and Trump:**

**Senate Bill 498**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24A-2-2b, relating to additional duties of the Public Service Commission; requiring commission to review complaint process; setting forth burden of proof on carrier; developing process for aggrieved parties to recover charges; establishing factor for commissioner to consider whether charges are fair, just and reasonable; providing commission authority to establish civil penalties for violations; prohibiting indemnification in certain instances; requiring commercial driver's license for towing services; requiring carriers to list rates on invoices; authorizing commission to suspend or revoke operating authority; and requiring commission to update Legislature.

Referred to the Committee on Government Organization.

**By Senators Boley, Blair, Ferns, Karnes, Sypolt, Trump and Cole (Mr. President):**

**Senate Bill 499**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating generally to academic content standards and assessments in schools; removing a reference to the No Child Left Behind Act; addressing education standards; defining “learning standards”; defining “college and career ready”; making certain findings with respect to the state board’s adoption of Common Core State Standards; establishing a designated name to refer to West Virginia educational standards; requiring the state board to replace the current content standards and objectives for English language arts and mathematics with educational standards in effect prior to adoption of the Common Core State Standards; requiring the state board to withdraw from a Memorandum of Agreement relating to adoption of Common Core State Standards; requiring the state board to withdraw as a governing state in the Smarter Balanced Assessment Consortium; requiring the state board to withdraw any pending or effective policies and regulations aligning West Virginia’s educational standards with Common Core State Standards; prohibiting the state board from entering into any agreement, memorandum of understanding or contract which cedes or limits constitutional authority and obligation to provide a thorough and efficient system of education; requiring the state board to provide a report to the Legislative Oversight Commission on Education Accountability; requiring the state board to adopt new or revised educational standards that meet certain criteria; specifying that a certain process be followed prior to adopting new or revised educational standards; requiring that waivers for instructional resources be granted to teach new or revised standards; requiring guidelines be developed for county boards of education on informing the public and providing input at the local level; prohibiting evaluation of teachers based upon student achievement until training completed; requiring removal of Common Core-based instructional resources from the state multiple list; establishing a process of notification and input for future changes to educational standards; addressing overlap of West Virginia educational standards with Common Core State Standards; addressing requests for waiver from federal law; requiring consultation prior to adopting a comprehensive statewide

student assessment program that is aligned with West Virginia educational standards; requiring that student assessments be limited to once a year in certain grades; establishing the minimum criteria for student assessments; prohibiting use of Common Core aligned assessments; and providing for assessment in transition period to new or revised West Virginia educational standards.

Referred to the Committee on Education.

**By Senator Hall:**

**Senate Bill 500**—A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the State Police to hold training classes for certification to access and use the West Virginia Automated Police Network; authorizing a fee to be charged for the training; creating a fund in which the fees are to be deposited; and addressing the use of the funds.

Referred to the Committee on Finance.

**By Senator Trump:**

**Senate Bill 501**—A Bill to amend and reenact §38-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-1-103 and §44D-1-107 of said code; to amend said code by adding thereto a new section, designated §44D-1-113; to amend and reenact §44D-3-303 of said code; to amend and reenact §44D-4-403, §44D-4-405, §44D-4-409 and §44D-4-414 of said code; to amend and reenact §44D-5-505 of said code; to amend and reenact §44D-6-604 of said code; and to amend and reenact §44D-8-817 of said code, all relating generally to trusts and their administration; and making technical improvements and updates.

Referred to the Committee on Banking and Insurance.

**By Senators Sypolt, Boso, Gaunch, Karnes, Trump and Walters:**

**Senate Bill 502**—A Bill to amend and reenact §11-21-21 of the Code of West Virginia, 1931, as amended, relating to changing the qualifier for low income to three hundred percent or less of the federal poverty guideline from one hundred fifty percent or less of

the federal poverty guideline for a senior citizens' homestead tax credit.

Referred to the Committee on Finance.

**By Senators Sybolt, Boso, Trump, Plymale and Williams:**

**Senate Bill 503**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating generally to consumers sales and service tax liability of homeowners' associations and their members; and exempting from tax dues, fees and assessments paid to homeowners' associations by members thereof which are to be used by the homeowners' associations acting in its representative capacity for all members to purchase for the members, rather than sell to the members, the goods and services.

Referred to the Committee on Finance.

**By Senators Ashley, Laird, Maynard, Miller, Romano, Walters and Plymale:**

**Senate Bill 504**—A Bill to amend and reenact §49-5-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §62-6B-2 of said code; and to amend said code by adding thereto a new section, designated §62-6B-6, all relating to confidentiality of juvenile records; providing that a videotaped or otherwise recorded interview is prohibited from disclosure; defining the term "interviewed child"; defining "recorded/videotaped interview"; providing that videotaped or otherwise recorded interviews of children are confidential and not subject to disclosure; providing that in a criminal proceeding the prosecuting attorney must disclose the existence of a recorded interview; providing in child abuse and neglect proceedings that the prosecuting attorney, or if no prosecuting attorney is involved in the proceeding, then the petitioner therein, disclose the existence of a videotaped or otherwise recorded interview; providing that in a circuit court, family court or magistrate court proceeding the party in possession of a videotaped or otherwise recorded interview disclose the existence of the interview contemporaneously with the disclosure of witnesses; and providing the prosecuting attorney or other party in possession of a recorded interview disclose for viewing to

counsel for a criminal defendant or, in the case of a child abuse and neglect proceeding, to the counsel for the respondent parents, the guardian ad litem and the court-appointed special advocate for the child the existence of the recorded interview.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Boley, Boso, Gaunch, Karnes, Walters, Plymale, Leonhardt and Unger:**

**Senate Joint Resolution 10**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to homestead exemption increase; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senators Stollings, Plymale and Unger offered the following resolution:

**Senate Concurrent Resolution 19**—Requesting Division of Highways to name bridge number 03-20-3.30 (03A059) (37.98919, -81.84550), locally known as Six-mile Creek Bridge (BR No. 3940), carrying County Route 20 over Six-mile Creek in Boone County, as the “Rev. Rexford Montgomery Workman Memorial Bridge”.

Whereas, Reverend Rexford Montgomery Workman was born on April 7, 1916, and died on July 1, 2012; and

Whereas, Reverend Workman received seminary training and a degree from Emory University; and

Whereas, Reverend Workman was an ordained Methodist minister for fifty-seven years and preached for over sixty-five years; and

Whereas, Reverend Workman pastored five local churches in Boone County throughout his ministry; and

Whereas, Reverend Workman preached thousands of revivals locally and broadly; and

Whereas, Reverend Workman conducted thousands of funerals in Boone County; and

Whereas, Reverend Workman was a reserve funeral preacher at Handley Funeral Home; and

Whereas, Reverend Workman was a member of the Independent Order of Odd Fellows; and

Whereas, Reverend Workman owned Wiggly's Grocery in downtown Madison and co-founded and co-owned Van Home Outfitting with Reverend John Hager in Van; and

Whereas, Reverend Workman had an infectiously jovial demeanor and that joy was never abated and affected everyone with whom he was acquainted; and

Whereas, It is fitting and proper to honor the life of Reverend Rexford Montgomery Workman for his dedicated service to his community and county by naming this bridge in his memory; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 03-20-3.30 (03A059) (37.98919, -81.84550), locally known as Six-mile Creek Bridge (BR No. 3940), carrying County Route 20 over Six-mile Creek in Boone County, as the "Rev. Rexford Montgomery Workman 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 "Rev. Rexford Montgomery Workman 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 Secretary of the



Department of Transportation and to the family members of Reverend Rexford Montgomery Workman.

Which, under the rules, lies over one day.

Senators Ashley, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 20**—Requesting Division of Highways name bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge”.

Whereas, Troy Matthews was born July 8, 1914, in Putnam County, West Virginia, the son of Ed and Hulda Matthews. As a young man, the family lived on Cabin Creek in Kanawha County where his father worked in the coal mines. After the coal mine wars in the late 20s, his parents bought a small farm in Sissonville and moved the family there. Troy enlisted in the United States Army on June 8, 1941, and was sent to Ft. Knox, Kentucky, where he was trained as a tank mechanic and served in Headquarters Company, 2nd Battalion, 3rd Armored Division. He served in Northern France, the Ardennes (Belgium) and Rhineland (Germany — European Theater of Operations) where he was wounded as a result of enemy action on September 15, 1944. His wounds resulted in paralysis to his right arm and hand and serious wounds to his back and leg. He spent over a year in several military hospitals and was discharged from the Army as a Tec 5 (Corporal) from Northington General Hospital in Tuscaloosa, Alabama, on October 11, 1945. His decorations include the European Theater Ribbon, Good Conduct Medal, three Bronze Battle Stars and a Purple Heart. Although his injuries were severe, and his right hand and arm paralyzed, he learned to write again with his left hand and to do most anything he could do before. He farmed, worked on equipment and in March 1950 he went to work for the Department of the Navy at the Naval Ordnance Plant in South Charleston, West Virginia, where he helped to make tracked military vehicles. He worked there until the plant was decommissioned and closed in 1961 after being sold to FMC. At that time, he applied for and

received his disability retirement based on his service record and related disability. Although retired, he continued to work for many years as a dispatcher for Point Express, a trucking company in Charleston. Troy was married to the late Glyda Boggess Matthews. They had three children, Linda, Dennis and Jay. Troy passed away on May 20, 1974, at the age of 69; and

Whereas, Naming the bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge” is an appropriate recognition of his contributions to his country, state, community and Kanawha County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL Troy Matthews Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and any surviving members of the family of CPL Troy Matthews.

Which, under the rules, lies over one day.

Senators Ashley, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 21**—Requesting Division of Highways name bridge on County Route 21 over Mill Creek in Jackson County, bridge number 18-21-19.61 (18A234) (38.80123, -81.69929), locally known as the Hardman Bridge, the “U. S. Army S/SGT Delmer R. Jones Memorial Bridge”.

Whereas, Staff Sergeant Delmer R. Jones, a native of Ripley, West Virginia, served in the U. S. Army during the Vietnam War. He began his tour in Vietnam on October 4, 1967; and

Whereas, Staff Sergeant Delmer R. Jones was killed in battle on January 7, 1968, in Quang Tin, South Vietnam, by multiple fragmentation wounds; and

Whereas, It is fitting that an appropriate memorial recognizing this soldier's service and sacrifice be established in the area where he lived; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on County Route 21 over Mill Creek in Jackson County, bridge number 18-21-19.61 (18A234) (38.80123, -81.69929), locally known as the Hardman Bridge, the "U. S. Army S/SGT Delmer R. Jones Memorial Bridge"; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army S/SGT Delmer R. Jones 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 Highways and the family of the late Staff Sergeant Delmer R. Jones.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 18**, Wilbur Lee Clayton Memorial Bridge.

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

The Senate then proceeded to the eighth order of business.

**Eng. Senate Bill 123**, Treatment for sexually transmitted 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 123) 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 254**, Not allowing county park commissions to prohibit firearms in 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 254) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 254) 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 261**, Bringing state code relating to daylight saving time in conformity with federal code.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost, and Cole (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. 261) 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 268**, Abolishing Council of Finance and 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 268) 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 306**, Permitting sale of county or district property online.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings,

Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 306) 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 369**, Reducing legislative education reporting 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 369) 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 40**, Changing definition of facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

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 109**, Repealing code provisions related to certain reports by trustees for property.

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

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

On pages eleven and twelve, section ten, lines three through thirty-eight, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) When a writing is admitted to record, for receiving proof of acknowledgment thereof, entering an order in connection therewith, endorsing clerk's certificate of recordation thereon and indexing in a proper index, the clerk of the county commission shall charge and collect the following fees:

(1) Fifteen dollars for a deed of conveyance (with or without a plat), trust deed, fixture filing or security agreement concerning real estate lease.

(2) ~~Forty~~ Twenty dollars for a trustee's report of sale for any residential property. ~~for which additional information and filing requirements are required by section eight a, article one, chapter thirty eight of this code. Twenty dollars of each recording fee received pursuant to this subdivision shall be deposited into the county's General Revenue Fund and \$20 paid quarterly by the clerk of the county commission to the West Virginia Housing Development Fund established in article eighteen, chapter thirty one of this code.~~



(3) Ten dollars for a financing, continuation, termination or other statement or writing permitted to be filed under chapter forty-six of this code.

(4) Ten dollars for a plat or map (with no deed of conveyance).

(5) No charge for a service discharge record.

(6) Ten dollars for any document or writing other than those referenced in subdivisions (1), (2), (3), (4) and (5) of this subsection.

(7) One dollar for each additional page for documents or writings containing more than five pages.

For any of the documents admitted to record pursuant to this subsection, if the clerk of the county commission has the technology available to receive these documents in electronic form or other media, the clerk shall set a reasonable fee to record these writings not to exceed the cost for filing paper documents.

(8) Of the fees collected pursuant to subdivision (1) of this subsection, \$10 shall be deposited in the county general fund in accordance with section twenty-eight of this article and \$1 shall be deposited in the county general fund and dedicated to the operation of the county clerk's office. Four dollars of the fees collected pursuant to subdivision (1) of this subsection and \$5 of the fees collected pursuant to subdivision (6) of this subsection shall be paid by the county clerk into the State Treasury and deposited in equal amounts for deposit into the Farmland Protection Fund created in article twelve, chapter eight-a of this code for the benefit of the West Virginia Agricultural Land Protection Authority and into the Outdoor Heritage Conservation Fund created in article two-g, chapter five-b of this code. The funds deposited in the State Treasury pursuant to this subdivision may only be used for costs, excluding personnel costs, associated with purpose of land conservation, as defined in subsection (f), section seven of said article.

The bill (Com. Sub. for S. B. 109), as amended, was then ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill 2101**, Eliminating obsolete government entities.

Having been read a second time on yesterday, Tuesday, February 2, 2016, and now coming up in regular order with the Government Organization committee amendment pending (*shown in the Senate Journal of that day, page 404*), was reported by the Clerk.

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

The bill (Eng. Com. Sub. for H. B. 2101), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4005**, Repealing prevailing hourly rate of wages requirements.

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

On motion of Senator Snyder, 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:

That §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-7, §21-5A-8, §21-5A-9, §21-5A-10, §21-5A-11 and §21-5A-12 of the Code of West Virginia, 1931, as amended, be repealed; and that §21-5A-2 of said code be amended and reenacted to read as follows:

## **ARTICLE 5A. WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.**

### **§21-5A-2. Policy declared; adoption of the federal Davis-Bacon Act wage rates.**

It is hereby declared to be the policy of the State of West Virginia that a wage of no less than the prevailing hourly rate of wages ~~for work of a similar character in the regions of this state in~~

~~which the construction is performed~~ shall be paid to all workers employed by or on behalf of any public authority engaged in the construction of public improvements. The state hereby adopts and incorporates the federal prevailing wage laws established pursuant to the Davis-Bacon Act, 40 U. S. C. §3141, et seq., and any associated federal law or regulation. All workers employed by or on behalf of any public authority engaged in the construction of public improvements shall be paid the prevailing hourly rate of wages established under federal law as if the public improvement was federally funded.

Following discussion,

The question being on the adoption of Senator Snyder's amendment to the bill, and on this question, Senator Snyder demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Snyder's amendment to the bill (Eng. H. B. 4005) rejected.

Senator Unger arose to the following point of order:

SENATOR UNGER: Thank you, Mr. President. Point of order. I ask that . . . .

MR. PRESIDENT: State your point.

SENATOR UNGER: Sorry?

MR. PRESIDENT: State your point.

SENATOR UNGER: I ask that you enforce Rule Number 37, Senate Rule Number 37.

MR. PRESIDENT: Senate will be at ease.

MR. PRESIDENT: Senator, in regard to whom, in regard to whom, who are, who are you talking about? In Rule 37, who are you talking about?

SENATOR UNGER: Yeah, Mr. President. Rule 37 says “No member or other person except the Clerk and the Clerk’s assistants shall visit or remain by the Clerk’s table while the yeas and nays are being taken.”

MR. PRESIDENT: And so who is those?

SENATOR UNGER: And we have, we have individuals that are not assistants to the Clerk that are remaining at the Clerk’s table while the yeas and nays are taken. And I ask that Number 37, Rule Number 37, be enforced.

MR. PRESIDENT: Thank you. Your point’s not well, well taken. I believe they are assistants to the Clerk. Thank you.

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Thereafter, on motion of Senator Romano, the following amendment to the bill (Eng. H. B. 4005) was next reported by the Clerk:

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

That §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-7, §21-5A-8, §21-5A-9, §21-5A-10, §21-5A-11 and §21-5A-12 of the Code of West Virginia, 1931, as amended, be repealed; and that §21-5A-1 of said code be amended and reenacted to read as follows:

**ARTICLE 5A. CONSTRUCTION OF PUBLIC IMPROVEMENTS WORKERS.**

**§21-5A-1. Preference to state citizens in construction of public improvements; enforcement of violations.**

(a) In the employment of laborers, workers or mechanics in connection with any public improvement, including, but not limited to, construction, reconstruction, improvement, enlargement or repairing of any public facility, structure, building, road, highway, bridge, street, alley, sewer, ditch, sewage disposal plant, waterworks, airport and all other structures upon which construction may be let to contract by the State of West Virginia or any political subdivision thereof or any of its agents or by persons contracting therewith, preference shall be given to residents of the state, and, if they cannot be obtained in sufficient numbers, then to citizens of the United States.

(b) Each contract where subsection (a) of this section applies, under the supervision of the state or any of its agents, shall contain the following provisions: "In the employment of labor to perform the work specified herein, preference shall be given to citizens of the United States who have continuously resided in the state at least three months prior to the date hereof." In no event shall said provisions or anything in this section be deemed to abrogate or supersede, in any manner, any provision regarding residence requirements contained in a collective bargaining agreement to which the contractor is a party.

(c) No person who receives an award or contract from the state under subsection (a) of this section, or who receives an order or contract under said subsection for which a portion of funds is derived from the state, shall knowingly employ nonresidents of the state while residents who may qualify for such work are reasonably available for employment. In the employment of nonresidents, the construction supervisor or construction inspector assigned to the project shall verify that the contracting employer, by reasonable efforts, sought to obtain construction job applicants from existing employment sources in West Virginia. The agent contracting on behalf of the state or any political subdivision thereof shall investigate promptly any alleged violation of this section. If the investigating agent finds evidence of such a violation, he or she shall immediately notify the alleged violator of such evidence and allegations. If the alleged violator fails to take corrective action

within one week, or to produce evidence which satisfies the agent that no violation has occurred, the agent shall notify the Division of Labor, which shall institute a civil action to recover as liquidated damages for the violation of the contract an amount equal to the wages paid to any employees employed in violation of this section and the costs of litigation, including reasonable attorney's fees and costs.

(d) The provisions of this section shall not apply where the state or any subdivision thereof may suffer the loss of revenue granted or to be granted from any agency or department of the federal government as a result of applying this section.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's amendment to the bill rejected.

The bill (Eng. H. B. 4005) was then ordered to third reading.

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senators Snyder, Carmichael, Romano, Trump, Kirkendoll, Karnes, Walters and Woelfel regarding the adoption of the respective amendments offered by Senators Snyder and Romano to Engrossed House Bill 4005 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the tenth order of business.

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

**Senate Bill 29**, Tolling statute of limitations in certain cases.

**Com. Sub. for Senate Bill 159**, Authorizing promulgation of legislative rules by miscellaneous boards and commissions.

**Com. Sub. for Senate Bill 265**, Allowing library volunteers necessary access to user records.

**Com. Sub. for Senate Bill 270**, Repealing code relating to insurance policies.

**Com. Sub. for Senate Bill 330**, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium.

**Senate Bill 385**, Allowing defendants 180 days to identify nonparties wholly or partially at fault in civil actions.

**Com. Sub. for Com. Sub. for Senate Bill 387**, Shared animal ownership agreements to consume raw milk.

And,

**Senate Bill 415**, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 4, 2016, at 11 a.m.

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## THURSDAY, FEBRUARY 4, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Jeffrey S. Allen, Executive Director, West Virginia Council of Churches, Charleston, West Virginia.

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

Pending the reading of the Journal of Wednesday, February 3, 2016,

At the request of Senator Snyder, 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 a communication from the Development Office, submitting its annual Neighborhood Investment Program report as required by §11-13J-4a of the Code of West Virginia.

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

The Clerk presented a communication from the Department of Environmental Protection, submitting its Special Reclamation Fund Advisory Council annual report, in accordance with §22-1-17 of the Code of West Virginia.

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

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. House Bill 4243**—A Bill to amend and reenact §16-2D-5c of the Code of West Virginia, 1931, as amended, relating to extending the time that certain nonprofit community groups are exempt from the moratorium on creating new nursing home beds.

Referred to the Committee on Health and Human Resources.

The Senate next proceeded to the fourth order of business.

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

Your Committee on Military has had under consideration

**Senate Bill 35**, Adopting federal definition for disabled veterans' preference eligibility for civil service jobs and vendor contracts.

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

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

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

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

Your Committee on Military has had under consideration

**Senate Bill 65**, Exempting military, National Guard and reserve income from state income taxes.

And,

**Senate Bill 82**, Increasing adjustments to gross income for military, National Guard and reserve retirement for residents.

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 Finance.

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on Finance.

Senator Boso, 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 181**, DEP, Water and Waste Management rule relating to aboveground storage tanks.

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,

Gregory L. Boso,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Energy, Industry and Mining 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

**Senate Bill 278**, Clarifying physicians' mutual insurance company is not state or quasi-state actor.

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

**Com. Sub. for Senate Bill 278** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §33-20F-2 and §33-20F-4 of the Code of West Virginia, 1931, as amended, all relating to clarifying that a physicians' mutual insurance company is not a state actor or a quasi-state actor, allowing it to operate as any other commercial insurance company licensed in West Virginia; and clarifying and revising findings and purpose.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 303**, Providing all hunting and fishing licenses are valid for one year from date of issue.

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

**Com. Sub. for Senate Bill 303** (originating in the Committee on Natural Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §20-2-42z; and to amend and reenact §20-2B-9 of said code, all relating to hunting and fishing licenses; and providing Class L resident five-day fishing license.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. 303) under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 389**, Reducing certain penalties for offenses not resulting in illegal killing of bear.

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,

Robert Karnes,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Natural Resources pending.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senator Hall:**

**Senate Bill 505**—A Bill to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to exempting from motor fuel excise tax certain uses of field gas; and defining “field gas”.

Referred to the Committee on Finance.

**By Senator Hall:**

**Senate Bill 506**—A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2-11 of said code, all relating to local health departments; clarifying the powers and duties of the Commissioner of Public Health as it relates to administration of local boards of health; clarifying provisions related to the submission of a program plan by local boards of health; authorizing local health departments to bill health insurance plans for services; and providing rule-making authority.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Carmichael, Blair, Gaunch, Plymale, Prezioso and Trump:**

**Senate Bill 507**—A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating generally to the jurisdiction of the Public Service Commission over motor carriers; and exempting vehicles engaged in nonemergency transportation of Medicaid members from permit requirements.

Referred to the Committee on Government Organization.

**By Senators Ferns, Stollings, Kirkendoll, Blair, Carmichael, Mullins and Palumbo:**

**Senate Bill 508**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating generally to civil claims for private nuisance;

establishing criteria to prove a claim for private nuisance; defining terms; and limiting damages to situations involving personal injury or property damage.

Referred to the Committee on the Judiciary.

**By Senators Carmichael and Blair:**

**Senate Bill 509**—A Bill to amend and reenact §21-10-6 of the Code of West Virginia, 1931, as amended, relating to when Division of Labor must inspect amusement rides and amusement attractions.

Referred to the Committee on Government Organization.

**By Senators Walters, Plymale, Trump, Boso, Ashley, Hall, Unger, Kessler, Woelfel, Blair and Ferns:**

**Senate Bill 510**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-15-9a, relating to establishing a new special revenue fund, designated the Adult Drug Court Participation Fund, for the purpose of collecting and remitting moneys to the State Treasury for participation in an adult drug court program administered by the Supreme Court of Appeals.

Referred to the Committee on Finance.

**By Senators Ashley, Plymale, Hall, Trump, Boso, Kessler and Unger:**

**Senate Bill 511**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-1-22, relating to establishing a new special revenue fund, designated the Court Advanced Technology Subscription Fund, for the purpose of collecting and remitting moneys to the State Treasury for the use of certain advanced technology systems provided by the Supreme Court of Appeals.

Referred to the Committee on Finance.

**By Senators Laird, Miller, Snyder and Unger:**

**Senate Bill 512**—A Bill to amend and reenact §33-16-3d of the Code of West Virginia, 1931, as amended, relating to Medicare

supplement insurance; requiring an insurer to reinstate a Medicare supplement insurance policy after terminating same for nonpayment of premium upon receiving proof that the insured failed to pay due to becoming incompetent; providing that proof of the existence of a conservatorship within a certain timeframe for the insured constitutes sufficient proof that nonpayment of premium was due to incompetency; and providing that proof of the existence of a durable power of attorney along with a medical physician's affidavit which states that an insured's failure to pay premium was due to incompetency, provided within in a certain timeframe, is sufficient to require the insurance carrier to reinstate the policy upon payment of the premium.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Laird and Kessler:**

**Senate Bill 513**—A Bill to amend and reenact §18-9D-1 of the Code of West Virginia, 1931, as amended, relating to composition of the School Building Authority; setting certain limitations on the amount of terms and years that a citizen member may serve on the authority; and requiring those limits to apply to current members after a date certain.

Referred to the Committee on Education; and then to the Committee on Government Organization.

**By Senators Laird and Miller:**

**Senate Bill 514**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §1-5A-1, §1-5A-2, §1-5A-3 and §1-5A-4, all relating to creating a procedure that must be followed when major institutional changes are proposed; stating the purpose of the article; defining terms; setting forth notice and hearing requirements prior to a major institutional change; stating the timeline for certain action in relation to a major institutional change; and requiring the Secretary of State to make certain documents accessible to the public with certain requirements.

Referred to the Committee on Education; and then to the Committee on Government Organization.

**By Senators Hall, Walters and Plymale:**

**Senate Bill 515**—A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Referred to the Committee on Finance.

**By Senators Leonhardt and Woelfel:**

**Senate Bill 516**—A Bill to amend and reenact §17B-2A-2 of the Code of West Virginia, 1931, as amended, relating to registration for selective service.

Referred to the Committee on Military; and then to the Committee on Government Organization.

**By Senators Gaunch and Trump:**

**Senate Bill 517**—A Bill to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended, relating to the Public Employees Insurance Agency; clarifying that the plans established and administered by the Public Employees Insurance Agency are exempt from regulation by the Insurance Commissioner, unless specifically stated otherwise; and providing that the Public Employees Insurance Agency is not an “insurer” or in the “business of insurance” for purposes of the Insurance Commissioner.

Referred to the Committee on Banking and Insurance.

**By Senators Walters, Facemire, Kessler, Kirkendoll, Laird, Snyder, Williams and Palumbo:**

**Senate Bill 518**—A Bill to amend and reenact §5-11-3 and §5-11-9 of the Code of West Virginia, 1931, as amended, all relating to making it unlawful to discriminate against persons due to their sexual orientation; providing an exception for religious officials who preside over wedding ceremonies; defining a new term; and changing the definition of an existing term.



Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Leonhardt:**

**Senate Bill 519**—A Bill to repeal §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a, §30-15-7b, §30-15-7c and §30-15-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-1, §30-7-2, §30-7-6, §30-7-7, §30-7-15a, §30-7-15b and §30-7-15c of said code; and to amend said code by adding thereto a new section, designated §30-7-15d, all relating to the licensure and authority of advanced practice registered nurses; repealing separate and redundant provisions relating to nurse-midwives; updating and adding definitions of terms; requiring a license to practice as an advanced practice registered nurse; establishing license requirements for an advanced practice registered nurse; updating the prerequisites and application requirements to apply for authority to prescribe drugs; modifying the types and amounts of controlled substances that may be prescribed by authorized advanced practice registered nurses; permitting the signature of an advanced practice registered nurse to have the same force and effect as that of a physician insofar as patient care documentation is concerned; removing the requirement for collaborative relationships with physicians as an ongoing requirement for practice for certified nurse-midwives; removing the requirement for collaborative relationships with physicians as an ongoing requirement for prescriptive authority for advanced practice registered nurses; removing certain notifications; and permitting certain fees to be set by rule.

Referred to the Committee on Health and Human Resources.

Senators Stollings, Woelfel, Plymale and Maynard offered the following resolution:

**Senate Concurrent Resolution 22**—Requesting Division of Highways to name bridge number 50-152-23.71 (50A110), located at latitude 38.36457, longitude -82.47448 where it intersects the West Fork of Twelvepole Creek in Sidney, West Virginia, originally called the “Sidney Beam Span”, the “Trautwein Family Bridge”.

Whereas, Fred and Ora Trautwein migrated to Wayne County, West Virginia, in the early 1900s; and

Whereas, Fred and Ora Trautwein had five children, Harold, Roy, Charles, Robert and Doris, all of whom served honorably in the United States military during World War II; and

Whereas, It is fitting and proper that the bridge near where the Trautwein family resided in Sidney, Wayne County, be named after the Trautwein siblings to honor their military service during World War II; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 50-152-23.71 (50A110), located at latitude 38.36457, longitude -82.47448 where it intersects the West Fork of Twelvetpole Creek in Sidney, West Virginia, originally called the “Sidney Beam Span”, the “Trautwein Family Bridge”; and, be it

*Further Resolved*, That the Commissioner of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Trautwein Family Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to Joe Trautwein who resides in Fort Gay, West Virginia.

Which, under the rules, lies over one day.

Senators Ashley, Plymale, Stollings and Carmichael offered the following resolution:

**Senate Resolution 22**—Congratulating the Roane County High School golf team for winning the 2015 AA State Golf Championship.

Whereas, The Roane County High School Raiders golf team had another spectacular year, finishing with a record of 136-5, on their way to winning conference and regional crowns, and their fourth consecutive AA state golf championship; and

Whereas, The Raiders golf team is led by head coach James Kendall and assistant coach Jeff Thompson; and

Whereas, The Raiders state championship golf team roster included players: Cole Moore, Cam Moore, Caleb Moore, Dalton Simmons, Hunter Thompson, Grayson Watson and Sierra Holcomb; and

Whereas, The 2015 Raiders golf team displayed its talent and strong will for an entire season and is a shining example of what can be accomplished with hard work, dedication and commitment; and

Whereas, By securing the school's fourth consecutive class AA state golf championship, the 2015 Roane County High Raiders golf team staked its claim to being one of the best high school golf teams in West Virginia history; therefore, be it

*Resolved by the Senate:*

That the Senate congratulates the Roane County High School golf team for winning the 2015 AA State Golf Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Roane County High School golf team.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Boso, Plymale, Stollings, Unger, Blair, Leonhardt, Carmichael, Laird, Williams, Prezioso and Kessler offered the following resolution:

**Senate Resolution 23**—Recognizing firefighters throughout the State of West Virginia on Firemen’s Day at the Capitol.

Whereas, Firefighters are a vital part of the emergency response system that serves our communities throughout West Virginia; and

Whereas, Firefighters train, plan and prepare to respond to emergencies threatening the lives of our citizens every day; and

Whereas, Firefighters throughout the state provide not only fire response services but also education on fire prevention, emergency medical care and building safety; and

Whereas, Volunteer firefighters save citizens \$139.8 billion annually and another \$450 billion in insurance premiums throughout the United States; and

Whereas, Ninety percent of firefighters in West Virginia are volunteers giving altruistically of their time to keep our communities safe in times of dire need; and

Whereas, Firefighters serve our citizens twenty-four hours a day, always ready and willing to respond to any call; and

Whereas, It is fitting that the Senate recognizes the firefighters throughout the State of West Virginia for their dedication and commitment to the citizens of the State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate recognizes firefighters throughout the State of West Virginia on Firemen’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 appropriate representatives of Firemen’s Day at the Capitol.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Concurrent Resolution 5**, Coach Bill Stewart Exit.

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 19**, Rev. Rexford Montgomery Workman 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 20**, U.S. Army CPL Troy Matthews 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 21**, U.S. Army S/SGT Delmer R. Jones Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 40**, Changing definition of facilities eligible for funding assistance from Courthouse Facilities Improvement 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 40) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 40) 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 109**, Repealing code provisions related to certain reports by trustees for 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Romano and Snyder—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. 109) passed.

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

**Eng. Com. Sub. for Senate Bill 109**—A Bill to repeal §31A-2-4c of the Code of West Virginia, 1931, as amended; to repeal §38-1-8a of said code; to repeal §44-13-4a of said code; to amend and reenact §31-18-6 of said code; and to amend and reenact §59-1-10 of said code, all relating to repealing provisions concerning filing certain foreclosure disclosure forms; repealing provisions requiring compiling and maintaining information relating to certain deeds of trust; eliminating requirements concerning certain foreclosure disclosure forms; adjusting the fee associated with filing a trustee's report of sale in certain circumstances; and repealing a requirement directing a portion of the fee for filing certain trustee's reports of sale to the West Virginia Housing Development Fund.

*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 2101**, Eliminating obsolete government entities.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 2101) passed.

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

**Eng. House Bill 2101**—A Bill to amend the Code of West Virginia, 1931, as amended, by repealing §29-12C-1 and §29-12C-2, relating to eliminating obsolete government entities; and repealing sections relating to the Patient Injury Compensation Plan Study Board.

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

**Eng. House Bill 4005**, Repealing prevailing hourly rate of wages requirements.

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 House Bill 4005 pass?”



On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

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. 4005) passed with its title.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Blair, Kessler, Kirkendoll, Boso, Laird, Miller, Beach, Snyder, Unger, Trump, Carmichael and Romano regarding the passage of Engrossed House Bill 4005 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

**Senate Bill 29**, Tolling statute of limitations in certain cases.

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 159**, Authorizing promulgation of legislative rules by miscellaneous boards and commissions.

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 265**, Allowing library volunteers necessary access to user records.

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

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

On page one, section twenty-two, lines four through seven, by striking out all of subdivision (1) and inserting in lieu thereof a new subdivision, designated subdivision (1), to read as follows:

(1) To members of the library staff in the ordinary course of business, including paid employees and unpaid volunteers upon completing a written confidentiality agreement outlining the terms of this subsection and obtaining written permission from the library director of the library system wherein he or she will be working;

The bill (Com. Sub. for S. B. 265), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 270**, Repealing code relating to insurance policies.

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 330**, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium.

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

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

On page three, section one, line forty-three, after the word "ten" by inserting the word "business".

Following discussion,

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

On motion of Senator Romano, the following amendment to the bill (Com. Sub. for S. B. 330) was next reported by the Clerk:

On page three, section one, line forty-four, after the word “cancel” by changing the period to a colon and inserting the following proviso: *Provided*, That the notice of its intention to cancel may not be mailed prior to the date upon which the named insureds payment is due.

The question being on the adoption of Senator Romano's amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—13.

The nays were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Plymale, Prezioso, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—21.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's amendment to the bill rejected.

The bill (Com. Sub. for S. B. 330) was then ordered to engrossment and third reading.

**Senate Bill 385**, Allowing defendants 180 days to identify nonparties wholly or partially at fault in civil actions.

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 387**, Shared animal ownership agreements to consume raw milk.

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

**Senate Bill 415**, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold.

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.

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

**Com. Sub. for Senate Bill 68**, Disallowing Health Care Authority to conduct rate review and set rates for hospitals.

**Com. Sub. for Senate Bill 326**, Repeal and recodify law relating to contributing to delinquency of minor child.

**Com. Sub. for Senate Bill 361**, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly.

And,

**Eng. Com. Sub. for House Bill 4007**, Relating generally to appointment of attorneys to assist the Attorney General.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 5, 2016, at 11 a.m.

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FRIDAY, FEBRUARY 5, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Seth Polk, Lead Pastor, Cross Lanes Baptist Church, Cross Lanes, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert D. Beach, a senator from the thirteenth district.

Pending the reading of the Journal of Thursday, February 4, 2016,

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.

The Clerk presented a communication from the Geological and Economic Survey, submitting its annual report, in accordance with §29-2-6 of the Code of West Virginia.

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

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

**Eng. Senate Bill 1**, Establishing WV Workplace Freedom Act.

On motion of Senator Carmichael, 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:

That §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new article, designated §21-5G-1,

§21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6 and §21-5G-7 all to read as follows:

## **ARTICLE 1A. LABOR-MANAGEMENT RELATIONS ACT FOR THE PRIVATE SECTOR.**

### **§21-1A-3. Rights of employees.**

Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities, ~~except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in subdivision (3), subsection (a), section four of this article including the right to refrain from paying any dues, fees, assessments or other similar charges however denominated of any kind or amount to a labor organization or to any third party including, but not limited to, a charity in lieu of a payment to a labor organization.~~

### **§21-1A-4. Unfair labor practices.**

(a) It shall be an unfair labor practice for an employer:

(1) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in section three of this article;

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: *Provided*, That an employer shall not be prohibited from permitting employees to confer with him or her during working hours without loss of time or pay;

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in any labor organization. ~~*Provided, however, That nothing contained in this article, or in any other statute of this state, shall preclude an employer from making an*~~

~~agreement with a labor organization (not established, maintained or assisted by any action defined in this section as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (I) if such labor organization is the representative of the employees as provided in section five of this article, in the appropriate collective bargaining unit covered by such agreement when made, and (ii) unless following an election held as provided in subsection (d), section five of this article, within one year preceding the effective date of such agreement, the board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: *Provided further,* That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;~~

(4) To discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under this article; and

(5) To refuse to bargain collectively with the representatives of his or her employees, subject to the provisions of subsection (a), section five of this article.

(b) It shall be an unfair labor practice for a labor organization or its agents:

(1) To restrain or coerce: (A) Employees in the exercise of the rights guaranteed in section three of this article: *Provided,* That this subdivision shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his

or her representatives for the purposes of collective bargaining or the adjustment of grievances;

(2) To cause or attempt to cause an employer to discriminate against an employee in violation of subdivision (3), subsection (a) of this section or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his or her failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(3) To refuse to bargain collectively with an employer, provided it is the representative of his or her employees subject to the provisions of subsection (a), section five of this article;

(4) (i) To engage in or induce or encourage any individual employed by any person to engage in, a strike or a refusal in the course of employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services; or (ii) to threaten, coerce, or restrain any person, where in either case an object thereof is:

(A) Forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by subsection (e) of this section;

(B) Forcing or requiring any person to cease using, selling, handling, transporting or otherwise dealing in the products of any other producer, processor or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his or her employees unless such labor organization has been certified as the representative of such employees under the provisions of section five of this article: *Provided*, That nothing contained in this ~~clause (B) shall~~ paragraph may be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing;

(C) Forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his or



her employees if another labor organization has been certified as the representative of such employees under the provisions of section five of this article;

(D) Forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft or class rather than to employees in another labor organization or in another trade, craft or class, unless such employer is failing to conform to an order of certification of the board determining the bargaining representative for employees performing such work: *Provided*, That nothing contained in this subsection (~~b~~) shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his or her own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required by law to recognize;

(5) To require of employees covered by an agreement authorized under subdivision (3), subsection (a) of this section, the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected;

(6) To cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed; and

(7) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his or her employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees:

(A) Where the employer has lawfully recognized in accordance with this article any other labor organization and a question concerning representation may not appropriately be raised under subsection (c), section five of this article;

(B) Where within the preceding twelve months a valid election under subsection (c), section five of this article has been conducted; or

(C) Where such picketing has been conducted without a petition under subsection (c), section five of this article being filed within a reasonable period of time not to exceed fifteen days from the commencement of such picketing: *Provided*, That when such a petition has been filed the board shall forthwith, without regard to the provisions of said subsection (c), section five or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the board finds to be appropriate and shall certify the results thereof. Nothing in this subdivision (7) of this subsection shall be construed to permit any act which would otherwise be an unfair labor practice under this subsection. (~~b~~)

(c) The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice, or be prohibited under this article, if such expression contains no threat of reprisal or force or promise of benefit.

(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making a concession: *Provided*, That where there is in effect a collective-bargaining contract covering employees, the duty to bargain collectively shall also mean that no

party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification:

(1) Gives a written notice to the other party of the proposed termination or modification sixty days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification;

(2) Offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(3) Notifies the Commissioner of Labor of the existence of a dispute;

(4) Continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract for a period of sixty days after such notice is given or until the expiration date of such contract, whichever occurs later. The duties imposed upon employers, employees, and labor organizations by subdivisions (2), (3) and (4) of this subsection (~~d~~) shall become inapplicable upon an intervening certification of the board, under which the labor organization or individual, which is a party to the contract, has been superseded as or ceased to be the representative of the employees subject to the provisions of subsection (a), section five of this article, and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within the sixty-day period specified in this subsection shall lose his or her status as an employee of the employer engaged in the particular labor dispute, for the purposes of sections three, four and five of this article, but such loss of status for such employee shall terminate if and when he or she is reemployed by such employer.

(e) It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express

or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting, or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person and any such contract or agreement entered into heretofore or hereafter shall be to such extent unenforceable and void.

## **ARTICLE 5G. WEST VIRGINIA WORKPLACE FREEDOM ACT.**

### **§21-5G-1. Definitions.**

As used in this article, the following terms have the following definitions:

(a) The term “person” means any individual, proprietorship, partnership, firm, association, corporation, labor organization or any other legal entity.

(b) The term “labor organization” means any organization, agency, union or employee representation committee of any kind that exists, in whole or in part, to assist employees in negotiating with employers concerning grievances, labor disputes, wages, rates of pay, or other terms or conditions of employment.

(c) The term “employer” means any person employing at least one individual in the state, or any agent of an employer employing at least one individual in the state.

(d) The term “state” means any officer, board, branch, commission, department, division, bureau, committee, agency, authority or other instrumentality of the State of West Virginia.

### **§21-5G-2. Individual’s right to refrain from affiliating with a labor organization.**

A person may not be required, as a condition or continuation of employment, to:

(1) Become or remain a member of a labor organization;

(2) Pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to any labor organization; or

(3) Pay any charity or third party, in lieu of those payments, any amount that is equivalent to or a pro rata portion of dues, fees, assessments or other charges required of members of a labor organization.

**§21-5G-3. Contracting for exclusion from employment because of affiliation or nonaffiliation with a labor organization.**

Any agreement, contract, understanding or practice, either written or oral, implied or expressed, between any labor organization and an employer or public body which provides for the exclusion from employment of any person because of membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor organization or employee organization of any kind is hereby declared to be unlawful, null and void, and of no legal effect.

**§21-5G-4. Criminal penalty.**

Any person who knowingly requires another person, as a condition or continuation of employment, to perform any of the conduct enumerated in section two of this article, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000.

**§21-5G-5. Civil relief; damages.**

Any person injured as a result of any violation or threatened violation of this article shall have a cause of action, and, if proven in a court of competent jurisdiction, may be entitled to the following relief against a person or persons violating or threatening to violate this article:

(1) Compensatory damages;

(2) Costs and reasonable attorney fees, which shall be awarded if the injured person substantially prevails;

(3) Punitive damages in accordance with the provisions of section twenty-nine, article seven, chapter fifty-five of this code;

(4) Preliminary and permanent injunctive relief; and

(5) Any other appropriate equitable relief.

**§21-5G-6. Exceptions.**

This article does not apply:

(1) To any employee or employer covered by the federal Railway Labor Act, 45 U. S. C. 151, et seq.;

(2) To any employee of the United States or a wholly owned corporation of the United States;

(3) To any employee who is employed on property over which the United States government has exclusive jurisdiction for purposes of labor relations; or

(4) Where the provisions of this article would otherwise conflict with, or be preempted by, federal law.

**§21-5G-7. Construction; applicability; severability.**

(a) Construction. — Except to the extent expressly prohibited by the provisions of this article, nothing in this article is intended, or should be construed, to change or affect any law concerning collective bargaining or collective bargaining agreements in the building and construction industry.

(b) Applicability. — This article applies to any written or oral contract or agreement entered into, modified, renewed or extended after July 1, 2016: *Provided*, That the provisions of this article shall not otherwise apply to or abrogate a written or oral contract or agreement in effect on or before June 30, 2016.

(c) Severability. — If any provision of this act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.;

And,

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

**Eng. Senate Bill 1**—A Bill to amend and reenact §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6 and §21-5G-7, all relating to establishing the West Virginia Workplace Freedom Act; removing certain provisions under the Labor-Management Relations Act for the Private Sector to be consistent with the West Virginia Workplace Freedom Act; clarifying what constitutes an unfair labor practice under the Labor-Management Relations Act for the Private Sector to be consistent with the West Virginia Workplace Freedom Act; eliminating the statutory provisions that allow an employment agreement to require membership in a labor organization as a condition of employment; granting employees the right to refrain from paying any dues, fees, assessments, or other similar charges, however denominated, of any kind or amount to a labor organization as a condition or continuation of employment; granting employees the right to refrain from paying any dues, fees, assessments, or other similar charges, however denominated, of any kind or amount to any third party, including a charity, in lieu of payment to a labor organization as a condition or continuation of employment; eliminating statutory provisions that allow, as an exception to the prohibitions against unfair labor practices by an employer, an employment agreement to require membership in a labor organization as a condition of employment; eliminating statutory provisions that allow an employer to justify discrimination against an employee for nonmembership in a labor organization in certain circumstances; prohibiting any requirement that a person become or remain a

member of a labor organization as a condition or continuation of employment; prohibiting any requirement that a person pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to a labor organization as a condition or continuation of employment; prohibiting any requirement that, as a condition or continuation of employment, a person pay any charity or third party in lieu of paying dues, fees, assessments or other similar charges, however denominated, of any kind or amount that is equivalent to or a pro rata portion of dues, fees, assessments or other charges required of members of a labor organization; providing that any agreement, contract, understanding or practice of any kind between any labor organization and an employer or public body which provides for the exclusion from employment of any person because of membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor organization or employee organization of any kind to be unlawful, null and void, and of no legal effect; creating a criminal offense for any person who knowingly requires another person, as a condition or continuation of employment, to perform any conduct prohibited by the West Virginia Workplace Freedom Act; providing for criminal penalties; providing for civil relief; establishing a civil cause of action which, if proven in a court of competent jurisdiction, may permit a person to recover damages, including compensatory and punitive damages, costs and attorney's fees, injunctive relief or other appropriate equitable relief against any person or persons violating or threatening to violate the West Virginia Workplace Freedom Act; providing for exceptions to the application of the West Virginia Workplace Freedom Act; defining terms; establishing provisions addressing the construction, applicability and severability of the West Virginia Workplace Freedom Act; clarifying application of the West Virginia Workplace Freedom Act to collective bargaining or collective bargaining agreements in the building and construction industry; and providing that the West Virginia Workplace Freedom Act applies to any written or oral contract or agreement entered into, modified, renewed or extended after July 1, 2016 and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2016.



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

Senator Kessler then moved that the bill (Eng. S. B. 1) be recommitted to the Committee on the Judiciary, and on this question, Senator Kessler demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—14.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—20.

Absent: None.

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

The question now being on the adoption of Senator Carmichael's motion to concur in the House amendments to the bill, the same was put and prevailed.

Engrossed Senate Bill 1, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

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. 1) 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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4311**—A Bill to amend and reenact §30-22-5 of the Code of West Virginia, 1931, as amended, relating to the Board of Landscape Architects; changing the qualifications for membership on the board; providing for continued service of qualifying board members; and providing for the disqualification of certain members who become licensees.

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 4313**—A Bill to amend and reenact §30-12-1 and §30-12-11 of the Code of West Virginia, 1931, as amended, all relating the Board of Architects; changing the qualifications for membership on the board; providing for continued service of qualifying board members; providing for the disqualification of certain members who become licensees; and exempting certain non-practicing architects from the prohibition against using certain titles.

Referred to the Committee on Government Organization.

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 4th day of February, 2016, 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:

**(S. B. No. 364)**, Supplemental appropriation expiring funds to General Revenue.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Hall, 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 6**, Requiring drug screening and testing of applicants for TANF program.

And has amended same.

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

Respectfully submitted,

Mike Hall,  
*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

**Com. Sub. for Senate Bill 39**, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area.

And,

**Com. Sub. for Senate Bill 43**, Clarifying means of posting to prohibit hunting or trespassing.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 246**, Providing certain government entities option to extend the term of tax increment financing district from 30 to 40 years.

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

**Com. Sub. for Senate Bill 246** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-11B-7, §7-11B-10 and §7-11B-22 of the Code of West Virginia, 1931, as amended, all relating generally to tax increment financing districts; authorizing county commission or municipality to modify termination time of certain districts; extending length of certain districts; providing for the discharge of any tax increment financing obligations outstanding on termination date of a district; and extending maturation of tax increment financing obligations.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. 246), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 309**, Exempting county park and recreation commissions from child-care center licensure requirements.

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

**Com. Sub. for Senate Bill 309** (originating in the Committee on Government Organization)—A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to child-care center licensing requirements; and exempting county parks and recreation commissions, boards and municipalities from licensure.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 345**, Relating to parking on state-owned or leased property.

And,

**Senate Bill 346**, Updating projects managed by Project Management Office.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 349**, Updating meaning of federal adjusted gross income.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 419**, Terminating taxes imposed under Workers' Compensation Debt Reduction Act of 2005.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Boso, 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 425**, Expanding definition of underground facility in One-Call System 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,

Gregory L. Boso,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Energy, Industry and Mining pending.

Senator Boso, 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 426**, Continuing Office of Coalfield Community Development.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Government Organization, unanimous consent was granted to

dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Energy, Industry and Mining.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Gaunch, Trump, Ashley, Prezioso and Blair:**

**Senate Bill 520**—A Bill to amend and reenact §5-16-12 and §5-16-12a of the Code of West Virginia, 1931, as amended, all relating to willful misrepresentation to gain benefits or payment under the Public Employees Insurance Act; authorizing set off by the director to recover overpayment; authorizing investigation by the director of misrepresentations by an employer, employee or providers under the Public Employees Insurance Act; authorizing the director to issue administrative subpoenas; providing requirements for service of subpoenas; authorizing fees for service and witnesses; establishing a process to compel obedience with a subpoena; authorizing the agency to recover benefits or claims obtained by fraud through administrative hearing; providing for the confidentiality of data; and providing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Hall, Blair, Prezioso, Kessler, Facemire, Boley, Romano, Beach, Trump, Plymale, Williams, Miller and Gaunch:**

**Senate Bill 521**—A Bill to repeal §7-18-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-18-1 and §7-18-3 of said code, all relating to eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; redefining certain terms; and exempting hotel rooms occupied by government officials on official business under certain circumstances.

Referred to the Committee on Government Organization; and then to the Committee on Finance.



**By Senators Snyder and Unger:**

**Senate Bill 522**—A Bill to amend and reenact §24-2-2 of the Code of West Virginia, 1931, as amended, relating generally to public service districts; and prohibiting shifting future development costs onto existing public service district customers.

Referred to the Committee on Government Organization.

**By Senator Sypolt (By Request):**

**Senate Bill 523**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-3f, relating to taxing water that is used in natural gas hydraulic fracturing; creating a special fund; and establishing how proceeds from that fund may be used.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

**By Senator Blair:**

**Senate Bill 524**—A Bill to amend and reenact §30-27-1, §30-27-3, §30-27-4, §30-27-5, §30-27-8, §30-27-8a, §30-27-9, §30-27-10, §30-27-11, §30-27-12, §30-27-13, §30-27-14, §30-27-16, §30-27-17, §30-27-18 and §30-27-19 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-27-8b, all relating to the Board of Barbers and Cosmetologists; and making various changes throughout the article.

Referred to the Committee on Government Organization.

**By Senators Gaunch, Hall, Trump, Ashley, Mullins, Plymale, Prezioso and Stollings:**

**Senate Bill 525**—A Bill to amend and reenact §33-26-2, §33-26-3, §33-26-4, §33-26-5, §33-26-8, §33-26-9, §33-26-10, §33-26-11, §33-26-12, §33-26-13, §33-26-14 and §33-26-18 of the Code of West Virginia, 1931, as amended, all relating generally to West Virginia Insurance Guaranty Association Act; clarifying scope and construction of act; adding and amending definitions of certain terms; clarifying powers and duties of association; providing for effect of paid claims, exhaustion of coverage and prevention of

insolvencies; changing due date of annual financial report; providing for stays of proceeding and reopening of default judgments; and making technical corrections and technical changes.

Referred to the Committee on Banking and Insurance.

**By Senators Sypolt (By Request) and Stollings:**

**Senate Bill 526**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3pp, relating to authorizing county commissions to add a surcharge to county property tax bill of all residential property owners for the service of trash collection; and limiting disbursement of moneys collected.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 527**—A Bill to repeal §5A-3-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-5-4 of said code, relating generally to eliminating preference for resident vendors bidding on state contracts for commodities or printing.

Referred to the Committee on Government Organization.

**By Senators Walters, Boso, Carmichael and Ferns:**

**Senate Bill 528**—A Bill to amend and reenact §18B-1B-4 of the Code of West Virginia, 1931, as amended, relating to altering the power of the Higher Education Policy Commission over academic programs of institutions under its jurisdiction.

Referred to the Committee on Education; and then to the Committee on Government Organization.

**By Senators Ferns, Blair, Carmichael, Palumbo, Prezioso, Stollings, Trump, Woelfel and Plymale:**

**Senate Bill 529**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-28-1 and §47-28-2, all relating to fantasy games; defining “fantasy

game”); providing that fantasy games are lawful; and exempting fantasy games from regulation.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Miller and Laird:**

**Senate Bill 530**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-16, relating to authorizing a Community Health Equity Initiative Demonstration Project; authorizing the Commissioner of the Bureau for Public Health to establish a Community Health Equity Initiative Demonstration Project; establishing eligibility requirements; providing for the administration of the demonstration project; establishing the Minority Health Advisory Team including its composition and duties; establishing requirements for a demonstration project plan and the selection of a community for participation; establishing reporting requirements; and establishing the date on which the demonstration project terminates.

Referred to the Committee on Health and Human Resources.

Senators Kirkendoll, Stollings, Unger and Plymale offered the following resolution:

**Senate Concurrent Resolution 23**—Requesting Division of Highways name bridge number 30-3/5-1.60 (30A182) (37.81271, -82.27014), locally known as Lower Canterbury Box Beam Bridge, carrying County Route 3/5 over Laurel Creek in Mingo County, the “Johnny Mack Bryant Memorial Bridge”.

Whereas, Johnny Mack Bryant was born July 19, 1977, to John and Linda (Colley) Bryant; and

Whereas, Johnny Mack Bryant was married to the love of his life Leeann Hammond and had two children, Johnny and Mackenzie; and

Whereas, Johnny Mack Bryant worked for Buck Deskins and Randy Akers doing carpentry and installing metal roofs until he

went to work for Coal River Mining where he died in a mining accident on July 27, 2012; and

Whereas, Johnny Mack Bryant loved to hunt, fish, ride four wheelers, dirt bikes and hill climbing. He won national championships for hill climbing in West Virginia and Massachusetts and traveled as far as Minnesota to hill climb; and

Whereas, Johnny Mack Bryant had two sisters, Mattie Cassidy and Lori Williams of Ohio. He had a niece Allyson and many aunts, uncles and cousins who love and miss him; and

Whereas, Johnny Mack Bryant's two best friends were Wes Maynard and Brandon Urban who have memorial rides and golf tournaments every year in his name to honor him; and

Whereas, Johnny Mack Bryant always had a smile on his face no matter what and about one thousand people attended his wake and funeral; and

Whereas, It is fitting that the bridge which is located at the beginning of the hollow where Johnny Mack Bryant lived and his body is now buried be named for him; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 30-3/5-1.60 (30A182) (37.81271, -82.27014), locally known as Lower Canterbury Box Beam Bridge, carrying County Route 3/5 over Laurel Creek in Mingo County, the "Johnny Mack Bryant Memorial Bridge"; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Johnny Mack Bryant Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the family of Johnny Mack Bryant.

Which, under the rules, lies over one day.

Senators Mullins, Stollings, Unger and Plymale offered the following resolution:

**Senate Concurrent Resolution 24**—Requesting Division of Highways name bridge number 41-77-42.30 NB and SB (41A226, 41A227) (37.76241, -81.21447), locally known as TPK. OVER WV 16 CONN, carrying Interstate 77 Northbound and Southbound over WV 16 Connector in Raleigh County, West Virginia, the “U. S. Army PFC Arland W. Hatcher Memorial Bridge”.

Whereas, Arland W. Hatcher was born in Fitzpatrick, Raleigh County, West Virginia, February 2, 1924; and

Whereas, Arland W. Hatcher married Rachael Walker in Beckley, West Virginia, November 5, 1942, and the couple raised five children; and

Whereas, Arland W. Hatcher entered the United States Army and served in the 37th Infantry as a combat military policeman during World War II; and

Whereas, Arland W. Hatcher’s duties included service at New Caledonia, Guadalcanal, Bougainville, Luzon, the Philippines and Japan; and

Whereas, Arland W. Hatcher’s military duties at one time included protecting General Douglas MacArthur and the General’s home in the Philippines; and

Whereas, Following the war, Arland W. Hatcher worked in Ohio and enjoyed such hobbies as working with wood, camping and golfing; and

Whereas, Arland W. Hatcher died April 7, 2005; and

Whereas, It is fitting that an enduring structure commemorate Arland W. Hatcher’s service to his country during World War II; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 41-77-42.30 NB and SB (41A226, 41A227) (37.76241, -81.21447), locally known as TPK. OVER WV 16 CONN, carrying Interstate 77 Northbound and Southbound over WV 16 Connector in Raleigh County, West Virginia, the “U. S. Army PFC Arland W. Hatcher Memorial Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Arland W. Hatcher 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 Plymale, Woelfel and Stollings offered the following resolution:

**Senate Resolution 24**—Honoring the life and legacy of Dr. Carter G. Woodson, a native of Huntington, West Virginia, who is known as the Father of Black History Month.

Whereas, Dr. Carter Godwin Woodson was a distinguished author, editor, publisher, educator and historian, and is widely considered the “Father of Black History Month”; and

Whereas, Dr. Carter Godwin Woodson was born in 1875 in New Canton, Virginia, a son of former slaves, Anne Eliza (Riddle) and James Henry Woodson, a carpenter who relocated in 1870 to help complete the C&O Railroad in what became Huntington, West Virginia, and helped build the town; and

Whereas, Dr. Carter Godwin Woodson mastered the fundamentals of common school subjects by the time he was seventeen, largely by self-instruction, and overcame other obstacles to become a leading twentieth-century intellectual; and

Whereas, Dr. Carter Godwin Woodson spent six years working in the West Virginia coal mines and moved to Huntington after his parents moved back from Virginia. In Huntington, Dr. Woodson and two of his sisters graduated from Douglass School; and

Whereas, Dr. Carter Godwin Woodson took his first steps toward becoming one of the most outspoken advocates of improving education for all Americans when he was a West Virginian. He began his teaching career in Winona, Fayette County, West Virginia, and became the principal of Douglass School in 1900, just four years after graduating. He received a degree from Berea College in 1903 and left near the end of that year for the Philippines, where he was hired as a school supervisor. He traveled the world and studied at the Sorbonne University in Paris; and

Whereas, Dr. Carter Godwin Woodson also earned a B.A. and a M.A. in History from the University of Chicago and his Ph.D. in History from Harvard University, becoming the second African-American to earn a doctorate from Harvard and the first child of former slaves to earn a doctorate in History from any university; and

Whereas, In 1915, Dr. Carter Godwin Woodson and several friends in Chicago established the Association for the Study of Negro Life and History (now the Association for the Study of African-American Life and History), and it remains a century later as the oldest learned society for African-Americans. In 1916, Dr. Woodson founded The Journal of Negro History (now The Journal of African-American History), a scholarly publication which helped him return African-American contributions to history books. In 1926, he developed Negro History Week which was renamed Black History Month in 1976 and his public campaign to increase knowledge of black contributions in history has become one of the great cultural achievements of the past 90 years; and

Whereas, Dr. Carter Godwin Woodson returned to West Virginia in 1920 as the dean of the West Virginia Collegiate Institute, now West Virginia State University. The position was his last professional appointment in West Virginia. He still maintained

his family ties, owned property in Huntington and visited for speaking engagements until his passing; and

Whereas, Dr. Carter Godwin Woodson passed away on April 3, 1950 at his home, which is now a National Park Service National Historic Site in Washington, D. C., his scholarly legacy continues through the annual celebrations of black history in schools and other public gatherings across the United States; and

Whereas, Marshall University's John Deaver Drinko Academy has sought to reintroduce Dr. Carter G. Woodson to Huntington and West Virginia through a project called Remembering Dr. Carter G. Woodson, through scholarships and public endeavors; and

Whereas, February is Black History Month, a legacy of Dr. Carter Godwin Woodson and an achievement many cite as his greatest accomplishment; therefore, be it

*Resolved by the Senate:*

That the Senate hereby honors the life and legacy of Dr. Carter Godwin Woodson, a native of Huntington, West Virginia, and who is known as the Father of Black History Month; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Marshall University's John Deaver Drinko Academy.

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 Prezioso, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution 24 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.



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

Senators Mullins, Walters, Beach, Stollings, Woelfel, Unger, Miller, Plymale, Kessler and Blair offered the following resolution:

**Senate Resolution 25**—Recognizing Down Syndrome Awareness Day at the Capitol.

Whereas, Every year, one in every 700 babies is born with Down syndrome. Individuals with Down syndrome, like all others, have the right to live, work and fully participate in their communities in order to attain their goals and dreams; and

Whereas, Individuals with Down syndrome have the right to a free and appropriate public education alongside their peers without disabilities so they can learn and develop to their fullest potential; and

Whereas, Individuals with Down syndrome have the right to an equal opportunity to live full productive lives as valued community members in the neighborhoods of their choice; and

Whereas, People with Down syndrome have the right to receive the support they need to exercise self-determination, achieve independence and become productive employees; and

Whereas, The Down Syndrome Network of WV has become a statewide organization to enhance the lives of individuals with Down syndrome and to increase awareness and acceptance of individuals with Down syndrome;

Whereas, The purpose of Down Syndrome Awareness Day is to increase awareness and understanding of our legislators, administrators, policymakers and the public about the issues that are important to individuals with Down syndrome; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Down Syndrome Awareness Day at the Capitol; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the representatives of Down Syndrome Awareness Day.

At the request of Senator Mullins, 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 Kessler, and by unanimous consent, the remarks by Senator Mullins regarding the adoption of Senate Resolution 25 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senator Kessler presented a petition from Elliot Kendle and numerous Wetzel County education employees, urging the Legislature to increase funding for the Public Employees Insurance Agency.

Referred to the Committee on Finance.

Senator Ashley presented a petition from the Convention of States Action and numerous third senatorial district citizens, supporting an Article V convention to impose fiscal restraints, term limits and limitations on the power and jurisdiction of the federal government.

Referred to the Committee on the Judiciary.

Senator Sypolt presented a petition from the Convention of States Action and numerous fourteenth senatorial district citizens, supporting an Article V convention to impose fiscal restraints, term limits and limitations on the power and jurisdiction of the federal government.

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 22**, Trautwein Family Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 29**, Tolling statute of limitations in certain cases.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 29) 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 159**, Authorizing promulgation of legislative rules by miscellaneous boards and commissions.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 159) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 159) 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 265,** Allowing library volunteers necessary access to user records.

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 265 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 265) 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 270**, Repealing code relating to insurance policies.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 270) 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 330**, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—27.

The nays were: Facemire, Kessler, Laird, Romano, Snyder, Unger and Yost—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. 330) 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 385**, Allowing defendants 180 days to identify nonparties wholly or partially at fault in civil actions.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings,

Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 385) 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 387**, Shared animal ownership agreements to consume raw milk.

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 387 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Laird, Leonhardt, Maynard, Miller, Plymale, Sypolt, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—22.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Takubo and Yost—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 Com. Sub. for S. B. 387) 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 Snyder, and by unanimous consent, the remarks by Senator Stollings regarding the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 387 were ordered printed in the Appendix to the Journal.

At the request of Senator Miller, unanimous consent being granted, the remarks by Senator Beach regarding the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 387 were ordered printed in the Appendix to the Journal.

**Eng. Senate Bill 415**, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 415) 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 68**, Disallowing Health Care Authority to conduct rate review and set rates for 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 326**, Repeal and recodify law relating to contributing to delinquency of minor child.

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 361**, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly.

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 4007**, Relating generally to appointment of attorneys to assist the Attorney General.

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 section and inserting in lieu thereof the following:

### **ARTICLE 3. ATTORNEY GENERAL.**

#### **§5-3-3. Assistants to Attorney General.**

(a) The Attorney General may appoint such deputy or assistant attorneys general as may be necessary to properly perform the duties of his or her office. The total compensation of all such deputies or assistants shall be within the limits of the amounts appropriated by the Legislature for personal services. All deputy or assistant attorneys general so appointed shall serve at the will and pleasure of the Attorney General and shall perform such duties as ~~he~~ the Attorney General may require of them.

(b) The Attorney General may appoint such special assistant attorneys general as may be necessary to properly perform the duties of his or her office: *Provided*, That if the appointment relates to a contingency fee legal arrangement or contract as defined in W. Va. Code §5-3-3a(a)(1), then the appointment must be in accordance with the procedures and compensation set forth in W. Va. Code §5-3-3a. All special assistant attorneys general appointed shall serve at the will and pleasure of the Attorney General and shall perform such duties as the Attorney General may require of them.

(c) All laws or parts of laws inconsistent with the provisions hereof are hereby amended to be in harmony with the provisions of this section.

**§5-3-3a. Competitive bidding required for private attorneys, special assistant attorneys general.**

(a) The following terms, wherever used or referred to in this section, have the following meanings:

(1) “Contingency fee legal arrangement or contract” means any legal fee arrangement that provides for a private attorney or special assistant Attorney General to be paid a percentage of any recovery associated with any claims brought by the private attorney or special assistant Attorney General on behalf of the state or to be paid through a court-approved award of attorney’s fees.

(2) “Deputy or assistant Attorney General” means an attorney employed by the state as a staff attorney in the Attorney General’s office.

(3) “Private attorney” means any attorney who is neither an assistant Attorney General on the Attorney General’s staff nor an employee of another state agency.

(4) “Special assistant Attorney General” means an attorney that has been retained or appointed by the Attorney General to assist in the legal representation of the state.

(5) “State” means the State of West Virginia, including state officers, departments, boards, commissions, divisions, bureaus,

councils and units of organization, however designated, of the executive branch of state government and any of its agents.

(b) The state may not enter into any contingency fee legal arrangement or contract with a private attorney unless the Attorney General, or his or her designee, makes a written determination prior to entering into such a contract that the legal representation is both cost-effective and in the best interest of the public. Any written determination shall include specific findings for each of the following factors:

(1) Whether sufficient and appropriate legal and financial resources exist within the Attorney General's office to handle the matter;

(2) The time and labor required; the novelty, complexity and difficulty of the questions involved; and the skill requisite to perform the attorney services properly;

(3) The geographic area where the attorney services are to be provided, as well as any potential costs associated with providing legal services in that geographic area; and

(4) The amount of experience desired for the particular kind of legal services to be provided and the need for a private attorney's experience with similar issues or cases.

(c) If the Attorney General, or his or her designee, makes the written determination described in subsection (b) of this section, the Attorney General shall request proposals from private attorneys to represent the state accordingly on the basis of a fee arrangement as set forth in subsection (h) of this section, unless the Attorney General, or his or her designee, makes a written determination that one of the following factors applies:

(1) An emergency situation exists that requires time-sensitive legal services that cannot be adequately provided by the Office of Attorney General and for which insufficient time exists to complete the customary competitive bidding process;

(2) An appointment, or the continuation of an appointment, is necessary to avoid disruption in pending legal matters by allowing

previously appointed outside counsel to continue providing legal representation; or

(3) The legal services are to be provided on a pro bono basis and, therefore, will not benefit from a competitive bidding process.

(d) Any requests for proposal shall be posted to the website of the Office of the Attorney General. The time period under which the proposal is open should be clearly stated.

(e) When soliciting proposals from private attorneys to represent the state on the basis of a fee arrangement as set forth in subsection (h) of this section, the Attorney General, or his or her designee, shall consider the following factors when determining the most competitive proposal for legal services and make a written determination as to the application of these factors, prior to entering into any contract for outside legal services:

(1) Whether the private attorneys possess the requisite skills and expertise needed to handle the legal matters in question;

(2) Whether the private attorneys possess requisite staffing and support to handle the scope of the litigation or matter;

(3) Whether the private attorneys or any members of the private attorneys' law firm have been subject to discipline by the West Virginia State Bar, or other entities, for unethical conduct;

(4) Whether the private attorneys have been peer rated and, if so, what peer ratings they have received, along with any other recognitions or awards for legal services;

(5) The estimated fees, costs and expenses of the private attorneys to perform the legal services requested;

(6) The willingness of the private attorneys to enter into alternative billing arrangements;

(7) Whether the private attorneys are in compliance with all applicable laws of the State of West Virginia;

(8) Any potential disqualifying conflicts of interest between the private attorneys and the state;

(9) Any relevant input from the state entity client, if applicable, regarding the needed legal services; and

(10) Any such other relevant factors as may be identified by the Attorney General or his or her designee.

(f) If, after soliciting proposals for legal services, the Attorney General, or his or her designee, determines that the proposals received are insufficient based on an application of the factors set forth in subsection (e) of this section, additional proposals may be solicited pursuant to subsections (b), (c) and (e) of this section.

(g) The state shall not enter into a contingency fee legal arrangement or contract as defined herein for private attorney services unless the following requirements are met throughout the contract period and any extensions thereof:

(1) The Attorney General, or the deputy or assistant Attorney General involved in the case, shall retain control over the course and conduct of the case;

(2) The Attorney General, or the deputy or assistant Attorney General with supervisory authority, is personally involved in overseeing the litigation;

(3) The Attorney General, or the deputy or assistant Attorney General involved in the case, retains veto power over any decisions made by any appointed private attorneys; and

(4) Decisions regarding settlement of the case are reserved exclusively to the discretion of the state or other client entity. An appropriate representative of the Attorney General's office shall attend settlement conferences whenever possible.

(h) The state may not enter into any fee arrangement that provides for the private attorney to receive an aggregate fee in excess of:

(1) Twenty-five percent of the first \$10 million recovered; plus

(2) Twenty percent of any portion of the recovery between \$10 million and \$15 million; plus

(3) Fifteen percent of any portion of the recovery between \$15 million and \$20 million; plus

(4) Ten percent of any portion of the recovery between \$20 million and \$25 million; plus

(5) Five percent of any portion of the recovery exceeding \$25 million.

In no event shall the aggregate fee for any legal matter exceed \$50 million for any matters arising from a single event or occurrence, exclusive of reasonable costs and expenses, and irrespective of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery. Any legal fees shall not be based on penalties or fines awarded or any amounts attributable to penalties or fines.

To the extent that any private attorneys are to be paid through a court-approved award of attorney's fees, their appointment to represent the state is contingent upon the acceptance of the fee limitations set forth herein. To the extent that any award of attorney fees is subject to judicial discretion, the private attorneys appointed pursuant to this section may not accept an award of attorney fees greater than the fee limitations outlined in this subsection.

(i) The Attorney General shall develop a standard addendum to every contract for private attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the Attorney General's office, including, without limitation, the requirements listed in subsection (h) of this section.

(j) Subject to the provisions of subsection (l) of this section, the Attorney General's written determination to enter into any legal arrangement or contract with a private attorney shall be posted on the Attorney General's website for public inspection within ten business days after the selection of a private attorney and shall remain posted on the website for the duration of the contract for legal services, including any extensions or amendments thereto. Any and all written determinations made pursuant to subsection (b) or (c) of this section shall also be posted on the Attorney General's website for public inspection within ten business days after the issuance of the written determination. Any payment of fees as set forth in subsection (h) of this section shall be posted on the Attorney General's website within

thirty calendar days after the payment of such fees to the private attorney and shall remain posted on the website for at least three hundred sixty-five calendar days thereafter.

(k) Any private attorney under contract to provide services to the state shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such legal services. In conjunction with the Attorney General's office, the private attorney shall make all such records that are not covered by the attorney-client privilege or otherwise confidential in nature available for inspection and copying upon request in accordance with the West Virginia Freedom of Information Act, sections one through seven, inclusive, article one, chapter twenty-nine-b of this code. In addition, the private attorney shall maintain detailed contemporaneous time records for the attorneys, other professionals and paraprofessionals working on the matter for a period of at least four years and shall promptly provide these records to the Attorney General upon request.

(l) The Attorney General retains the right to temporarily waive the disclosure requirements set forth in subsection (j) of this section upon making a written determination that:

(1) A waiver is necessary to protect attorney-client or privileged information; or

(2) Immediate disclosure of the existence of an arrangement or contract with a private attorney, or any other sensitive information, could compromise the initiation, handling or conclusion of any investigation or case matter handled by the office of Attorney General.

Once any risks to the attorney-client privilege or confidential work product are no longer present, the office of Attorney General shall make any and all suspended disclosures as soon as possible and all subsequent disclosures in accordance with the time frame and manner set forth by subsection (j) of this section.

(m) Once a private attorney is appointed pursuant to this section, he or she may thereafter be designated as a special assistant Attorney

General, and, upon such appointment, shall provide representation subject to the terms contained in subsection (g) of this section.

(n) If the Attorney General's office chooses to not be involved in a legal matter as a result of a conflict of interest, and thus cannot implement in good faith the provisions of this section as a result of the conflict, then the process set forth herein shall be implemented by the client state entity needing representation, with the assistance of the Department of Administration if necessary.

(o) Nothing in this section expands the authority of any state agency or state agent to enter into contracts nor shall it be deemed to change any existing law that authorizes a state agency or state agent to employ its own counsel or enter into contracts for legal services.

#### **§5-3-4. Annual report to Governor, President of the Senate and Speaker of the House.**

(a) The Attorney General shall annually, on or before November 1, deliver to the Governor, President of the Senate and Speaker of the House a report of detailing:

(1) The state and condition of the several causes, in which the state is a party, pending in courts mentioned in section two of this article.

(2) The use of any fee arrangements as provided in subsection (h), section three-a of this article with private attorneys in the preceding year. At a minimum, the report shall:

(A) Identify all new fee arrangements entered into during the year and all previously executed fee arrangements that remain current during any part of the year and for each contract describe:

(i) The name of the private attorney with whom the state has contracted, including the name of the attorney's law firm;

(ii) The nature and status of the legal matter;

(iii) The name of the parties to the legal matter;

(iv) The amount of the recovery; and



(v) The amount of any legal fees paid.

(B) Include copies of any written determinations made pursuant to section three-a of this article during the year.

(b) The Attorney General's annual report shall be posted on the Attorney General's website within thirty days of submitting the report to the Governor, President of the Senate and Speaker of the House and shall remain posted on the website for at least two years thereafter.

(c) Nothing in this section shall be considered to require the Attorney General to report or disclose any information protected by the attorney-client or other privilege.

The bill (Eng. Com. Sub. for H. B. 4007), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 278**, Clarifying physicians' mutual insurance company is not state or quasi-state actor.

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

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

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 4, 2016, he had approved **Enr. Senate Bill 364**.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Saturday, February 6, 2016, at 10 a.m.

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## SATURDAY, FEBRUARY 6, 2016

The Senate met at 10 a.m.

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

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael J. Romano, a senator from the twelfth district.

Pending the reading of the Journal of Friday, February 5, 2016,

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

The Clerk presented a communication from the Development Office, submitting its annual report of the Governor's Guaranteed Work Force Program as required by §5B-2D-6 of the Code of West Virginia.

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

The Senate proceeded to the third order of business.

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 32**, Relating to withdrawal of candidates for office and filling vacancies.

On motion of Senator Carmichael, 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, section eleven, line fourteen, after the word “elections” by inserting the words “*or nonpartisan elections held in conjunction with a primary election.*”;

On page two, section eleven, line eighteen, after the word “elections” by inserting the words “*or nonpartisan elections held in conjunction with a general election.*”;

On page four, section eighteen, line twenty-five, after the word “has” by inserting the word “timely”;

And,

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

**Eng. Senate Bill 32**—A Bill to amend and reenact §3-5-11, §3-5-18 and §3-5-19 of the Code of West Virginia, 1931, as amended, all relating to withdrawal of candidates for office and filling vacancies; requiring the Secretary of State to create a notarized statement of withdrawal form; setting certain deadlines for filing of notarized statement of withdrawal form in order to withdraw as a candidate and to have one’s name removed from ballot; setting deadline for when the Secretary of State shall certify names of general election candidates to counties; requiring the certification of names of candidates that are the nominee of the party following the filling of a vacancy; prohibiting certification of names of candidates who timely filed a notarized statement of withdrawal; clarifying the process for determining if candidate is disqualified; designating the proper filing officer; removing State Election Commission from the process of voluntary withdrawal of candidates; authorizing executive committee to replace candidate who files a timely notarized statement of withdrawal and whose name would have otherwise appeared on the general election ballot; and setting and adjusting certain deadlines.

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

Engrossed Senate Bill 32, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Boley—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. 32) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 32) 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 and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4244**—A Bill to amend and reenact §31C-2-6 of the Code of West Virginia, 1931, as amended, relating to eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia; requiring public notice to be given of application; setting forth requirements for the public notice; and providing for notice to banking institutions and credit unions when requested for in writing.

Referred to the Committee on Banking and Insurance.

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 4245**—A Bill to amend and reenact §31A-4-20 of the Code of West Virginia, 1931, as amended, relating to requirements for the review of the financial condition of state chartered banks; requiring the cashier or executive officer of a state banking institution to provide shareholders with the institution's most recent fiscal year audited financial statement; authorizing alternative delivery to shareholders and consolidated or combined statements; requiring that the board of directors of a bank, or its controlling bank holding company, appoint an outside independent auditing firm; eliminating the requirement that a bank transmit a copy of an audit report of its financial condition to the division of financial institutions; eliminating the approval required for a shareholder committee to utilize or employ registered or certified public accountants; and eliminating the division examiner's ability to require the presence of the examining committee or executive committee during an examination.

Referred to the Committee on Banking and Insurance.

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

**Senate Bill 7**, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

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

**Com. Sub. for Senate Bill 7** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7B-5 of said code, all relating to establishment of a wrongful conduct rule which applies when plaintiff's criminal conduct bars recovery; prohibiting recovery of damages for a defendant's negligence or gross negligence suffered as a result of a plaintiff's commission or attempted commission of a felony; requiring proximate cause for a bar on recovery; establishing burden of proof for wrongful conduct rule; providing for the applicability of wrongful conduct rule to all civil actions for personal injury and wrongful death, including any and all claims brought against a health care provider under the Medical Professional Liability Act; establishing that the 2016 amendments apply to all causes of action accruing on or after the effective date of those amendments; and applicability.

With the recommendation that the 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

**Eng. Com. Sub. for House Bill 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

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.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senator Ferns:**

**Senate Bill 531**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-3-103; and to amend and reenact §59-1-10 of said code, all relating to requiring each judicial circuit to have a court-appointed special advocate program and each county to have special advocate for children in abuse and neglect proceedings; raising price of certified copy of birth certificate, death certificate or marriage license from \$5 to \$11; and creating a fund within the State Treasury to pay for implementation and sustenance of court-appointed special advocate programs.

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

**By Senators Snyder, Romano, Facemire, Kessler, Kirkendoll, Laird, Miller, Prezioso, Yost, Stollings, Plymale and Williams:**

**Senate Bill 532**—A Bill to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating to surcharge on fire and casualty insurance policies for purpose of funding volunteer fire departments; and providing that surcharge be increased to one percent.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

**By Senators Snyder, Kirkendoll, Stollings and Unger:**

**Senate Bill 533**—A Bill to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended, all relating to changes in distribution of net terminal income, excess net terminal income and excess lottery fund.

Referred to the Committee on Finance.

**By Senators Trump, Kessler, Palumbo, Romano, Walters, Woelfel, Stollings, Plymale and Blair:**

**Senate Bill 534**—A Bill to amend and reenact §17C-5-2, §17C-5-4 and §17C-5-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-5A-1a, §17C-5A-2, §17C-5A-2a, §17C-5A-3 and §17C-5A-3a of said code; and to amend said code by adding thereto a new section, designated §17C-5C-6, all relating to the procedures for driver's license suspension and revocation in criminal proceedings for driving under the influence of alcohol, controlled substances or drugs (DUI); requiring that an individual arrested for DUI be given a written statement informing the individual of the legal consequences of taking or refusing to take a preliminary breath test and informing the individual of the right to receive a secondary blood test; requiring that, following an individual's refusal to take a preliminary breath test, an arresting officer execute a signed statement that the officer administered all required warnings; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's driver's license on the basis of DUI in the absence of a conviction or a court-ordered suspension or revocation; eliminating all statutory provisions authorizing or requiring the commissioner to require an individual to complete the Motor Vehicle Test and Lock program; including in the definition of "impaired state" the act of operating a vehicle with a blood concentration of five nanograms or more of delta 9-tetrahydrocannabinol; requiring revocation of an individual's driver's license following a conviction of DUI for operating a vehicle with a blood concentration of five nanograms or more of



delta 9-tetrahydrocannabinol; completely eliminating the Division of Motor Vehicle's administrative hearing process for suspending and revoking driver's licenses based on a DUI; creating a process by which an individual may notify the commissioner if his or her driver's license has been incorrectly suspended or revoked based on mistaken identity of the defendant in a transcript of judgment or conviction; requiring the commissioner to take corrective action if a driver's license is incorrectly suspended or revoked based on mistaken identity; completely transferring jurisdiction for suspension or revocation of a driver's license based on DUI to the court with jurisdiction over the criminal proceedings; requiring a court to suspend a defendant's driver's license pending criminal proceedings if the defendant submitted to an alcohol concentration test that revealed a certain level of impairment, committed certain prior offenses, was involved in an accident causing death or bodily injury, or refused to submit to a secondary chemical test; allowing a court to suspend a defendant's license upon a finding that the defendant would otherwise pose a risk of harm to others during the pendency of criminal proceedings; establishing the right to request and receive judicial review of driver's license suspension orders pending criminal proceedings; establishing the scope of review for judicial review of driver's license suspension orders; requiring a defendant to surrender his or her driver's license upon suspension by the court; requiring the clerk of a court to transmit a copy of an order suspending or revoking a driver's license; establishing procedures and a timeline for the Division of Motor Vehicles to transfer jurisdiction of driver's license suspension and revocation to the courts; and eliminating all statutory provisions authorizing or requiring the commissioner to prescribe the terms and conditions of driver's license reissuance following DUI.

Referred to the Committee on the Judiciary.

**By Senators Boso, Carmichael, Ferns, Maynard, Mullins, Trump, Plymale and Blair:**

**Senate Bill 535**—A Bill to amend and reenact §22-11-4 of the Code of West Virginia, 1931, as amended, relating to requiring the Secretary of the Department of Environmental Protection to undertake a review of rules and requirements to determine whether

they are more stringent than needed to satisfy the requirements of the federal Clean Water Act and to revise or repeal all requirements that do not meet that statutory mandate.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Mullins, Carmichael, Boso, Maynard, Trump and Plymale:**

**Senate Bill 536**—A Bill to amend chapter 64 of the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated article 12, relating to directing the Department of Environmental Protection to amend a current legislative rule relating to permits for construction, modification, relocation and operation of stationary sources of air pollutants.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Carmichael, Boso, Ferns, Gaunch, Maynard, Mullins, Palumbo, Trump and Plymale:**

**Senate Bill 537**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5F-1-2a, relating to requiring cabinet secretaries to review all rules under their jurisdiction similar to federal rules where state rules are more stringent than federal rules; and requiring reporting to the Joint Committee on Government and Finance within one year.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 538**—A Bill to amend and reenact §5B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §17A-2-6 of said code; and to amend and reenact §29-21-5 of said code, all relating to the salaries of appointed officers being fixed by Governor.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Carmichael:**

**Senate Bill 539**—A Bill to amend and reenact §54-2-14a of the Code of West Virginia, 1931, as amended, relating to condemnation proceedings; clarifying that near-surface minerals are part of the surface estate unless specifically granted to the mineral estate; and conforming certain language to accepted drafting standards.

Referred to the Committee on the Judiciary.

**By Senators Carmichael, Boso and Trump:**

**Senate Bill 540**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12B-11b, relating to providing civil immunity to company insurance adjusters employed by an insurer from personal liability for claims of unfair trade practices; and providing that the immunity does not exempt company adjusters from requirements or responsibilities as a licensed adjuster.

Referred to the Committee on the Judiciary.

**By Senators Ferns, Carmichael, Blair, Boso, Maynard, Mullins, Palumbo, Sypolt, Trump, Williams and Plymale:**

**Senate Bill 541**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29A-3C-1, §29A-3C-2, §29A-3C-3, §29A-3C-4, §29A-3C-5, §29A-3C-6 and §29A-3C-7, all relating to regulatory flexibility; and providing procedures to analyze availability of more flexible regulatory approaches for small businesses.

Referred to the Committee on Government Organization.

**By Senators Ferns, Carmichael and Gaunch:**

**Senate Bill 542**—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.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Carmichael, Blair, Boso, Ferns, Gaunch, Leonhardt, Mullins, Palumbo, Trump and Plymale:**

**Senate Bill 543**—A Bill to amend and reenact §29A-3-11 of the Code of West Virginia, 1931, as amended, relating to requiring agencies to submit additional information when it submits a proposed legislative rule to the Legislature for approval; requiring an economic impact statement to be submitted; requiring the economic impact statement include the names of those persons who participated in the drafting of the statement, including the time spent preparing the statement; requiring the agency to make available a lead author of the statement or other qualified representative of the agency to discuss the statement; requiring the objective of the rule be submitted; requiring statutory authority for the rule be submitted; requiring public comments be submitted; requiring written responses to public comments be submitted and whether the agency modified the proposed rule in response to the comments and, if not, the reasons why; requiring the Legislative Rule-Making Review Committee to review this code, federal statutes and rules and local rules to determine if the proposed rule overlaps or is duplicative of those statutes or rules; requiring the Legislative Rule-Making Review Committee to consider whether the proposed rule would be overly burdensome on business and industry; and setting forth some of the criteria the Legislative Rule-Making Review Committee is to consider when reviewing the proposed rule.

Referred to the Committee on Government Organization.

Senators Kirkendoll, Stollings, Plymale and Unger offered the following resolution:

**Senate Concurrent Resolution 25**—Requesting the Division of Highways to name bridge number 23-119/18-0.01 (23A141) (37.76693, 81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the “US Army PFC Cornelius Vance Memorial Bridge”.

Whereas, Cornelius Vance was born January 29, 1924, at Breeden, Wayne County, West Virginia, and later lived at Chauncey, Logan County, West Virginia; and

Whereas, Cornelius Vance served his country in World War II as an Army Private First Class, a member of the 5th Army, 15th Army Group, 85th Custer Division, 337th Infantry (Wolverines), Company B; and

Whereas, PFC Cornelius Vance fought in Rome-Arno, North Apennines and Po Valley Battles in Italy; and

Whereas, PFC Cornelius Vance was awarded the Purple Heart; three Bronze Stars; Good Conduct Medal; European, African and Middle Eastern Campaign Medals; World War II Victory Ribbon and an Honorable Service Lapel Button for his service during the war; and

Whereas, PFC Cornelius Vance was trained as an automatic rifleman and served in the Army's 85th Division as a scout and combat infantryman, taking part in the Anzio Beach landing; and assisting the British 8th Army and the U. S. Army 10th Mountain Division with driving the German forces out of the Apennine Mountains; and

Whereas, PFC Cornelius Vance was wounded from gunshot and was transferred to a hospital in Naples, Italy; and

Whereas, Following recovery from his wound, PFC Cornelius Vance was assigned to guard prisoner of war German General Anton Dostler, and escort him to surrender and be tried by a military tribunal, at which he was later sentenced to die by firing squad. General Dostler had previously ordered the execution of 15 American soldiers who were captured while attempting to set explosives in a tunnel. To complete his duty to deliver the general for official surrender and trial, at one point in the journey, PFC Cornelius Vance had to draw his weapon and threaten a crowd of Italians to keep them from killing the general and, at another point, had to protect the general from American soldiers who attempted to remove the general from the vehicle; and

Whereas, After being discharged from the Army December 6, 1945, PFC Cornelius Vance, along with his brothers Preston and Randolph, returned home from the war to Logan County; and

Whereas, Cornelius Vance married Bertie Lou DeHart of Pine Creek, in the Omar area of Logan County, made their home at Chauncey, and raised seven children: Gloria Jean; Carlene; Donnie; Ronnie; Randal and twins, Pamela and Carmela; and

Whereas, Cornelius Vance worked twenty-eight years as a coal miner and, following a disabling injury as a miner, became a cook and housekeeper at home to help raise his children, and enjoyed hunting, gardening, canning and being a Sunday School teacher at the Walnut Grove Free Will Baptist Church; and

Whereas, Cornelius Vance also helped remodel his church building, assisted the Beth Haven Christian School founded by his brother, the Rev. Preston Vance, and regularly volunteered to drive disabled and elderly neighbors to help them with shopping, banking, medical and other personal errands; and

Whereas, It is appropriate to honor this veteran who served well his country, his family and his community; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 23-119/18-0.01 (23A141) (37.76693, 81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the “US Army PFC Cornelius Vance Memorial Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “US Army PFC Cornelius Vance 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 Maynard, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 26**—Requesting the Division of Highways to name the bridge that traverses Hurricane Creek on U. S. Route 52, bridge number 50-52-21.27 (50A001), latitude 38.19237, longitude -82.59982, in Wayne County, originally called the Hubbardstown Bridge, the “Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge”.

Whereas, Charles Edward Ellis and Ira Virgil Ellis were brothers, born in Hubbardstown in Wayne County, West Virginia; and

Whereas, Charles and Ira served this country during WWII in the United States Army, in which each brother sacrificed his life. Charles was killed on December 30, 1943, and Ira was killed on March 23, 1945; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge that traverses Hurricane Creek on U. S. Route 52, bridge number 50-52-21.27 (50A001), latitude 38.19237, longitude -82.59982, in Wayne County, originally called the Hubbardstown Bridge, the “Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Herbert Wellman, Jr., Chairman of the Fort Gay Veterans Park.

Which, under the rules, lies over one day.

Senators Walters, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 27**—Requesting the Division of Highways to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the “Herman Daner Rogers Memorial Bridge”.

Whereas, Herman Daner Rogers was born in Kanawha County on February 8, 1924; and

Whereas, Herman Daner Rogers served this country during WWII as a PFC in the U. S. Army, being engaged in fierce combat in Normandy in Northern France and the Rhineland in Central Europe; and

Whereas, PFC Herman Daner Rogers displayed heroism and courage on various fields of battle upon which he served, including for action taken during a fourteen day attack resulting in the destruction of an entire German division for which an honor was bestowed upon him by U. S. Army Lieutenant General George Patton, Jr. Among the medals and honors he received for his service to this country are the Bronze Star Medal, the EAME Theater Ribbon with four Bronze Stars per, the American Theater Ribbon, the Good Conduct Ribbon, the World War II Victory Medal and Combat Infantry Badge. He later received the Jubilee of Liberty award from then-Congresswoman Shelley Moore Capito in 2001 for which he was extremely proud; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the “Herman Daner Rogers Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs



identifying the bridge as the “Herman Daner Rogers Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Drema K. Rogers Justice, the daughter of PFC Herman Daner Rogers.

Which, under the rules, lies over one day.

### **Petitions**

Senators Cline, Gaunch and Stollings, respectively, presented petitions from the Convention of States Action and numerous West Virginia residents, supporting an Article V convention to impose fiscal restraints, term limits and limitations on the power and jurisdiction of the federal government.

Referred to the Committee on the Judiciary.

Senator Stollings presented a petition from Ashley Ballard and three hundred eleven Boone County education employees, urging the Legislature to increase funding for the Public Employees Insurance Agency.

Referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 23**, Johnny Mack Bryant 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 24**, U. S. Army PFC Arland W. Hatcher Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 68**, Disallowing Health Care Authority to conduct rate review and set rates for hospitals.

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 68 pass?”

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

The nays were: Romano—1.

Absent: Boley—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. 68) 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 326**, Repeal and recodify law relating to contributing to delinquency of minor child.

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: Ashley, Beach, Blair, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt,

Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 326) 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 361**, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly.

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: Ashley, Beach, Blair, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Boley—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. 361) 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 4007**, Relating generally to appointment of attorneys to assist the Attorney General.

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 4007 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Miller and Romano—2.

Absent: Boley—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. 4007) 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 4007**—A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of attorneys to assist the Attorney General; authorizing the Attorney General to appoint special assistant attorneys general; establishing when special assistant attorneys general can be appointed; establishing competitive bidding process for the use of private attorneys on a contingency fee basis by the Attorney General; requiring written determinations for the Attorney General’s selection of private attorneys to represent the state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and the Attorney General; requiring appointed private attorneys to accept an award of attorney

fees in accordance with, and no greater than, the established fee limitations; establishing supervision requirements for private lawyers representing the state on a contingency fee basis; requiring the posting of certain documents relating to the Attorney General's retention of private attorneys to represent the state on a contingency fee basis; providing for the designation as a special assistant attorney general upon appointment; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; updating and removing outdated provisions; and defining terms.

*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 278,** Clarifying physicians' mutual insurance company is not state or quasi-state actor.

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.

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

**Com. Sub. for Senate Bill 6,** Requiring drug screening and testing of applicants for TANF program.

**Com. Sub. for Senate Bill 39,** Regulating off-road motorcycles within Hatfield-McCoy Recreation Area.

**Com. Sub. for Senate Bill 43,** Clarifying means of posting to prohibit hunting or trespassing.

**Com. Sub. for Senate Bill 309,** Relating to child-care center licensing and exempting county parks and recreation from licensure.

**Senate Bill 345**, Relating to parking on state-owned or leased property.

**Senate Bill 346**, Updating projects managed by Project Management Office.

**Senate Bill 349**, Updating meaning of federal adjusted gross income.

**Senate Bill 419**, Terminating taxes imposed under Workers' Compensation Debt Reduction Act of 2005.

And,

**Senate Bill 426**, Continuing Office of Coalfield Community Development.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Blair.

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

The Senate proceeded to the thirteenth order of business.

Senator Trump called attention to today being the birthday of Richie Novak, Senate Technical Support, and on behalf of the Senate extended felicitations and good wishes to Richie Novak.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Boley.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 8, 2016, at 11 a.m.

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## MONDAY, FEBRUARY 8, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Jesse Waggoner, Senior Pastor, Mount Calvary Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Saturday, February 6, 2016,

At the request of Senator Maynard, 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 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 116**, Increasing number of limited video lottery terminals allowed at retail location.

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

**Com. Sub. for Senate Bill 116** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-22B-1101 and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating to increasing the number of limited video lottery terminals allowed at retail locations; requiring Lottery Commission to conduct bid only open to current permit holders prior to September

1, 2016, for permits expiring June 30, 2021; establishing procedure for bid process; and setting commission's share of net terminal income at fifty percent effective July 1, 2016, regardless of average daily gross terminal income per terminal.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 341**, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue.

**Senate Bill 449**, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services.

**Senate Bill 450**, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health.

And,

**Senate Bill 451**, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs and Public Safety.

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

Respectfully submitted,

Mike Hall,  
*Chair.*



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

Your Committee on Education has had under consideration

**Senate Bill 373**, Granting full control of Board of Education regional education service agencies to state superintendent.

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

**Com. Sub. for Senate Bill 373** (originating in the Committee on Education)—A Bill to amend and reenact §18-2-26 of the Code of West Virginia, 1931, as amended, relating to regional education service agencies; modifying legislative vision in establishing agencies; changing name of regional councils to boards of directors; changing stated purpose of boards of directors to governing; requiring that board of directors membership provided by State Board of Education be nonvoting; providing for executive director to be selected by board of directors; requiring all of the executive director performance evaluation to be conducted by the board of directors; requiring that employment of other staff be with board of directors approval instead of State Board of Education approval; and removing obsolete agency employee protection provision.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

On motion of Senator Carmichael, the bill (Com. Sub. for S. B. 373) contained in the foregoing report from the Committee on Education 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  
**Senate Bill 378**, Relating to truancy intervention.

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

**Com. Sub. for Senate Bill 378** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §18-8-4 and §18-8-8 of the Code of West Virginia, 1931, as amended, all relating generally to truancy intervention; expanding the definition of excused absence; exempting absences for chronic medical condition or disability which may be reasonably accommodated by the school; requiring parent to request reasonable accommodation; defining “chronic medical condition or disability”; requiring written excuses or documentation from a medical provider in certain cases; limiting number of days which may be excused absences; defining “immediate family”; requiring verification of absence for judicial obligation or court appearance; allowing principal to authorize excused absences for other reason or for longer periods of time with the approval of the county superintendent; removing notice requirement after three days’ absence; requiring written excuses or documentation to be submitted within certain time frame; defining the term “reasonable accommodation”; and modifying the effect of student suspensions on enforcement of the provisions of compulsory attendance enforcement.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 432**, Relating to levies on classifications of property by Board of Public Works.

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,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 437**, Updating and clarifying code relating to rules governing mixed martial arts.

And,

**Senate Bill 509**, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Carmichael, Boso, Ferns, Gaunch, Maynard, Mullins, Palumbo, Trump, Blair and Plymale:**

**Senate Bill 544**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3-16a, relating to requiring all executive branch agencies to review all rules under their jurisdiction to compare them to federal rules; providing notice and comment period for all rules; and submitting reports.

Referred to the Committee on Government Organization.

**By Senator Boso:**

**Senate Bill 545**—A Bill to amend and reenact §16-32-2 and §16-32-11 of the Code of West Virginia, 1931, as amended, all relating to asbestos abatement on pipes.

Referred to the Committee on the Judiciary.

**By Senators Hall, Palumbo, Trump and Plymale:**

**Senate Bill 546**—A Bill to amend and reenact §29-21-2, §29-21-6, §29-21-8, §29-21-9 and §29-21-13a of the Code of West Virginia, 1931, as amended, all relating generally to Public Defender Services; transferring authority to review, approve, reduce or reject panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission of vouchers previously reduced or rejected; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to establish conflict public defender corporations and establishing criteria therefor; authorizing the Executive Director of Public Defender Services to contract for legal services or specialized legal services in any circuit; revising order of preference for the appointment of attorneys; and requiring panel attorneys to maintain time-keeping records on a daily basis.

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

**By Senators Gaunch, Carmichael and Cline:**

**Senate Bill 547**—A Bill to amend and reenact §46A-4-101 and §46A-4-107 of the Code of West Virginia, 1931, as amended, all relating to requirements for making consumer loans in West

Virginia; and adjusting limits on consumer loans in West Virginia for which certain finance charges can be imposed.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Snyder, Beach, Blair, Prezioso, Trump, Unger and Williams:**

**Senate Bill 548**—A Bill to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended, relating to the number of magistrates in Jefferson, Berkeley, Monongalia, Kanawha and Raleigh counties.

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

**By Senators Romano, Stollings, Boley, Kirkendoll, Laird, Miller, Plymale, Snyder, Sypolt and Williams:**

**Senate Bill 549**—A Bill to amend and reenact §18-5-18b of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-8 of said code, all relating to requiring school counselors in public schools to spend one hundred percent of their time on comprehensive school counseling programs; school counselor county funding ratio; allowing counties to set their own caseloads while requiring that counselors be equally distributed; and providing that counties with funding ratio better than three hundred fifty to one are not to be penalized.

Referred to the Committee on Education.

**By Senators Boso, Carmichael, Blair, Ferns, Gaunch, Maynard and Trump:**

**Senate Bill 550**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29A-8-1, §29A-8-2, §29A-8-3, §29A-8-4, §29A-8-5, §29A-8-6, §29A-8-7, §29A-8-8, §29A-8-9 and §29A-8-10, all relating generally to lessening regulatory burdens on small businesses; creating the Small Business Regulatory Review Board; establishing powers and duties of the board; establishing obligations of departments and agencies; requiring reports and analysis; establishing rule-making procedures; providing

injunctive relief; requiring notice of hearings; providing for review of existing rules; and defining terms.

Referred to the Committee on Government Organization.

**By Senators Karnes, Ashley, Blair, Maynard, Sypolt and Plymale:**

**Senate Bill 551**—A Bill to amend and reenact §20-2-42x of the Code of West Virginia, 1931, as amended, relating to allowing a person to purchase a Class XS resident senior hunting, fishing and trapping license at the beginning of the year he or she becomes sixty-five, if otherwise eligible.

Referred to the Committee on Natural Resources.

**By Senators Miller, Beach, Carmichael, Williams, Woelfel, Blair and Plymale:**

**Senate Bill 552**—A Bill to amend and reenact §52-1-17 of the Code of West Virginia, 1931, as amended, relating to eliminating provisions requiring sheriff to pay into the State Treasury all jury costs received from court clerks; and requiring that sheriff be held to account in the sheriff's annual settlement for all moneys.

Referred to the Committee on Government Organization.

**By Senator Trump:**

**Senate Bill 553**—A Bill to amend and reenact §33-2-21a of the Code of West Virginia, 1931, as amended, relating to the Volunteer Fire Department Workers' Compensation Subsidy Program and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; and providing for the merger of the purposes and provisions of the subsidy program and the subsidy fund in the state agency workers' compensation programs section of the code.

Referred to the Committee on Government Organization.

**By Senators Leonhardt, Trump, Walters, Takubo, Palumbo, Boso, Kessler, Stollings, Snyder, Kirkendoll, Unger, Miller, Laird, Plymale and Williams:**

**Senate Bill 554**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5 and §11-13DD-6, all relating to issuance of tax credits for land conservation.

Referred to the Committee on Finance.

**By Senators Carmichael, Gaunch and Plymale:**

**Senate Bill 555**—A Bill to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended, relating to providing whenever average wholesale price of motor fuel is less than \$2 per gallon, the tax on that fuel is increased by 5 cents.

Referred to the Committee on Finance.

**By Senator Walters:**

**Senate Bill 556**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-12-9, relating to providing owner of conservation easement be given the right of first refusal to purchase the land upon which it enjoys a conservation easement when a landowner intends to sell land upon which the easement exists.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Plymale and Williams:**

**Senate Bill 557**—A Bill to amend and reenact §17-27-9 of the Code of West Virginia, 1931, as amended, relating to eliminating sunset on Division of Highways public-private partnership agreements.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 558**—A Bill to amend and reenact §21A-8-10 and §21A-8-16 of the Code of West Virginia, 1931, as amended, all relating to maintaining the solvency of the Unemployment Compensation Fund; providing a mechanism for the Governor to borrow funds from the Revenue Shortfall Reserve Fund for a limited period and deposit those funds into the Unemployment

Compensation Fund if the balance of the Unemployment Compensation Fund drops below \$50 million; providing that borrowed funds may only be used to pay benefits; providing that no amount borrowed may exceed \$50 million; and providing for repayment of borrowed amounts.

Referred to the Committee on Finance.

Senators Kirkendoll, Unger, Plymale and Stollings offered the following resolution:

**Senate Concurrent Resolution 28**—Requesting the Division of Highways to name bridge number 30-52/26-0.01 (30A081) (37.65255, -82.06172) locally known as Musick Box Beam, carrying County Route 52/26 over Pigeon Creek on Musick Bottom Road in Mingo County, the “U. S. Marine Corps CPL Ronald ‘Duke’ Varney Memorial Bridge”.

Whereas, Ronald J. Varney “Duke” was born on April 15, 1950. He spent his childhood in Varney, West Virginia, where he attended Red Jacket High School. At the age of seventeen he voluntarily enlisted in the United States Marine Corps where he defended his country as a Corporal in the Vietnam War. In May of 1972, he married Penny White, of Lenore, West Virginia, and they had three children, Kimberly, Kelly and Michael Varney. He also had seven grandchildren, Amber Rasnake, Ronnisue Justice, McKenzie Goff, Tori Varney, Kylee Varney, Waylon Parker Varney, Kelsey Stogsdill and one great-grandson, Noah Michael Rasnake. He passed away in February, 2004, from cancer as a result of Agent Orange. He was a very loving and dedicated father who worked hard for his family. He was a retired coal miner who lived in Mingo County for fifty-four years. “Duke” was a friend to so many people and never failed to help anyone in need. He is sadly missed and sweetly remembered by all who had the pleasure of knowing him; and

Whereas, Naming bridge number 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the “U. S. Marine Corps CPL Ronald ‘Duke’ Varney Memorial



Bridge” is an appropriate recognition of his contributions to his country, state, community and Mingo County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 30-52/26-0.01 (30A081) (37.65255, -82.06172) locally known as Musick Box Beam, carrying County Route 52/26 over Pigeon Creek on Musick Bottom Road in Mingo County, the “U. S. Marine Corps CPL Ronald ‘Duke’ Varney Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Marine Corps CPL Ronald ‘Duke’ Varney 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 Secretary of the Department of Transportation and the surviving wife and children of CPL Ronald ‘Duke’ Varney and their families.

Which, under the rules, lies over one day.

### **Petitions**

Senator Boso presented a petition from the Convention of States Action and one hundred twenty-one eleventh senatorial district residents, supporting an Article V convention to impose fiscal restraints, term limits and limitations on the power and jurisdiction of the federal government.

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 25**, US Army PFC Cornelius Vance 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 26**, Charles Edward Ellis and Ira Virgil Ellis 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 27**, Herman Daner Rogers Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 278**, Clarifying physicians' mutual insurance company is not state or quasi-state actor.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 278) 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 6**, Requiring drug screening and testing of applicants for TANF program.

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 six, section six, after subsection (q), by adding a new subsection, designated subsection (r), to read as follows:

(r) For the purposes of the pilot program contained in this section, pursuant to the authority and option granted by 21 U. S. C. §862a(d)(1)(A) to the states, West Virginia hereby exempts all persons domiciled within the state from the application of 21 U. S. C. §862a(a).

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

On page one, section six, lines four and five, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

(2) “Board of Review” means the board established in subdivision (2), section six, article two, chapter nine of this code.

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

**Com. Sub. for Senate Bill 39**, Regulating off-road motorcycles within Hatfield-McCoy Recreation 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 43**, Clarifying means of posting to prohibit hunting or trespassing.

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 309**, Relating to child-care center licensing and exempting county parks and recreation from licensure.

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

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

On page two, section one hundred thirteen, line thirty-three, after the word “organization” by inserting the words “or is operated by a county parks and recreation commission, boards and municipalities”;

On page two, section one hundred thirteen, line thirty-six, after the word “performs” by inserting the words “state and federal”;

On page two, section one hundred thirteen, line thirty-seven, after the word “service” by inserting the words “except for programs operated by county parks and recreation commissions, boards and municipalities”;

On page two, section one hundred thirteen, line thirty-eight, after the word “place”, by changing the semicolon to a period and striking out the word “and”;

And,

On page two, section one hundred thirteen, line thirty-nine, by striking out all of subdivision (9).

The bill (Com. Sub. for S. B. 309), as amended, was then ordered to engrossment and third reading.

**Senate Bill 345**, Relating to parking on state-owned or leased property.

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

**Senate Bill 346**, Updating projects managed by Project Management Office.

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

**Senate Bill 349**, Updating meaning of federal adjusted gross income.

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

**Senate Bill 419**, Terminating taxes imposed under Workers' Compensation Debt Reduction Act of 2005.

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

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

**Senate Bill 426**, Continuing Office of Coalfield Community Development.

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.

**Com. Sub. for Senate Bill 7**, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

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

**Eng. Com. Sub. for House Bill 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Woelfel.

Thereafter, at the request of Senator Snyder, and by unanimous consent, the remarks by Senator Woelfel were ordered printed in the Appendix to the Journal.

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.

At the request of Senator Plymale, the name of Senator Plymale was removed as a sponsor of **Senate Bill 492** (*Allowing Superintendent of State Police establish fee schedule for forensic services*).

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 9, 2016, at 11 a.m.

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## TUESDAY, FEBRUARY 9, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Jim Walther, Jr., St. Andrew Presbyterian Church, Pinch, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ronald F. Miller, a senator from the tenth district.

Pending the reading of the Journal of Monday, February 8, 2016,

At the request of Senator Ashley, 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 a communication from the Court of Claims, submitting its annual report as required by §14-2-25 of the Code of West Virginia.

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

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, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 342**, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services.

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

**Eng. Senate Bill 357**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund.

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

**Eng. Senate Bill 360**, Supplemental appropriation to Division of Human 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. Com. Sub. for House Bill 2101**, Eliminating obsolete government entities.

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 2366**—A Bill to amend and reenact §61-3C-14b of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8A-4 of said code, all relating generally to the solicitation of minors; clarifying the law pertaining to the use of a computer to solicit a minor; creating a new felony offense of soliciting a minor through use of a computer and committing any overt act designed to bringing himself or herself within the physical presence of the minor to engage in prohibited sexual activity with the minor; establishing penalties; establishing the offense as a lesser included crime; and prohibiting the use or distribution of obscene materials by an adult to solicit or seduce a person who is known or believed to be a minor at least four years younger than the adult for unlawful sexual activity.

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 2511**—A Bill to amend and reenact §33-15-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §33-15F-1, §33-15F-2 and §33-15F-3; and to amend and reenact §33-16-1 of said code, all relating to creating the “Health Care Sharing Ministries Freedom to Share Act;” exempting health care sharing ministries from state statutory requirements of individual and group accident and health insurance policies; setting forth the conditions that must be met; providing a short title; and defining a term.



Referred to the Committee on Banking and Insurance.

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 4145**—A Bill to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code; and to amend said code by adding thereto two new sections, designated §61-7-4a and §61-7-15a, all relating to carry or use of a handgun or deadly weapon; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization applies only to persons under twenty-one years of age and prohibited persons; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; permitting persons eighteen years and older to obtain a concealed carry permit; requiring actual live firing of ammunition in training; requiring an applicant for a concealed carry permit to provide a copy of instructor's certification; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs' Bureau of Professional Standards, prepare uniform applications for licenses and license cards; entitling a person who is granted a license and pays fees under Chapter 61, Article 7 after the effective date of §61-7-4 to a tax credit equal to the amount actually paid not to exceed \$100; creating a provisional license to carry concealed deadly weapons for persons between eighteen and twenty-one years of age; establishing provisional license application requirements and procedures; exempting members of the United States Armed Forces, Reserve or National Guard from permit requirements; permitting prosecuting attorneys, assistant prosecuting attorneys or investigators employed by a prosecuting attorney to elect to carry a concealed firearm pursuant to the federal Law Enforcement Officers Safety Act; eliminating the requirement for persons twenty-one years of age and older to possess a permit to carry a concealed deadly weapon provided that

certain conditions are met, including being a United States citizen or legal resident, being twenty-one years of age or older and not prohibited from possessing firearms; providing that a person who displays a valid photo identification or concealed weapon permit may not be unreasonably detained for purposes of verifying whether that person is a prohibited person; requiring a school principal to report certain violations to the State Police; and permitting private schools written policies to govern whether a person may possess a firearm or other deadly weapon in or on a private primary or secondary education building, structure or facility; providing enhanced penalties for use of a firearm during the planning or commission of a felony; and excepting enhanced penalties in certain circumstances when a firearm is used in defense of self or others.

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 4163**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto four new sections, designated §8-13-24, §8-13-25, §8-13-26 and §8-13-27, all relating to providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

Referred to the Committee on Government Organization.

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 8th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 1), Establishing WV Workplace Freedom Act.

And,

(H. B. 4005), Repealing prevailing hourly rate of wages requirements.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*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 73**, Creating felony crime of knowingly leaving scene of crash resulting in serious bodily injury.

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

**Com. Sub. for Senate Bill 73** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-4-1 of the Code of West Virginia, 1931, as amended, relating to crashes involving death or physical injuries; creating crimes of leaving scene of a crash resulting in serious bodily injury and leaving the scene of a crash; defining terms; clarifying knowledge requirement; and providing criminal penalties of fine and imprisonment.

And,

**Senate Bill 465**, Allowing professional employer insure certain risks through pure insurance captive.

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

**Com. Sub. for Senate Bill 465** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §33-31-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-46A-9 of said code, all relating to allowing professional employer organizations to insure certain risks through an insurance captive; establishing that professional employer organizations holding the appropriate license may insure its risks for insurance for accident and sickness as defined in current code; providing that such coverage for all employees and covered employees may be through a captive insurance company; eliminating prohibition against professional employer organizations offering or establishing self-funding health plans; providing that professional employer organizations can offer plans not fully insured by authorized insurers so long as the plan complies with current code requirements; clarifying that all employees covered by a professional employer organization's health benefit plan shall be considered employees of the professional employer organization; and clarifying that health benefit plans offered under this provision shall be treated as a single employer welfare benefit plan.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, 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 394**, Creating felony crime of prohibited sexual contact by psychotherapist.

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

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

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

Senator Gaunch, 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 429**, Adopting National Association of Insurance Commissioners' model.

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

**Com. Sub. for Senate Bill 429** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §33-24-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-25-6 of said code; to amend and reenact §33-25A-24 of said code; to amend and reenact §33-25D-26 of said code; to amend and reenact §33-40-1, §33-40-2, §33-40-3, §33-40-6 and §33-40-7 of said code; and to amend said code by adding thereto a new article, designated §33-40A-1, §33-40A-2, §33-40A-3, §33-40A-4, §33-40A-5, §33-40A-6, §33-40A-7, §33-40A-8, §33-40A-9, §33-40A-10, §33-40A-11 and §33-40A-12, all relating to risk-based capital; making health organizations subject to statutory provisions concerning risk-based capital reporting; defining terms associated with risk-based capital reporting for health organizations; requiring health organizations to file risk-based capital reports with Insurance Commissioner; requiring health organizations to perform certain actions if risk-based capital report indicates a negative financial trend or hazardous financial condition; requiring Insurance Commissioner to conduct certain actions if risk-based capital report of a health organization indicates negative financial trend or hazardous financial condition; providing health organization right to a confidential hearing with respect to

certain notifications; specifying confidential and privileged nature of risk-based capital reports and plans and related matters; prohibiting use of risk-based capital reports in ratemaking of a health organization; granting Insurance Commissioner authority to propose rules for legislative approval; providing immunity to Insurance Commissioner and his employees and agents for actions taken with respect to monitoring the financial stability of a health organization; and changing the definition of “company action level event” for a life and health insurer.

**Senate Bill 501**, Making technical corrections to WV Uniform Trust Code dealing with trusts.

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

**Com. Sub. for Senate Bill 501** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §38-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-1-103 and §44D-1-107 of said code; to amend said code by adding thereto a new section, designated §44D-1-113; to amend and reenact §44D-3-303 of said code; to amend and reenact §44D-4-403, §44D-4-405, §44D-4-409 and §44D-4-414 of said code; to amend and reenact §44D-5-505 of said code; to amend and reenact §44D-6-604 of said code; and to amend and reenact §44D-8-817 of said code, all relating generally to trusts and their administration; and making clarifications, technical improvements and updates.

And,

**Senate Bill 517**, Clarifying PEIA plans are exempt from regulation by Insurance Commissioner.

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

**Com. Sub. for Senate Bill 517** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended, relating to Public Employees Insurance Agency; clarifying that plans

established and administered by Public Employees Insurance Agency are exempt from regulation by Insurance Commissioner unless specifically stated otherwise; and providing that Public Employees Insurance Agency is not an insurer or in the business of insurance.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

Senator Gaunch, 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 468**, Allowing lender to charge and receive interest on rescindable loan during rescission period.

And,

**Senate Bill 472**, Providing communication by lender or debt collector is not violation of WV Computer Crime and Abuse Act.

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,

C. Edward Gaunch,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 469**, Clarifying what personal funds are exempt from levy following judgment.

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 Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 524**, Relating to Board of Barbers and Cosmetologists.

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

**Com. Sub. for Senate Bill 524** (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-27-1, §30-27-3, §30-27-4, §30-27-5, §30-27-8, §30-27-8a, §30-27-9, §30-27-10, §30-27-11, §30-27-12, §30-27-13, §30-27-14, §30-27-16, §30-27-17, §30-27-18 and §30-27-19 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-27-8b, all relating to the Board of Barbers and Cosmetologists; providing jurisdiction to the board over hairstyling, makeup, waxing and shampoo assisting; amending definitions and providing for required clock hours of training; licensing of schools or programs by the Department of Education; composition of the board; requiring examinations meet national standards; requiring licensed schools have one chair per student; on-site and temporary services; barber apprentice program; requirements to sponsor a barber apprentice; providing for certification; certification of waxing specialists and make-up



artists; reciprocity standards; continuing education requirements; instructor certification; and eliminating biennial license renewal.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bill was introduced, read by its title, and referred to the appropriate committee:

**By Senator Yost, Kessler, Unger and Ferns:**

**Senate Bill 559**—A Bill supplementing, amending line items and transferring between items of the existing appropriations of Lottery Net Profits from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the Bureau of Senior Services - Lottery Senior Citizens Fund, fund 5405, fiscal year 2016, to line 15a, dedicated to the Greater Weirton Area Senior Center, by supplementing, amending and transferring the appropriations for the fiscal year ending June 30, 2016.

Referred to the Committee on Finance.

Senators Miller, Facemire, Leonhardt, Plymale, Williams and Laird offered the following resolution:

**Senate Resolution 26**—Recognizing Bryan Humphreys for distinction and professionalism as West Virginia's Outstanding Logger.

Whereas, Bryan Humphreys, owner of B. T. Humphreys Logging, is a board member of the West Virginia Forestry Association (WVFA), a member of the West Virginia Loggers Council and the 2014 WVFA Logger of the Year; and

Whereas, Safety is a top priority at B. T. Humphreys Logging and crew members receive proper training and are all West Virginia Certified Loggers; and

Whereas, B. T. Humphreys Logging's attention to detail in application of Best Management Practices, reclamation work and resource utilization is of the utmost importance to B. T. Humphreys Logging in the company's effort to protect and sustain resources for future generations; and

Whereas, In thirteen years of business, B. T. Humphreys Logging has never had a Best Management Practice compliance citation, as the company takes every precaution when harvesting sites; and

Whereas, Bryan Humphreys, for his excellence in logging, was named the 2015 Forest Resources Association's Appalachian Region Outstanding Logger of the Year; and

Whereas, Bryan Humphreys has displayed excellence in his industry and dedicated public service to his community and is a shining example to all West Virginians of what can be accomplished with hard work, dedication and spirit; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Bryan Humphreys for distinction and professionalism as West Virginia's Outstanding Logger; and, be it

*Further Resolved,* That the Senate congratulates Bryan Humphreys for being named the 2015 Forest Resources Association's Appalachian Region Outstanding Logger of the Year; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Bryan Humphreys.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Kessler, Leonhardt, Beach, Williams and Laird offered the following resolution:

**Senate Resolution 27**—Designating February 9, 2016, as Fairness West Virginia Day at the Legislature.

Whereas, Fairness West Virginia is a statewide civil rights advocacy organization dedicated to the fair treatment and civil rights of lesbian, gay, bisexual and transgender West Virginians; and

Whereas, Fairness West Virginia works to ensure lesbian, gay, bisexual and transgender West Virginians can be open, honest and safe at home, work and in the community; and

Whereas, Fairness West Virginia works to promote diversity in West Virginia; and

Whereas, There are 57,000 lesbian, gay, bisexual and transgender West Virginians living, working and raising families in the Mountain State; and

Whereas, The Senate invites all members of the West Virginia Legislature and all citizens of West Virginia to join in recognizing the value and importance of lesbian, gay, bisexual and transgender West Virginians; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 9, 2016, as Fairness West Virginia Day at the Legislature; and, be it

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

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Karnes, Plymale, Williams and Kessler offered the following resolution:

**Senate Resolution 28**—Designating February 9, 2016, as Forestry Day at the Legislature.

Whereas, The West Virginia Division of Forestry created the “Loggers of Excellence” program as a recognition initiative designed and implemented to place positive emphasis on those professional loggers who go above and beyond industry standards during a given calendar year; and

Whereas, Professional loggers must qualify for the following minimum criteria on an annual basis: The company must maintain a valid timber license for the entire year; must be in compliance with the laws of the state, specifically referring to their business license, workers’ compensation and unemployment compensation; must receive no orders for noncompliance from the Division of Forestry; and must be a professional logger who has harvested at least 100 acres during the year; and

Whereas, Professional loggers are the keystone for the entire forest products industry which provides tremendous economic benefit to the state; and

Whereas, In 2015, one hundred eighty-one professional loggers exceeded these standards and twenty-seven of those exceeded these

standards for five consecutive calendar years, from 2011 through 2015; and

Whereas, Forest management and sustainability is impossible without the efforts of professional loggers; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 9, 2016, as Forestry Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials representing the Division of Forestry.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Ferns, Plymale, Williams, Beach, Kessler and Laird offered the following resolution:

**Senate Resolution 29**—Designating February 9, 2016, as Women’s and Girls’ Day at the Legislature.

Whereas, The West Virginia Women’s Commission is celebrating nearly four decades of promoting the status and empowerment of all West Virginia women through advocacy, research, education and consensus building; and

Whereas, The West Virginia Women’s Commission strives to foster women’s economic, political, educational and social development, to ensure their full participation in society and to recognize their achievements; and

Whereas, The West Virginia Women's Commission has continued its history of honoring women across the state through programs such as Celebrating a Legacy of Women in Public Service during Women's History Month, educating women and legislators during their Annual Women's Day at the Legislature, completing an annual policy statement highlighting legislation of importance to women and families and by recognizing the Annual Women's Equality Day Celebration commemorating the passage of the 19th amendment; and

Whereas, Through the West Virginia Women's Commission's programs and collaborations with partner organizations, women have the opportunity to participate in learning experiences through workshops focused on citizen advocacy; and

Whereas, West Virginia citizens are proud of the accomplishments and achievements of women in our state, both in the private and public sectors and appreciates their many contributions to our communities as they continue to advance in leadership roles in our society; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 9, 2016, as Women's and Girls' Day at the Legislature; and, be it

*Further Resolved,* That the Senate expresses its sincere appreciation to women for the many contributions they make to the state of West Virginia in all facets of our society; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Women's Commission.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Concurrent Resolution 28**, U.S. Marine Corps CPL Ronald “Duke” Varney Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 6**, Requiring drug screening and testing of applicants for TANF program.

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 6 pass?”

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

The nays were: Kessler and Laird—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. 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 39**, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area.

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 39 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 39) 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 43**, Clarifying means of posting to prohibit hunting or trespassing.

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 43 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall,



Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 43) 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 309**, Relating to child-care center licensing and exempting county parks and recreation from licensure.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 309) 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 345**, Relating to parking on state-owned or leased 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 345) 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 346**, Updating projects managed by Project Management Office.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 346) 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 349**, Updating meaning of federal adjusted gross income.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 349) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 349) 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 426,** Continuing Office of Coalfield Community Development.

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 426 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 426) 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 7,** Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

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

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

**Senate Bill 419**, Terminating taxes imposed under Workers' Compensation Debt Reduction Act of 2005.

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

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

**Eng. Com. Sub. for House Bill 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

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:

That §29B-1-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

## **ARTICLE 1. PUBLIC RECORDS.**

### **§29B-1-4. Exemptions.**

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under the provisions of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation

of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

(4) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body; ;

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications and network security records, passwords, security codes or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests or the results of those tests;

(15) Architectural or infrastructure designs, maps or other records that show the location or layout of the facilities where computing, telecommunications or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers and individual customers, consistent with 47 U. S. C. §222; ~~and~~

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility, or to cause injury to another inmate, resident or to facility personnel; ;

(20) Information related to applications under section four, article seven, chapter sixty-one of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided:* That information in the aggregate that does not identify any permit holder other than by county or municipality is not exempted: *Provided, however,* That information or other records exempted under this subdivision may be disclosed to a law enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes; and

(21) Personal information of employees of a public body maintained by the public body in the ordinary course of the employer-employee relationship. As used in this paragraph, "personal information" means an employee's social security number, health information, home address, personal address, personal telephone numbers and personal email addresses and



those of his or her spouse, parents and children as well as the names of the employee's spouse, parents and children.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term "terrorist act" means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.

The bill (Eng. Com. Sub. for H. B. 2800), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 116**, Increasing number of limited video lottery terminals allowed at retail location.

**Senate Bill 341**, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue.

**Com. Sub. for Senate Bill 378**, Relating to truancy intervention.

**Senate Bill 437**, Updating and clarifying code relating to rules governing mixed martial arts.

**Senate Bill 449**, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services.

**Senate Bill 450**, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health.

**Senate Bill 451**, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs and Public Safety.

And,

**Senate Bill 509**, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Trump, Plymale, Blair and Snyder.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senators Trump and Plymale were ordered printed in the Appendix to the Journal.

At the request of Senator Snyder, unanimous consent being granted, the remarks by Senator Blair were ordered printed in the Appendix to the Journal.

At the request of Senator Blair, and by unanimous consent, the remarks by Senator Snyder were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 10, 2016, at 11 a.m.

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## WEDNESDAY, FEBRUARY 10, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Dr. William McCoy, First Presbyterian Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jack Yost, a senator from the first district.

Pending the reading of the Journal of Tuesday, February 9, 2016,

At the request of Senator Leonhardt, 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 amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4007**, Relating generally to appointment of attorneys to assist the Attorney General.

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 4186**—A Bill to amend and reenact §29A-1-3 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §24A-2-2b, all relating to the Public Service Commission; establishing a complaint review process; setting forth burden of

proof on carrier; developing a process for aggrieved parties to recover charges; establishing factors for commission to consider whether charges are fair, just, and reasonable; providing commission authority to establish civil penalties for violations; prohibiting indemnification in certain instances; requiring carriers to list rates on invoices; authorizing commission to suspend or revoke operating authority; providing limited rule-making authority to the commission; providing for sunseting the rule unless reauthorized; and providing for a legislative audit.

Referred to the Committee on Government Organization.

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 9th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. 32)**, Relating to withdrawal of candidates for office and filling vacancies.

And,

**(Com. Sub. for H. B. 2101)**, Eliminating obsolete government entities.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*

John B. McCuskey,  
*Chair, House Committee.*

Senator Ferns, 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 50**, Clarifying certain nonprofit-owned hospitals may have only one governing body.

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,

Ryan J. Ferns,  
*Chair.*

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

Senator Walters, 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 94**, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection 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 Government Organization.

Respectfully submitted,

Chris Walters,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill 299**, Creating Library Facilities Improvement Fund.

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,

Dave Sypolt,  
*Chair.*

At the request of Senator Hall, 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 Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 321**, Providing more equitable disbursement of funds to county boards to lessen impact of serving special needs students.

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

**Com. Sub. for Senate Bill 321** (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 §18-9A-13, relating to adding an amount to the appropriation for serving exceptional students with high-cost/high-acuity special needs that is based on the reduction in net enrollment multiplied by the average net state aid per pupil for the preceding school year; limiting the amount added; and providing for disbursement of amount added.

With the recommendation that the committee substitute do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

On motion of Senator Sypolt, the bill (Com. Sub. for S. B. 321) contained in the foregoing report from the Committee on Education was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 403**, Relating to cooperative extension workers.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Ferns, 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 404**, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases.

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

**Com. Sub. for Senate Bill 404** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §16-3C-2a and §16-3C-2b; and to amend and reenact §16-4-19 of said code, all relating to testing for HIV and sexually transmitted diseases; authorizing billing of persons for HIV and sexually transmitted disease testing or sexually transmitted disease treatment done by state or local public health agencies; informing persons who wish to opt out of HIV-related testing that anonymous testing is available; authorizing magistrate and circuit courts to order testing of persons accused of certain sex crimes; requiring prosecuting attorneys to file motion for testing upon request of victim or victim's parent or guardian; establishing a time frame for mandatory testing; providing for follow-up HIV-related testing as medically appropriate; providing that costs associated with testing may be borne by the state when the defendant or juvenile respondent is financially unable to pay; authorizing billing of a defendant's or juvenile respondent's health insurance provider; requiring testing of juveniles adjudicated of certain sex crimes; removing counseling requirement; removing exemption for providers regulated by Insurance Commissioner; removing limitation on amount that can be charged for medication used to treat sexually transmitted diseases; and removing archaic language related to testing of sexually transmitted diseases.

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,

Ryan J. Ferns,  
*Chair.*

At the request of Senator Hall, 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 Health and Human Resources.



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

Your Committee on Education has had under consideration

**Senate Bill 459**, Requiring county board of education to pay tuition to Mountaineer Challenge Academy.

And,

**Senate Bill 483**, Marshall County LSIC waiver.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 522**, Relating to public service districts.

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

**Com. Sub. for Senate Bill 522** (originating in the Committee on Government Organization)—A Bill to amend and reenact §24-2-2 of the Code of West Virginia, 1931, as amended, relating generally to public service districts; and prohibiting shifting future development costs onto existing public service district customers.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 558**, Maintaining solvency of Unemployment Compensation Fund.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Walters, 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 3**, Julian, Earl and Edward Hill Brothers Memorial Bridge.

**Senate Concurrent Resolution 6**, USMC PFC Marshall Lee King Memorial Bridge.

**Senate Concurrent Resolution 8**, US Army PFC Ernest D. Marcum Bridge.

**Senate Concurrent Resolution 9**, US Army First Sergeant Jesse T. McPeake Memorial Road.

**Senate Concurrent Resolution 11**, US Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge.

**Senate Concurrent Resolution 12**, Wayne County Veterans Memorial Highway.

**Senate Concurrent Resolution 13**, Tom Williams Family Bridge.

**Senate Concurrent Resolution 14**, US Marine Corps PFC Billy Joe Vickers Memorial Bridge.

And,

**Senate Concurrent Resolution 15**, US Army SFC Jesse Muncy Memorial Bridge.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (S. C. R. 3, 6, 8, 9, 11, 12, 13, 14 and 15) 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 Walters, 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**, Charles Edward Smith Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 17** (originating in the Committee on Transportation and Infrastructure)–

Requesting Division of Highways name bridge that intersects Millers Fork on County Route 17, located 0.01 mile south of County Route 22 in Wayne County, bridge number 50-17-3.93 (50A026), latitude +38.26346, longitude -82.38322, originally known as the Millers Fork Bridge, the “U. S. Army Sergeant Charles Edward Smith Memorial Bridge”.

Whereas, Charles Edward Smith was born on October 24, 1921; and

Whereas, Charles Edward Smith, who served in the United States Army during World War II, received the Purple Heart, Good Conduct Medal and Eastern Service Ribbon as the result of the courage he displayed in battle, serving in the Ardennes in Northern France and being wounded in combat on December 30, 1944, in Belgium; and

Whereas, Charles Edward Smith passed away on April 6, 2013; and

Whereas, It is fitting and proper to memorialize the courageous and honorable actions committed on behalf of this country by Charles Edward Smith; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name the bridge that that intersects Millers Fork on County Route 17, located 0.01 mile south of County Route 22 in Wayne County, bridge number 50-17-3.93 (50A026), latitude +38.26346, longitude -82.38322, originally known as the Millers Fork Bridge, the “U. S. Army Sergeant Charles Edward Smith 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 Sergeant Charles Edward Smith Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the Wayne County Veterans’ Association.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the resolution (Com. Sub. for S. C. R. 17) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

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 sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Carmichael, Ashley, Ferns, Palumbo, Plymale, Prezioso, Trump, Walters, Woelfel, Blair and Stollings:**

**Senate Bill 560**—A Bill to amend and reenact §15-5-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-2A-1, §29-2A-3 and §29-2A-20 of said code; and to amend said code by adding thereto a new section, designated §29-2A-15, all relating to operation of an unmanned aircraft system; providing exceptions; providing criminal penalties of fine and imprisonment for such unlawful operation of an unmanned aircraft system; providing for joint rule-making and enforcement authority by the Division of Homeland Security and Emergency Management and the state Aeronautics Commission over such unlawful operation of an unmanned aircraft system relating to prohibiting the use of unmanned aircraft; and providing exceptions.

Referred to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill 561**—A Bill to amend and reenact §33-16B-1, §33-16B-2 and §33-16B-4 of the Code of West Virginia, 1931, as amended, all relating to setting rates for accident and sickness insurance; setting procedures for filing and approval of rates by the Insurance Commissioner; providing for a mechanism to reduce rates based upon the amount of reserves maintained by the insurer; setting forth timelines for approval of rates; allowing the Insurance Commissioner to disapprove rates; requiring notice; setting out rate-making standards; and authorizing rulemaking by the Insurance Commissioner.

Referred to the Committee on Health and Human Resources.

**By Senator Snyder:**

**Senate Bill 562**—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; providing for source market fees; providing for the distribution of those fees from wagers made by account holders located within West Virginia but not within thirty miles of any licensed racing association, for distribution of those fees from wagers made by account holders located within thirty miles of a licensed racing association and for distribution of those fees from wagers made by account holders located within thirty miles of two or more licensed racing associations; providing for regulatory authority in the Racing Commission over advance deposit wagering; providing for the assessment and imposition of regulatory fees and taxes on advance deposit wagering licensees' wagering in West Virginia and for the distribution of the fees and taxes; prohibiting advance deposit wagering in West Virginia unless conducted through an advance deposit wagering licensee or as otherwise provided by law; providing that all advance deposit wagers placed by residents or nonresidents within the state are considered to be wagering within West Virginia subject to the laws of this state and rules of the Racing Commission; authorizing rulemaking; and defining terms.

Referred to the Committee on Finance.

**By Senators Gaunch, Blair, Leonhardt, Plymale and Walters:**

**Senate Bill 563**—A Bill to amend and reenact §16-5V-2 of the Code of West Virginia, 1931, as amended, relating to definition of “accrued benefit” as it applies to West Virginia Emergency Medical Services Retirement System; and increasing retirement benefit multiplier for members with more than twenty-five years of credited service.

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

**By Senators Boso, Ashley, Carmichael, Mullins and Sypolt:**

**Senate Bill 564**—A Bill to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating to restricting the Oil and Gas Conservation Commission’s authority to regulate setback and spacing between deep wells; prohibiting the commission from establishing spacing restrictions on wells that are operated by the same operator; limiting setbacks from unit boundaries between different operators; limiting the spacing between the wells of different operators; and, to the extent spacing and setback limits are controlled by the commission, limiting the distances that may be established to only those between the producing portions of horizontal wells, not the entire well bore.

Referred to the Committee on Energy, Industry and Mining.

**By Senators Boso and Walters:**

**Senate Bill 565**—A Bill to amend and reenact §22-6A-7 of the Code of West Virginia, 1931, as amended, relating to allowing well pad and road construction for oil and gas activities that are done pursuant to a storm water permit; and clarifying that the requirements of the section apply only to well work permits and not storm water permits.

Referred to the Committee on Energy, Industry and Mining.

**By Senator Ferns:**

**Senate Bill 566**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§33-3-34, relating to creating a new tax on the insurance reserves held by certain accident and sickness insurance carriers operating in West Virginia; and authorizing emergency rules.

Referred to the Committee on Health and Human Resources.

**By Senators Boso, Ashley, Blair, Gaunch, Kirkendoll, Maynard, Miller, Mullins, Romano, Williams, Stollings, Plymale and Ferns:**

**Senate Bill 567**—A Bill to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating to prohibiting damage to property of railroads, public utilities and certain production, storage and distribution facilities; adding electrical storage facilities and timber operations to the protected parties; prohibiting destruction, damage or removal of property resulting in impairment to the normal, safe operation of those facilities; providing criminal penalties; and clarifying persons convicted of section are subject to restitution.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill 568**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-12e, relating to licensing of out-of-state simulcasting facilities; providing for the assessment of source market fees; providing for the distribution of seventy-five percent of those fees to the live flat track permittees in this state on a number of live days basis, to be used to enhance purses at those tracks; providing for the distribution of ten percent of those fees to in-state West Virginia simulcast permittees, weighted by the annual simulcast handle other than the advanced deposit wagering handle; providing for the distribution of ten percent of those fees to the Thoroughbred Development Fund; and providing for the distribution of five percent of those fees to the Racing Commission for administrative expenses.

Referred to the Committee on Finance.



**By Senators Ferns and Plymale:**

**Senate Bill 569**—A Bill to amend and reenact §16-5H-2, §16-5H-5 and §16-5H-7 of the Code of West Virginia, 1931, as amended, all relating to the regulation of chronic pain clinics; updating definitions; deleting an exemption; and clarifying the process for hearing notices upon appeal.

Referred to the Committee on Health and Human Resources.

**By Senators Karnes, Carmichael, Cline, Maynard, Mullins and Sypolt:**

**Senate Bill 570**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-8A-1, §11-8A-2, §11-8A-3, §11-8A-4, §11-8A-5 and §11-8A-6, all relating to allowing local units of government to lower personal property taxes by imposing local sales taxes; setting forth a purpose; not requiring an agreement among local levying bodies; setting the amount of sales tax permitted; determining levy setoff and implementation; establishing a trigger to prohibit the collection of future personal property taxes by any unit of state government; and providing for the sunset of article under certain conditions.

Referred to the Committee on Government Organization.

**By Senators Karnes, Boso, Cline, Ferns, Leonhardt, Maynard, Mullins, Sypolt and Trump:**

**Senate Bill 571**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-16G-10, relating to prohibiting abortion coverage in qualified health care plans issued or renewed on or after January 1, 2017; and providing an exception to the prohibition when a mother's life is in danger.

Referred to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill 572**—A Bill to amend and reenact §33-45-2 of the Code of West Virginia, 1931, as amended, relating to defining the criteria which private insurance carriers operating in West Virginia must consider in setting rates to providers of health care services.

Referred to the Committee on Health and Human Resources.

**By Senator Blair:**

**Senate Bill 573**—A Bill to amend and reenact §8-6-1 of the Code of West Virginia, 1931, as amended, relating to prohibiting municipal annexation which would result in an unincorporated territory entirely surrounded by the municipality.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 574**—A Bill to amend and reenact §11-21-51 of the Code of West Virginia, 1931, as amended, relating to requiring the Tax Commissioner to include on West Virginia personal income tax return a short survey asking taxpayer top three preferences where taxpayer's taxes should be spent and bottom three least preferred preferences where taxpayer's tax dollars are spent.

Referred to the Committee on Finance.

**By Senator Blair:**

**Senate Bill 575**—A Bill to amend and reenact §5A-3-4 of the Code of West Virginia, 1931, as amended, relating to the rules of the Purchasing Division of the Department of Administration; requiring that state leases for office space provide that the landlord or owner is responsible for cleaning or janitorial services; and prohibiting the Purchasing Division from requiring the landlord or owner to use any particular cleaning or janitorial services provider.

Referred to the Committee on Government Organization.

**By Senators Sypolt, Ashley, Blair and Karnes:**

**Senate Bill 576**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-4-9, relating to requiring proceeds of partition of any interest in real property that includes oil and gas but not surface that are due to a person whose name or location are unknown and are unclaimed for five years be paid to the Oil and Gas Reclamation Fund rather than paid or delivered to the Treasurer as abandoned and unclaimed property.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Ashley, Blair, Boso, Karnes and Stollings:**

**Senate Bill 577**—A Bill to amend and reenact §11A-3-19, §11A-3-21 and §11A-3-23 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11A-3-23a; to amend and reenact §11A-3-52, §11A-3-54 and §11A-3-56 of said code; to amend said code by adding thereto a new section, designated §11A-3-58a; and to amend and reenact §11A-4-4 of said code, all relating to permitting surface owners to purchase the mineral interests that lay below the property when the mineral interest becomes subject to a tax lien; establishing procedures; requiring notice; establishing the purchase prices; establishing nonrefundable \$20 administrative fees; providing a procedure if more than one surface owner seeks to purchase the delinquent mineral interest; modifying notices to redeem that are sent to property owners; and providing remedies relating to tax sales.

Referred to the Committee on the Judiciary.

Senators Carmichael, Hall, Ashley, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 29**—Requesting Division of Highways to name bridge number 18-21-0.31 (18A249) (38.55904, -81.63456), locally known as the Fishers Chapel Bridge, carrying CR 21 over Pocatalico Creek near Sissonville in Jackson County, West Virginia, the “U. S. Army SSG Landon Clair Ray and U. S. Army SPC4 Garry Dwight Haynes Memorial Bridge”.

Whereas, Landon Clair Ray was born July 21, 1936, at Kenna, West Virginia, the son of Mr. and Mrs. Charles Ray of Kenna; and

Whereas, Landon C. Ray graduated from Sissonville High School and was a member of the Pleasant View Church near Kenna; and

Whereas, Staff Sergeant Landon C. Ray served ten years in the United States Army and was a military policeman with Company A, 1st Battalion, 5th Infantry, 25th Infantry Division; and

Whereas, Staff Sergeant Landon C. Ray died February 3, 1967, as a result of wounds received from sniper fire in combat during his second tour of duty in Tay Ninh Province, South Vietnam; and

Whereas, At his death, Staff Sergeant Landon C. Ray was survived by his parents, brothers Raymond and Jobe of Sissonville, and sisters Juanita and Vallie, both at home; and

Whereas, Garry Dwight Haynes was born August 24, 1945, the son of Mr. and Mrs. William H. Haynes of Romance, West Virginia, and was a graduate of Ripley High School; and

Whereas, Army Specialist 4th Class Garry D. Haynes entered the Army in December 1967, and deployed to Vietnam where he was wounded a few months later and spent a month in the hospital before going back into action; and

Whereas, Specialist 4th Class Garry D. Haynes died December 9, 1968, as a result of wounds received while on combat operations in Kien Hoa Province, South Vietnam, where he was engaged in a fire fight with hostile forces; and

Whereas, At his death, Specialist 4th Class Garry D. Haynes was survived by his parents, five brothers and three sisters; and

Whereas, It is fitting that a proper memorial be established for these two young men who gave their lives in service to their country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 18-21-0.31 (18A249) (38.55904, -81.63456), locally known as the Fishers Chapel Bridge, carrying CR 21 over Pocatalico Creek near Sissonville, in Jackson County, West Virginia, the "U. S. Army SSG Landon Clair Ray and U. S. Army SPC4 Garry Dwight Haynes 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 SSG Landon Clair Ray and U. S. Army SPC4 Garry Dwight Haynes 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 Stollings, Plymale and Kirkendoll offered the following resolution:

**Senate Concurrent Resolution 30**—Requesting Division of Highways to name a new bridge, bridge design number 11166 (with latitude and longitude values of 38.05515, -81.82709), crossing the Little Coal River in Boone County, the “Lester W. and Ida C. Ellis Memorial Bridge”.

Whereas, Lester W. Ellis was born May 5, 1904, in Sioux City, Iowa, the oldest child of parents who had immigrated to the United States through Ellis Island from Lebanon; and

Whereas, In 1924, the family moved to Kanawha County, West Virginia, and Lester W. Ellis’s parents peddled merchandise in the Cabin Creek area and operated a grocery store; and worked in the Clothier, West Virginia, area selling items from the trunk of their vehicle; and

Whereas, Due to his determination and work ethic, Lester W. Ellis learned the trade from his father and became an extremely successful businessman; and

Whereas, At a dance somewhere in the South Charleston area in 1930, Lester W. Ellis met Ida Cantees of Williamson, West Virginia; and

Whereas, The couple married June 11, 1933, made a home in Madison and peddled wares in Madison and the Clothier area; and

Whereas, In the late 1930s, Lester W. and Ida C. Ellis, along with Lester's brother, opened the People's Department Store, a dry goods store on Main Street in Madison. A few years later, they built on Main Street in Madison another store called The New and Greater Ellis Department Store with their motto being "Growing Bigger—Serving Better"; and

Whereas, Both stores thrived for many years, serving the people of Madison and surrounding areas; and

Whereas, Lester W. Ellis, along with other local business and professional men, chartered the Madison Lions Club in 1943. The club did charitable and civic work that benefited the entire county; and

Whereas, Lester W. Ellis was vice president of the Madison Home Furniture Company which Lester and his brothers opened in a vacated building on Main Street in Madison; and

Whereas, In the early 1960s Lester W. Ellis and other prominent businessmen founded HECK'S, which became a multistate discount store business which operated in West Virginia, Kentucky, Ohio and Virginia. The first of many HECK'S stores opened in 1962 on Washington Street in Charleston, West Virginia. Lester W. Ellis served as Vice President of HECK'S. The "E" in HECK'S represented the Ellis brothers, Lester and Tom; and

Whereas, Ida C. Ellis, a civic-minded citizen and leader in Madison who worked right along with her husband in early business endeavors, later became a stay-at-home mother and homemaker who participated in many civic activities; and

Whereas, Ida C. Ellis was a dedicated member in the Madison Junior Woman's Club, Wildwood Garden Club, Order of the Eastern Star and the Parent Teacher Association, in which she held various offices; and

Whereas, The couple's love of community and service to the people of the community helped Madison, West Virginia, become a thriving town; and

Whereas, It is fitting that a memorial be dedicated to recognize the many contributions Lester W. and Ida C. Ellis made to the community of Madison, West Virginia, their generosity to others, strong family ties, and their legacy of family members who continue to carry on the good name and work they started; and

Whereas, A new bridge is being built on property previously belonging to the Ellis family; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a new bridge, bridge design number 11166 (with latitude and longitude values of 38.05515, -81.82709), crossing the Little Coal River in Boone County, the “Lester W. and Ida C. Ellis 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 “Lester W. and Ida C. Ellis 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 Kirkendoll, Stollings, Plymale and Kessler offered the following resolution:

**Senate Concurrent Resolution 31**—Requesting Division of Highways to name bridge number 23-12-0.05 (23A057) (37.87210, -81.98544), locally known as the “Peach Creek Bridge”, carrying CR-12 over Guyandotte River in Logan County, the “U. S. Air Force Staff Sgt Bethel Howard McNeely and U. S. Marine Staff Sgt Clyde Elmo Bryant Bridge”.

Whereas, Staff Sergeant Bethel Howard McNeely was born on January 1, 1922, at Peach Creek, West Virginia, the son of Manny and Mary McNeely of Peach Creek; and

Whereas, Staff Sergeant Bethel Howard McNeely was raised in Logan County and enlisted in the Air Force in September 1942. He served with the 94th Bomb Group, 333rd Bomb Squadron from September 1942 until October 1945 as a Tail Gunner on a B-17 Flying Fortress; and

Whereas, During this time, Staff Sergeant Bethel Howard McNeely flew on 26 missions into Germany and enemy-occupied territory; and

Whereas, Staff Sergeant Bethel Howard McNeely was awarded the Presidential Unit Citation Distinguished Flying Cross, Air Medal with Three Oak Leaf Clusters, the Air Offensive Europe with Battle Star and the European, African and Middle East Theater Ribbons; and

Whereas, Upon returning home, Staff Sergeant Bethel Howard McNeely worked for C&O Railroad until he retired in 1985. Today he resides at Crooked Creek in the home where he raised seven children. His wife was a long-time employee of the Logan County Board of Education, serving in the Payroll Office; and

Whereas, Staff Sergeant Bethel Howard McNeely is a member of the Crooked Creek Church of Christ and much loved in the community; and

Whereas, United States Marine Staff Sergeant Clyde Elmo Bryant enlisted in the service during World War II, in Bridgeport, Connecticut, when he heard of the attack on Pearl Harbor; and

Whereas, After training at Cherry Point and Parris Island, Staff Sergeant Clyde Elmo Bryant was assigned to the Third Marine Division and shipped off to the Pacific. He made beachhead landings at Guam, Bougainville and Iwo Jima, as well as on other smaller islands; and

Whereas, Staff Sergeant Clyde Elmo Bryant was loading wounded Marines for transfer off the Island of Iwo Jima when the famous flag raising photo was taken by Joe Rosenthal; and



Whereas, Staff Sergeant Clyde Elmo Bryant was awarded the Presidential Unit Citation Award and Ribbon Bar for service on Guam, the Asiatic-Pacific Campaign Medal and the Victory Medal; and

Whereas, Staff Sergeant Clyde Elmo Bryant returned home to Logan County at the end of World War II, married Lila Evelyn Wilson and took up residence at Crooked Creek. He raised his four children on Crooked Creek; and

Whereas, Staff Sergeant Clyde Elmo Bryant was a watchmaker and jeweler and operated several businesses in the City of Logan. He was a leader in the Crooked Creek Church of Christ and in many other community organizations. He was a 32 degree Mason; and

Whereas, In 1962, Staff Sergeant Clyde Elmo Bryant was again called to duty as a squad leader and Sergeant 1st class in the 150th Armored Cavalry when the West Virginia National Guard was called up during the “Cuban Missile Crisis”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 23-12-0.05 (23A057) (37.87210, -81.98544), locally known as the “Peach Creek Bridge”, carrying CR-12 over Guyandotte River in Logan County, the “U. S. Air Force Staff Sgt Bethel Howard McNeely and U. S. Marine Staff Sgt Clyde Elmo Bryant 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. Air Force Staff Sgt Bethel Howard McNeely and U. S. Marine Staff Sgt Clyde Elmo Bryant 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, to the family of Howard McNeely and to the family of the late Clyde Bryant.

Which, under the rules, lies over one day.

Senators Gaunch, Stollings, Williams and Kessler offered the following resolution:

**Senate Resolution 30**—Recognizing John Canfield for his dedicated leadership and service to West Virginia’s insurance community.

Whereas, John Canfield has for many years faithfully and earnestly represented the interests of State Farm Insurance Companies, its policyholders, associates, agents and management; and

Whereas, John Canfield served State Farm Insurance Companies for more than twenty years as an employee of the company and represented it before the executive and legislative branches of the State of West Virginia; and

Whereas, John Canfield has dependably and steadfastly advocated for a competitive and vibrant property and casualty insurance marketplace in the State of West Virginia for more than twenty years; and

Whereas, John Canfield played an instrumental leadership role in the ongoing operations and leadership of the West Virginia Insurance Federation, including serving as its chairman; and

Whereas, John Canfield has ably served as a role model for advocates within the property and casualty insurance business, and the business community generally, and has become a lasting friend and colleague to many; and

Whereas, John Canfield left State Farm and his role representing West Virginia’s insurance community in 2015; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes John Canfield for his dedicated leadership and service to West Virginia’s insurance community; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to John Canfield.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Gaunch, Palumbo, Stollings and Williams offered the following resolution:

**Senate Resolution 31**—Congratulating Ross Johnson for being named the 2015 Earle S. Dillard Agent of the Year.

Whereas, Ross Johnson was born and raised in Madison, West Virginia, and attended Scott High School; and

Whereas, Ross Johnson is a graduate of Marshall University with a Bachelor's Degree in Finance and Business Law concentrating in Insurance; and

Whereas, Since 2000, Ross Johnson has been the President and owner of Mountain State Insurance Agency, Inc. in Charleston, West Virginia; and

Whereas, Ross Johnson, through Mountain State Insurance Agency, employs nearly twenty hard working insurance professionals; and

Whereas, Ross Johnson has had a long and productive career, entering his 31st year in the insurance industry; and

Whereas, For all of his efforts and success in the insurance industry, Ross Johnson was presented the Earle S. Dillard Agent of the Year award in the fall of 2015 at the annual convention of the Independent Insurance Agents of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates Ross Johnson for being named the 2015 Earle S. Dillard Agent of the Year; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Ross Johnson.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Ferns, Stollings, Unger, Prezioso, Williams, Leonhardt and Kessler offered the following resolution:

**Senate Resolution 32**—Designating February 10, 2016, as Disability Advocacy Day at the Legislature.

Whereas, There are over 400,000 West Virginians with disabilities; and

Whereas, People with disabilities have the right to live, work and fully participate in their communities to realize their dreams; and

Whereas, People with disabilities have the right to receive the support they need to exercise self-determination, achieve independence and become productive employees in the workplace; and

Whereas, West Virginia's citizens with disabilities have banded together in a collective group, called the Fair Shake Network, to help bring their concerns to the forefront of public awareness; and

Whereas, The Fair Shake Network has developed a statewide network concerned with all types of disabilities and all age groups, providing opportunities for people to learn from each other and take action together; and

Whereas, The Fair Shake Network has become a credible source of information to policymakers, advocates and the public on policies and programs that impact people with disabilities; and

Whereas, Such organizations as the West Virginia Department of Rehabilitation Services, West Virginia Developmental Disabilities Council, West Virginia Parent Training & Information, Job Squad, West Virginia Advocates, Mountain State Centers for Independent Living, Northern West Virginia Center for Independent Living, West Virginia Statewide Independent Living Council, Appalachian Center for Independent Living, West Virginia State Rehabilitation Council, West Virginia Association of the Deaf, Open Doors, Inc., National Association of Social Workers WV Chapter, West Virginia University Center for Excellence in Disabilities, The Arc of West Virginia, People First and West Virginia Autism Training Center at Marshall University have joined together to help increase public awareness of issues involving the many concerns of West Virginians with disabilities through the Fair Shake Network; and

Whereas, The purpose of Disability Advocacy Day is to increase the awareness and understanding of legislators, administrators, policymakers and the public of the public policy issues that are important to people with disabilities; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 10, 2016, as Disability Advocacy Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the Fair Shake Network.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senator Miller presented a petition from Tim Wheeler and numerous West Virginia residents, opposing the closure of several Bluestone Wildlife Management Area campgrounds.

Referred to the Committee on Natural Resources.

Senator Walters presented a petition from Daniel P. Lutz, Jr., and numerous West Virginia residents, requesting a traffic signal at the intersection of West Virginia State Route 51 and Jefferson County Route 1.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—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. 2800) 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 2800**—A Bill to amend and reenact §29B-1-4 of the Code of West Virginia, 1931, as amended, relating to adding the personal information of public employees and personal information of certain family members of employees

of public bodies to the list of exemptions from public records requests; and defining terms.

*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 7**, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

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

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

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

(d) No action may be filed or maintained against a health care provider pursuant to this article by or on behalf of a person whose damages arise as a proximate result of the commission, attempted commission or immediate flight from the commission or attempted commission of a felony or a violent crime which is a misdemeanor or as a result of a violation of the Uniform Controlled Substances Act, as set forth in chapter sixty-a of this code, so long as the health care provider has not illegally dispensed or prescribed a controlled substance or substances to that person. The burden of alleging and proving that the health care provider acted illegally shall be upon the person who seeks to file the claim.

The bill (Com. Sub. for S. B. 7), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 116**, Increasing number of limited video lottery terminals allowed at retail location.

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

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

**Senate Bill 341**, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue.

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 378**, Relating to truancy intervention.

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

**Senate Bill 419**, Terminating taxes imposed under Workers' Compensation Debt Reduction Act of 2005.

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

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

On pages two and three, lines one through twenty-three, by striking out all of section three-b;

And,

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

That §4-11A-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-13V-4 of said code be amended and reenacted; and that §11-21-96 of said code be amended and reenacted, all to read as follows:



On motion of Senator Kessler, the following amendments to the bill (S. B. 419) were next reported by the Clerk and considered simultaneously:

On page five, section four, line fifty-one, by striking out the words “subdivision (2)” and inserting in lieu thereof the words “subdivisions (2) and (3)”;

On page six, section four, after line sixty-five, by adding a new subdivision, designated subdivision (3), to read as follows:

(3) For the period commencing July 1, 2016, the net amount of all moneys received by the Tax Commissioner from collection of the taxes imposed by this section, including any interest, additions to tax, or penalties collected with respect to these taxes pursuant to article ten, chapter eleven of this code, shall be deposited in the Revenue Shortfall Reserve Fund created in subsection (b), section twenty, article two, chapter eleven-b of this code.;

And,

On page six, section four, lines seventy-five through eighty, by striking out all of subsection (g) and inserting in lieu thereof a new subsection, designated subsection (g), to read as follows:

(g) Termination of taxes imposed by this article. – The taxes imposed under this article shall cease, terminate and be of no further force or effect when the balance of the Revenue Shortfall Reserve Fund equals or exceeds thirteen percent of the state’s General Revenue Fund budget for the fiscal year just ended as determined within sixty days of the end of that prior fiscal year as provided by subsection (b), section twenty, article two, chapter eleven-b of this code.

The question being on the adoption of Senator Kessler’s amendments to the bill, the same was put and did not prevail.

The bill (S. B. 419), as amended, was then ordered to engrossment and third reading.

**Senate Bill 437**, Updating and clarifying code relating to rules governing mixed martial arts.

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

**Senate Bill 449**, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services.

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

**Senate Bill 450**, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health.

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

**Senate Bill 451**, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs.

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

**Senate Bill 509**, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

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.

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

**Com. Sub. for Senate Bill 73**, Creating felony crime of knowingly leaving scene of crash resulting in serious bodily injury.

**Com. Sub. for Senate Bill 429**, Adopting two National Association of Insurance Commissioners' models to protect enrollees and general public and permit greater oversight.

**Com. Sub. for Senate Bill 465**, Allowing professional employer insure certain risks through pure insurance captive.

**Senate Bill 469**, Clarifying what personal funds are exempt from levy following judgment.

**Com. Sub. for Senate Bill 501**, Relating to trusts.

**Com. Sub. for Senate Bill 517**, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner.

And,

**Com. Sub. for Senate Bill 524**, Rewriting Board of Barbers and Cosmetologists article.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Trump, Snyder, Kirkendoll, Hall, Gaunch, Plymale and Blair.

Thereafter, at the request of Senator Gaunch, and by unanimous consent, the remarks by Senators Trump, Snyder, Kirkendoll and Hall were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Mullins.

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 11, 2016, at 11 a.m.

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THURSDAY, FEBRUARY 11, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Matthew Santen, River Ridge Church, Charleston, 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 Wednesday, February 10, 2016,

At the request of Senator Boso, 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 2444**—A Bill to amend and reenact §5B-2-5 of the Code of West Virginia, 1931, as amended, relating to providing assistance to small businesses; requiring that the director of the West Virginia Development Office report biennially and offer recommendations for reducing the burdens imposed on small businesses; and further identifying the report's contents.

Referred to the Committee on Economic Development.

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 10th day of February, 2016, 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. 342)**, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services.

**(S. B. 357)**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund.

And,

**(S. B. 360)**, Supplemental appropriation to Division of Human Services.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 11th day of February, 2016, 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:

**(Com. Sub. for H. B. 4007)**, Relating generally to appointment of attorneys to assist the Attorney General.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 126**, Increasing natural resources police officer compensation.

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

**Com. Sub. for Senate Bill 126** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended, relating to natural resources police officers; and providing increase in monthly subsistence allowance.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. 126), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Senate Bill 147**, Providing consumers sales and service tax and use tax exemption for certain services and tangible personal property sold for repair, remodeling and maintenance of aircraft.

And has amended same.

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

Respectfully submitted,

Mike Hall,  
*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 272**, Allowing investigators from Attorney General's office to carry concealed weapons.

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

**Com. Sub. for Senate Bill 272** (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 §5-3-6, relating to Attorney General's investigators; and allowing duly authorized investigators to carry concealed weapons under certain circumstances.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Economic Development has had under consideration

**Senate Bill 293**, Neighborhood Investment Program 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,

Tom Takubo,  
*Chair.*

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

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

Your Committee on Economic Development has had under consideration

**Senate Bill 298**, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays.

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

**Com. Sub. for Senate Bill 298** (originating in the Committee on Economic Development)—A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing restaurants, private clubs, distilleries, mini-distilleries and wineries to sell and serve alcohol beginning at 10:00 a.m. on Sundays.

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,

Tom Takubo,  
*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 Economic Development.

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 328**, Creating West Virginia Veterans Program Fund.

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

**Com. Sub. for Senate Bill 328** (originating in the Committee on the Judiciary)—A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12, §29-3E-13 and §29-3E-14; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to the regulation of fireworks generally; relocating certain existing provisions relating to sparkling devices, novelties and toy guns including penalties for certain violations, in a new article; raising funds for veterans' facilities and volunteer fire departments; creating West Virginia Veterans Program Fund; authorizing sale of consumer fireworks on and after June 1, 2016; defining "consumer fireworks"; establishing regulatory framework for sale of fireworks; defining terms; requiring certificate; establishing fees; requiring permit; dedicating certain fees to Veterans Program Fund and Fire Protection Fund; establishing rule-making authority; creating criminal violations related to fireworks; penalties; enforcement; defining terms; exemptions; reporting requirements; and establishing internal effective dates for certain provisions.

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,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

At the request of Senator Carmichael, and by unanimous consent, the bill (Com. Sub. for S. B. 328) was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Boso, 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 396**, Preventing waste of oil and gas.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Senator Walters, 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 397**, Maintaining status quo in event bond indebtedness to Parkways Authority is eliminated.

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

**Com. Sub. for Senate Bill 397** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17-16A-18 of the Code of West Virginia, 1931, as amended, relating to Parkways Authority and maintaining status quo in the event bond indebtedness relative to Parkways Authority is eliminated; continuing tolls; maintaining projects with Parkways Authority; and specifying that certain toll revenues are to be placed into a special revenue account to be used for road projects in counties where the West Virginia Turnpike is located.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 397), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Senate Bill 423**, Providing for disposition of unclaimed and unredeemed savings bond.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Military has had under consideration

**Senate Bill 484**, Creating Service Member's Employment Protection Act.

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

**Com. Sub. for Senate Bill 484** (originating in the Committee on Military)—A Bill to amend and reenact §15-1F-8 of the Code of West Virginia, 1931, as amended, relating to the reemployment rights of military personnel.

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,

Kent Leonhardt,  
*Chair.*

The bill (Com. Sub. for S. B. 484), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 493**, Allowing creation of self-settled spendthrift trusts.

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

**Com. Sub. for Senate Bill 493** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §44D-5-503a, §44D-5-503b and §44D-5-503c; and to amend and reenact §44D-5-505 of said code, all relating to allowing the creation of self-settled spendthrift trusts; permitting a grantor to transfer assets into a qualified self-settled spendthrift trust and retain an interest in that trust; excluding applicability of certain provisions of code to that qualified interest; clarifying applicability of self-settled spendthrift trust provisions when certain interests are not qualified interests; prohibiting inference of intent to delay, hinder or defraud creditors solely based on grantor's establishment of or transfer to a self-settled spendthrift trust; permitting transfer to trust to be set aside under certain circumstances; providing for the payment of expenses associated with defending the trust to be paid from transfer; permitting creditors to bring actions against transfer of trust assets within four years after date of grantor's transfer; limiting creditor rights to grantor's transfer; prohibiting credit claims or causes of action against certain other persons or entities; providing applicability of provisions governing creditor's actions to avoid transfers to situations involving multiple transfers; setting statute of limitations for self-settled spendthrift trust moved to this state for four years from date assets moved to the state; defining terms; providing for filling of vacancies in office of qualified trustee or independent qualified trustee; permitting certain terms to be included in self-settled spendthrift trust without deeming trust irrevocable; requiring treatment of beneficiary with right to withdraw entire beneficial interest be treated as grantor once right to withdraw has lapsed, been released or otherwise expired; and exempting self-settled spendthrift trusts from being subject to claims of the grantor's creditors.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 510**, Establishing Adult Drug Court Participation Fund.

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

**Com. Sub. for Senate Bill 510** (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 §62-15-9a, relating to establishing a new special revenue fund, designated the Adult Drug Court Participation Fund, for the purpose of collecting and remitting moneys to the State Treasury for participation in an adult drug court program administered by the Supreme Court of Appeals.

And,

**Senate Bill 511**, Establishing Court Advanced Technology Subscription Fund.

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

**Com. Sub. for Senate Bill 511** (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 §51-1-22, relating to establishing a new special revenue fund, designated the Court Advanced Technology Subscription Fund, for the purpose of collecting and remitting moneys to the State Treasury for the use of certain advanced technology systems provided by the Supreme Court of Appeals.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Military has had under consideration

**Senate Bill 516**, Relating to registration for selective service.

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

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Military.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Boso, Ashley, Blair, Gaunch, Karnes, Kirkendoll, Maynard, Miller, Mullins, Romano, Williams, Stollings and Plymale:**

**Senate Bill 578**—A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to protection of utility workers from crimes against the person; defining “utility worker”; and establishing penalties.

Referred to the Committee on the Judiciary.

**By Senators Plymale and Prezioso:**

**Senate Bill 579**—A Bill to repeal §11-24-43a of the Code of West Virginia, 1931, as amended; to repeal §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-6, §17-16B-7a, §17-16B-7b, §17-16B-9, §17-16B-10, §17-16B-11, §17-16B-12, §17-16B-13, §17-16B-14, §17-16B-15, §17-16B-16, §17-16B-17, §17-16B-18, §17-16B-19, §17-16B-20, §17-16B-21 and §17-16B-22 of said code; and to amend and reenact §17-16B-5, §17-16B-7 and §17-16B-8 of said code, all relating to eliminating the West Virginia Public Port Authority.

Referred to the Committee on Finance.

**By Senators Sypolt and Trump:**

**Senate Bill 580**—A Bill to repeal §11-6A-5a of the Code of West Virginia, 1931, as amended, relating to wind power projects.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Maynard, Ashley, Laird, Kessler, Palumbo, Woelfel, Romano and Stollings:**

**Senate Bill 581**—A Bill to amend and reenact §48-27-301 of the Code of West Virginia, 1931, as amended, relating to eliminating the sunset provision terminating the pilot domestic violence court program; and continuing and expanding the domestic violence court initiative designed to prevent domestic violence.

Referred to the Committee on the Judiciary.

**By Senators Plymale and Woelfel:**

**Senate Bill 582**—A Bill to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to providing a refundable exemption from the flat rate component of the state motor fuel excise tax on all gallons of motor fuel sold for use or consumed in railroad diesel locomotives; setting a cap on the exemption per year; and requiring a proportionate disbursement if claims exceed the cap.

Referred to the Committee on Finance.



Senators Leonhardt and Stollings offered the following resolution:

**Senate Concurrent Resolution 32**—Requesting Division of Highways to name the bridge along 119/2 Hemlock Road off Route 47 that crosses Leading Creek at latitude 39.01564, longitude -80.74842, near Troy, bridge number 11-119/2-4.34 (11A140), currently known as the Hemlock Road Girder, the “CW2 Robert D. Taylor Memorial Bridge”.

Whereas, Robert Taylor grew up on Hemlock Road with his parents, Dale and Alice Taylor, and brother Richard; and

Whereas, Robert was a positive young man who had a big heart. He was active in his community, attended church and always helped neighbors and friends; and

Whereas, Robert always dreamed of being a pilot and he enlisted in the United States Army; and

Whereas, Robert was assigned the rank of Chief Warrant Officer 2 while serving in the U. S. Army; and

Whereas, After serving eight years, CW2 Robert D. Taylor was tragically killed in a helicopter crash along the demilitarized zone between North and South Korea; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge along 119/2 Hemlock Road off Route 47 that crosses Leading Creek at latitude 39.01564, longitude -80.74842, near Troy, bridge number 11-119/2-4.34 (11A140), currently known as the Hemlock Road Girder, the “CW2 Robert D. Taylor Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “CW2 Robert D. Taylor Memorial Bridge”; and, be it

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

Division of Highways and to Jim Bailey at 102 Sleeth Run Road, Linn, West Virginia, 26384.

Which, under the rules, lies over one day.

Senators Snyder, Boso and Stollings offered the following resolution:

**Senate Concurrent Resolution 33**—Requesting the West Virginia Infrastructure and Jobs Development Council to study and report on the issue of consolidation, regarding public water and sewer utilities.

Whereas, The Legislature is concerned that over five hundred municipal and public service district water and sewer utilities are providing service to customers. The capital cost associated with the repair or replacement of existing infrastructure that serves current customers and the construction of upgrades to existing facilities or new facilities to serve new customers is far greater than available public funding sources and the ability of the utilities to raise money from existing rate-payers; and

Whereas, In its 1994 regular session, the Legislature created the West Virginia Infrastructure and Jobs Development Council (IJDC) in article fifteen-a, chapter thirty-one of the Code of West Virginia, 1931, as amended. Among other things, section four of the 1994 legislation requires the IJDC to develop guidelines for evaluating requests by project sponsors for funding assistance that include “the degree to which the project or infrastructure project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan developed pursuant to section six of the legislation.” Section six of the 1994 legislation contains subsection (c) that provides “the council shall study the viability of the consolidation of public service districts throughout the state” and report their findings and conclusions on or before January 16, 1995, to the Governor, Speaker of the House and President of the Senate; and

Whereas, Section six (b) of the 1994 act requires an assessment of water and sewer infrastructure to be filed by IJDC every three years that includes, among other things, an assessment to identify “obstacles, issues and problems which prevent or inhibit development

of adequate infrastructure throughout the state including financial, governmental, physical, or geographical factors and make recommendations as the council considers appropriate regarding the obstacles, issues or problems identified.” In reviewing proposed projects, the IJDC consolidation committee, upon the request of another IJDC committee or the council itself, will review the project and determine the potential for consolidation; and

Whereas, The Legislature believes that potential economies of scale and efficiencies in providing public water and sewer service could be realized through consolidation, regional planning and cooperation between municipal and county governments; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the West Virginia Infrastructure and Jobs Development Council study and report on the issue of consolidation, regarding public water and sewer utilities; and, be it

*Further Resolved,* That the Legislature hereby requests that the IJDC refer every proposed public water and sewer project to its consolidation committee to consider the issues related to potential consolidation or other measures that could result in efficiencies and more productive use of public moneys; and, be it

*Further Resolved,* That the IJDC submit a report to the Legislature at the beginning of its 2017 regular session that identifies the potential for consolidation; the IJDC’s treatment of that issue through its funding decisions; and the problems that exist with the issue including barriers that may impede cooperation between municipals and public service districts in obtaining the desired result of providing quality water and sewer service to the residents of West Virginia at the lowest possible cost.

Which, under the rules, lies over one day.

Senators Ashley, Stollings, Plymale and Williams offered the following resolution:

**Senate Resolution 33**—Congratulating the Wirt County Ladies Volleyball team for winning the 2015 Class A Volleyball State Championship.

Whereas, The Wirt County Ladies Volleyball team had a spectacular year, in which they finished with a 32-13-2 record and claimed their 10th volleyball state championship in school history; and

Whereas, Led by head coach Janet Frazier, the Wirt County Ladies Volleyball team consists of players: Allie Bailey, Loden Campbell, Alexis Petrovsky, Katie Tichnell, Haley Moore, Katie Frazier, Emily Cottrell, Mahala Greenleaf, Taylor Anderson and Morgan Wagner; and

Whereas, The Wirt County Ladies Volleyball team displayed their strong will and determination for an entire season and will be remembered as one of the best teams ever assembled in West Virginia girls' volleyball history; and

Whereas, The Wirt County Ladies Volleyball team is a shining example to all West Virginians of what can be accomplished with teamwork, dedication and spirit; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Wirt County Ladies Volleyball team for winning the 2015 Class A Volleyball State Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Wirt County Ladies volleyball team.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, 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 583** (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 §64-12-1, §64-12-2, §64-12-3, §64-12-4 and §64-12-5, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; authorizing certain agencies and commissions under Department of Administration to repeal certain legislative and procedural rules; repealing Department of Administration legislative rule relating to the availability of state surplus buildings and equipment to charity food banks; repealing State Building Commission procedural rule relating to procedural rules for meetings; repealing Ethics Commission legislative rule relating to advisory opinions; repealing Ethics Commission legislative rule relating to guidelines and standards for determining the existence of disqualifying financial interests; repealing Ethics Commission legislative rule relating to contributions; repealing Public Employees Insurance Agency procedural rules relating to procedural rules for the Public Employees Insurance Agency Advisory Board; and repealing Board of Risk and Insurance Management legislative rule relating to discontinuation of professional malpractice insurance.

**Senate Bill 584** (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 §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5, §64-12-6 and §64-12-7, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing certain legislative, procedural and interpretive rules promulgated by certain agencies and boards under the Department of Environmental Protection; repealing the Department of Environmental Protection legislative rule relating to requiring the submission of emission statements for volatile organic compound

emissions and oxides; repealing the Department of Environmental Protection legislative rule relating to bona fide future use; repealing the Department of Environmental Protection legislative rule relating to abandoned wells; repealing the Department of Environmental Protection legislative rule relating to the Environmental Excellence Program; repealing the Department of Environmental Protection legislative rule relating to oil and gas operations – solid waste; repealing the Department of Environmental Protection legislative rule relating to the Recycling Assistance Fund Grant Program; repealing the Department of Environmental Protection legislative rule relating to commercial hazardous waste management facility siting fees; repealing the Department of Environmental Protection legislative rule relating to groundwater protection standards; repealing the Department of Environmental Protection legislative rule relating to Underground Storage Tank Insurance Trust Fund; repealing the Department of Environmental Protection legislative rule relating to hazardous waste management; repealing the Department of Environmental Protection legislative rule relating to solid waste management; repealing the Department of Environmental Protection legislative rule relating to waste tire management; repealing the Department of Environmental Protection legislative rule relating to sewage sludge management; repealing the Department of Environmental Protection legislative rule relating to Hazardous Waste Emergency Response Fund regulations; repealing the Department of Environmental Protection interpretive rule relating to initial inspection, certification and spill prevention response plan requirements; repealing the Department of Environmental Protection legislative rule relating to the Office of the Environmental Advocate; repealing the Department of Environmental Protection legislative rule relating to coal refuse; repealing the Department of Environmental Protection procedural rule relating to administrative procedures and civil administrative penalty assessment – Water Resources Protection Act; repealing the Department of Environmental Protection procedural rule relating to procedures and practice before the Department of Energy; repealing the Commercial Hazardous Waste Management Facility Siting Board legislative rule relating to certification requirements; repealing the Environmental Quality Board

legislative rule relating to requirements governing water quality standards; repealing the Environmental Quality Board procedural rule relating to requests for information; repealing the Environmental Quality Board procedural rule relating to rules governing the notice of open meetings under the Open Governments Proceedings Act; repealing the Miner Training, Education and Certification Board legislative rule relating to certification of blasters for surface coal mines and surface areas of underground mines; repealing the Miner Training, Education and Certification Board legislative rule relating to standards for certification of blasters for surface coal mines and surface areas of underground mines; repealing the Water Resources Board legislative rule relating to the State National Pollutant Discharge Elimination System Program; repealing the Water Resources Board legislative rule relating to requirements governing the State National Pollutant Discharge Elimination System; repealing the Air Quality Board procedural rule relating to requests for information; repealing the Oil and Gas Inspectors Examining Board procedural rule relating to matters pertaining to the rules and regulations dealing with the Oil and Gas Inspectors Examining Board; and repealing the Board of Miner Training, Education and Certification procedural rule relating to temporary suspension of certificates issued to persons pending full hearing before the board of appeals.

**Senate Bill 585** (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 §64-12-1 and §64-12-2, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards which are no longer authorized or are obsolete; repealing certain legislative, procedural and interpretive rules promulgated by certain agencies under the Department of Health and Human Resources; repealing the Department of Health and Human Resources legislative rule relating to preliminary requirement for approval by the West Virginia Department of Health of a laboratory for a specified technique; repealing the Department of Health and Human Resources legislative rule relating to ice cream and frozen milk; repealing the Department of

Health and Human Resources legislative rule relating to the establishment of a controlled substances therapeutic research program and the certification of patients, practitioners and hospital pharmacies; repealing the Department of Health and Human Resources legislative rule relating to instillation of medication in the eyes of the newborn and the dissemination of advice and information concerning the dangers of inflammation of the eyes of the newborn; repealing the Department of Health and Human Resources legislative rule relating to hazardous materials treatment information repository; repealing the Department of Health and Human Resources legislative rule relating to immunization criteria for transfer students; repealing the Department of Health and Human Resources legislative rule relating to specialized health procedures in public schools; repealing the Department of Health and Human Resources legislative rule relating to incorporation of the handicapped children services manual; repealing the Department of Health and Human Resources legislative rule relating to termination of income withholding; repealing the Department of Health and Human Resources legislative rule relating to obtaining support from federal and state income tax refunds; repealing the Department of Health and Human Resources legislative rule relating to interstate income withholding; repealing the Department of Health and Human Resources legislative rule relating to providing information to credit reporting agencies; repealing the Department of Health and Human Resources interpretive rule relating to the health facilities plan for the fiscal years 1985-89; repealing the Department of Health and Human Resources interpretive rule relating to the design, information and procedural manual for mobile home parks; repealing the Department of Health and Human Resources interpretive rule relating to pertussis guidelines; repealing the Department of Health and Human Resources procedural rule relating to procedural rules for the advisory Committee for the Omnibus Health Care Act; repealing the Health Care Authority legislative rule relating to a freeze on hospital rates and granting of temporary rate increases; repealing the Health Care Authority legislative rule relating to utilization review and quality assurance program – phase 1; repealing the Health Care Authority legislative rule relating to limitation on hospital gross patient revenue; and repealing the



Health Care Authority legislative rule relating to exemption for rural primary care hospitals.

**Senate Bill 586** (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 §64-12-1 and §64-12-2, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, commissions and boards which are no longer authorized or are obsolete; repealing certain legislative rules by certain agencies and commissions under the Department of Military Affairs and Public Safety; repealing the Division of Corrections legislative rule relating to a furlough program for adult inmates; repealing the Division of Corrections legislative rule relating to employment of displaced correctional employees; repealing the Division of Corrections legislative rule relating to parole supervision; repealing the Division of Corrections legislative rule relating to recording of inmate phone calls; repealing the Division of Corrections legislative rule relating to monitoring inmate mail; repealing the Division of Corrections interpretive rule relating to charges assessed against inmates for services provided by state medical co-payment; repealing the Division of Corrections procedural rule relating to inmate grievance procedures; and repealing the Jails and Prison Standards Commission legislative rule relating to minimum standards for construction, operation and management of holding facilities.

**Senate Bill 587** (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 §64-12-1, §64-12-2 and §64-12-3, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards which are no longer authorized or are obsolete; repealing certain legislative and procedural rule promulgated by certain agencies and boards under the Department of Revenue; repealing the Tax Division legislative rule relating to listing of interests in natural resources for purposes of first statewide appraisal; repealing the Tax Division legislative rule relating to guidelines for assessors to assure fair and uniform nonutility

personal property values; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to review of appraisals by the county commission sitting as an administrative appraisal review board; repealing the Tax Division legislative rule relating to additional review and implementation of property appraisals; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to revision of levy estimates; repealing the Tax Division legislative rule relating to inheritance and transfer tax; repealing the Tax Division legislative rule relating to annual tax on incomes of certain carriers; repealing the Tax Division legislative rule relating to the telecommunications tax; repealing the Tax Division legislative rule relating to tax credit for employing former members of Colin Anderson Center; repealing the Tax Division legislative rule relating to tax credits for new value-added wood manufacturing facilities; repealing the Tax Division legislative rule relating to tax credits for new steel, aluminum and polymer manufacturing operations; repealing the Tax Division legislative rule relating to the business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit; repealing the Tax Division legislative rule relating to appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes; repealing the Banking Commissioner legislative rule relating to the West Virginia Consumer Credit and Protection Act; repealing the Banking Commissioner procedural rule relating to West Virginia Board of Banking and Financial Institutions; repealing the Office of the Insurance Commissioner legislative rule relating to utilization management; and repealing the Office of the Insurance Commissioner legislative rule relating to Medicare supplement insurance coverage.

**Senate Bill 588** (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 §64-12-1, relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete;

repealing certain legislative, procedural and interpretive rules promulgated by certain agencies under the Department of Transportation; repealing the Division of Motor Vehicles legislative rule relating to rules and regulations; repealing the Division of Motor Vehicles legislative rule relating to special permits; repealing the Division of Motor Vehicles legislative rule relating to a safety and treatment program; repealing the Division of Motor Vehicles procedural rule relating to dealer and financial institution applicant or licensee administrative hearings; repealing the Division of Motor Vehicles legislative rule relating to seizure of driver's license, issuance of the temporary driver's license; repealing the Division of Motor Vehicles legislative rule relating to the federal Safety Standards Inspection Program; and repealing the Division of Motor Vehicles interpretive rule relating to dealer issuance of temporary registration plates.

**Senate Bill 589** (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 §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5, §64-12-6, §64-12-7, §64-12-8, §64-12-9, §64-12-10 and §64-12-11, all relating generally to repealing certain legislative, legislative exempt, procedural or interpretive rules promulgated by certain miscellaneous agencies, boards and commissions which are no longer authorized or are obsolete; repealing the Department of Agriculture legislative rule relating to tobacco; repealing the Department of Agriculture legislative rule relating to the conduct of beef industry self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to the conduct of beef self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to West Virginia seal of quality; repealing the Department of Agriculture legislative rule relating to aquaculture farm rules; repealing the Department of Agriculture procedural rule relating to the conduct of tree fruit industries self-improvement assessment program referendums; repealing the Cable TV Advisory Board legislative rule relating to franchising procedures; repealing the Cable TV Advisory Board legislative rule relating to implementing regulations; repealing the Cable TV Advisory Board legislative

rule relating to calculation and collection of late fee; repealing the Cable TV Advisory Board procedural rule relating to administrative procedures for consumer complaint resolution under the West Virginia Cable TV Systems Act; repealing the Cable TV Advisory Board procedural rule relating to rate regulation procedures; repealing the Cable TV Advisory Board procedural rule relating to form and service of notice under section eight, article eighteen-a, chapter five of this code; repealing the Contractor Licensing Board legislative rule relating to consumer complaints; repealing the Secretary of State legislative rule relating to matters relating to corporations and other business entity filing; repealing the Secretary of State legislative rule relating to matters relating to official election forms and vendor authorization; repealing the Respiratory Care Board legislative rule relating to the procedure for licensure applications; repealing the Attorney General procedural rule relating to freedom of information; repealing the Municipal Bond Commission procedural rule relating to rules of procedure covering board and executive committee meetings of the Municipal Bond Commission; repealing the Housing Development Fund legislative rule relating to refiling of administrative rules pertaining to administration of single-family mortgage loans; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for carrier access to the lines and facilities of other carriers; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for shipper access to the lines and facilities of rail carriers; repealing the Infrastructure and Jobs Development Council procedural rule relating to establishing procedures to provide public notice of date, time, place, agenda and purpose of meetings of the West Virginia Infrastructure and Jobs Development Council and manner in which meetings are to be conducted; and repealing the Water Development Authority procedural rule new procedures in relation to providing public notice of date, time, place and purpose of meetings of the West Virginia Water Development Authority and manner in which meetings are to be conducted.

And,

**Senate Bill 590** (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 §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5 and §64-12-6, all relating generally to repealing certain legislative, procedural and interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing certain legislative and procedural rules of certain agencies and boards of the Department of Commerce; repealing the Commercial Whitewater Advisory Board legislative rule relating to commercial whitewater outfitters; repealing the Commercial Whitewater Advisory Board procedural rule relating to regulations for open governmental proceedings; repealing the Commissioner of Employment Security legislative rule relating to regulations of the Commissioner of Employment Security; repealing the Commissioner of Employment Security legislative rule relating to implementation of a pilot employment supplemental matching program; repealing the Division of Forestry procedural rule relating to Freedom of Information Act requests; repealing the Division of Labor legislative rule relating to the West Virginia safety code for aerial passenger tramways, lifts and tows; repealing the Division of Labor legislative rule relating to the West Virginia Prevailing Wage Act; repealing the Minimum Wage Rate Board legislative rule relating to the West Virginia Prevailing Wage Act; repealing the Division of Natural Resources legislative rule relating to shoreline camping of government-owned reservoir areas in West Virginia; repealing the Division of Natural Resources legislative rule relating to special bear hunting; and repealing the Division of Natural Resources procedural rule relating to rules for open government proceedings.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Karnes, 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 34** (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study simplifying the hunting, fishing and trapping licenses for West Virginia residents and nonresidents.

Whereas, A great number of West Virginia residents and visitors enjoy participating in the recreational activities of hunting, fishing and trapping; and

Whereas, West Virginia residents' participation in these activities has a large impact on the West Virginia economy; and

Whereas, There are more than forty hunting and fishing licenses and stamps that make it difficult for residents and nonresidents to understand and abide by the rules and regulations; and

Whereas, A decreased number of licenses and stamps would make it easier for residents and nonresidents alike to purchase licenses and stamps, and may spur the purchase of more hunting, fishing and trapping licenses; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study simplifying the hunting, fishing and trapping licenses for West Virginia residents and nonresidents; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with any 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,

Robert Karnes,  
*Chair.*

On motion of Senator Carmichael, the resolution (S. C. R. 34) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 29**, US Army SSG Landon Clair Ray and US Army SPC4 Garry Dwight Haynes 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 30**, Lester W. and Ida C. Ellis 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 31**, US Air Force Staff Sgt Bethel Howard McNeely and US Marine Staff Sgt Clyde Elmo Bryant Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 7**, Establishing wrongful conduct rule prohibiting recovery of damages in 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 7) 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 341**, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 341) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 341) 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 378**, Relating to truancy intervention.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 378) 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 419**, Terminating taxes imposed under Workers' Compensation Debt Reduction Act of 2005.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 419) passed.

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

**Eng. Senate Bill 419**—A Bill to amend and reenact §4-11A-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13V-4 of said code; and to amend and reenact §11-21-96 of said code, all relating to termination of Workers' Compensation Debt Reduction Act; specifying effective date of termination; authorizing sooner termination by Executive Order; reallocating deposits of revenues with relation to the Old Fund; authorizing redirection of deposits, by Executive Order, of

specified revenues into the General Fund for a limited time period if budget shortfall exceeds specified amount; eliminating language relating to actuarial determination and executive certification of specified conditions; specifying effective dates; and specifying dedication of revenues.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 419) 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 437**, Updating and clarifying code relating to rules governing mixed martial arts.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 437) 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 449**, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 449) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 449) 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 450**, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 450) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 450) 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 451**, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 451) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 451) 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 509,** Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Beach, Unger and Williams—3.

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. 509) 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 73,** Creating felony crime of knowingly leaving scene of crash resulting in serious bodily injury.

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 116**, Increasing number of limited video lottery terminals allowed at retail location.

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

On motion of Senator Trump, the bill was referred to the Committee on Finance.

**Com. Sub. for Senate Bill 429**, Adopting two National Association of Insurance Commissioners' models to protect enrollees and general public and permit greater oversight.

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 465**, Allowing professional employer insure certain risks through pure insurance captive.

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

**Senate Bill 469**, Clarifying what personal funds are exempt from levy following judgment.

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 501**, Relating to 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 517**, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner.

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

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



**Com. Sub. for Senate Bill 524**, Rewriting Board of Barbers and Cosmetologists article.

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

At the request of Senator Carmichael, 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.

**Senate Bill 299**, Creating Library Facilities Improvement Fund.

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

**Senate Bill 403**, Relating to cooperative extension workers.

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

**Com. Sub. for Senate Bill 404**, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases.

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

**Senate Bill 459**, Requiring county board of education to pay tuition to Mountaineer Challenge Academy.

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

**Senate Bill 483**, Marshall County LSIC waiver.

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

**Com. Sub. for Senate Bill 522**, Relating to public service districts.

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

On motion of Senator Carmichael, the bill was committed to the Committee on Rules.

**Senate Bill 558**, Maintaining solvency of Unemployment Compensation Fund.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Carmichael.

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Maynard, the name of Senator Maynard was removed as a sponsor of **Senate Bill 383** (*Promoting efficient extraction of oil and gas resources*).

At the request of Senator Plymale, the name of Senator Plymale was removed as a sponsor of **Senate Bill 546** (*Relating generally to Public Defender Services*).

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 12, 2016, at 11 a.m.

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FRIDAY, FEBRUARY 12, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Dr. Michael Young, Emmanuel Baptist Church, Charleston, 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 11, 2016,

At the request of Senator Karnes, 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.

On motion of Senator Carmichael, the Senate recessed for five minutes to permit Claudia Chapman to address the Senate on behalf of the Frasure-Singleton Student Legislative Program.

Upon expiration of the recess, the Senate reconvened and 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 4012**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4 and §5-11C-5, all relating to establishing the West Virginia Religious Freedom Restoration Act to ensure that, in all cases where state action is alleged to substantially burden the exercise of religion, that a compelling interest test is mandated, and, strict scrutiny is applied; including a short title; providing definitions; and addressing applicability, construction, remedies, and severability.

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. House Bill 4148**—A Bill to amend and reenact §11-24-3 and §11-24-13 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Corporation Net Income Tax Act; updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; changing the due date for filing a West Virginia Corporation Net Income Tax return; and specifying effective dates.

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. Com. Sub. for House Bill 4158**—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, 2016, to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act, fund 8749, fiscal year 2016, organization 0323, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

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 4161**—A Bill to amend and reenact §11-8-6a of the Code of West Virginia, 1931, as amended, relating to levies on classifications of property by the Board of Public Works; removing antiquated language requiring Board of Public Works to levy property tax rates to meet the requirements of state road bonds issued prior to November 8, 1932; and removing references to corresponding levy rates.

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 4362**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-9d, relating to crimes against the person; establishing a felony offense of strangulation; defining terms; and providing penalties.

Referred to the Committee on the Judiciary.

### **Executive Communications**

The Clerk then presented communications from His Excellency, the Governor, advising that on February 11, 2016, he had approved **Enr. Senate Bill 32, Enr. Committee Substitute for Senate Bill 342, Enr. Senate Bill 357, Enr. Senate Bill 360 and Enr. Committee Substitute for House Bill 2101.**

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

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

February 11, 2016

#### **VIA HAND DELIVERY**

The Honorable William P. Cole III  
President, West Virginia Senate  
Room 229M, Building 1  
State Capitol  
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 1

Dear President Cole:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 1 for public policy reasons.

I dispute that West Virginia needs a “right to work” law. The issue of “right to work” has been discussed for several years, but I have never had a company cite “right to work” as a barrier to relocating in West Virginia. We do not lack prospects. Our issues are best addressed by improving our workforce and creating new development opportunities. Since I became governor in 2010, West Virginia has welcomed more than \$10 billion in new investments and expansion projects. A “right to work” law will lead to little if any economic growth and may lower the wages of West Virginia workers.

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

Sincerely,

Earl Ray Tomblin  
*Governor*

cc: The Hon. Tim Armstead  
*Speaker of the House of Delegates*  
The Hon. Natalie E. Tennant  
*Secretary of State*

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

**Enr. Senate Bill 1**, Establishing WV Workplace Freedom Act.

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

Following discussion,

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled Senate Bill 1, the same was put and prevailed.

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

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. S. B. 1) passed with its title, as a result of the objections of the Governor.

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

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senators Miller, Kessler, Romano, Laird and Carmichael regarding Enrolled Senate Bill 1 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the fourth order of business.

Senator Ferns, 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 10**, Unborn Child Protection from Dismemberment Abortion Act.

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

**Com. Sub. for Senate Bill 10** (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 §16-2O-1, relating to the creation of the Unborn Child Protection from Dismemberment Abortion Act; providing definitions; prohibiting dismemberment abortions; deeming violations by physicians and other licensed medical practitioners to be a breach of the standard of care and outside the scope of practice that is permitted by law; allowing for discipline from the applicable licensure board for that conduct, including, but not limited to, loss of professional license to practice for violation; constituting violations for nonphysician and nonlicensed medical practitioners as unauthorized practice of medicine and subject to criminal penalties; preserving existing legal remedies for violations; and clarifying that no penalty may be assessed against a patient.

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,

Ryan J. Ferns,  
*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 Health and Human Resources.

Senator Hall, 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 16** (originating in the Committee on Transportation and Infrastructure), Providing tax credit for providing broadband service to unserved areas.



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

**Com. Sub. for Com. Sub. for Senate Bill 16** (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 §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6 and §11-13DD-7, all relating generally to providing tax credit for providing broadband service and wireless broadband service to unserved areas; requiring Tax Commissioner to propose rules for legislative approval to administer this article; providing definitions; specifying amount, application, restrictions, timing and cap on tax credit; and permitting a carryover of credit to subsequent tax year.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 105**, Allowing nonpublic school student participate in public school athletics.

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

**Com. Sub. for Senate Bill 105** (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 §18-2-25b, relating to education; providing for the Tim Tebow Act; permitting students instructed at home by a private tutor or enrolled in a private, parochial or church school or a school operated by a religious order, who do not attend a school that is a member of the

West Virginia Secondary School Activities Commission to participate in extracurricular athletic or other extracurricular activities at a school that is a member of the commission; providing requirements, standards and insurance coverage; and providing that accommodating schools may not be impeded from competing against other schools.

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,

Dave Sypolt,  
*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.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 267**, Modifying removal procedure for certain county, school district and municipal officers.

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

**Com. Sub. for Senate Bill 267** (originating in the Committee on Government Organization)—A Bill to amend and reenact §6-6-1 and §6-6-7 of the Code of West Virginia, 1931, as amended, all relating to modifying the procedure for removal of certain county, school district and municipal officers; modifying definitions; and providing for political subdivisions be responsible for costs associated with removal proceedings when the outcome is in favor of a challenged officer.

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,

Craig Blair,  
*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 283**, Creating crime of arson when fire is caused by operation of clandestine drug laboratory.

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

**Com. Sub. for Senate Bill 283** (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 §61-3-9, relating to creating crime of causing the burning of a building or other structure while operating a clandestine drug laboratory; and establishing criminal penalties.

**Senate Bill 436**, Defining adequate shelter for dogs and cats.

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

**Com. Sub. for Senate Bill 436** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to animal cruelty; defining adequate shelter for certain dogs and cats; and

giving discretion in determining adequate shelter in certain circumstances.

And,

**Senate Bill 504**, Relating to confidentiality of juvenile records.

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

**Com. Sub. for Senate Bill 504** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §49-5-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §62-6B-2 of said code; and to amend said code by adding thereto a new section, designated §62-6B-6, all relating to confidentiality of records; providing that a recorded interview of a minor in a criminal or abuse or neglect case is generally confidential and exempt from disclosure; defining terms, including “interviewed child” and “recorded interview”; providing that recorded interviews of children in criminal and administrative proceedings are confidential and subject to disclosure only pursuant to a court order; requesting Supreme Court of Appeals to promulgate rules which ensure access of parties and counsel to the contents of the recorded interview while ensuring that unauthorized duplication and publication are eliminated; creating the criminal offense of unlawfully duplicating, publishing or using a recorded interview in violation of the terms of a court order or the general confidentiality provision; and establishing penalties therefor.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 313**, Changing mandatory school instructional time from 180 days to minutes.

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

**Com. Sub. for Senate Bill 313** (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 school calendar; allowing limited use of available accrued instructional time when not possible to complete one hundred eighty separate instructional days in certain instances; requiring emergency rule if necessary; and removing obsolete effective date provision.

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,

Dave Sypolt,  
*Chair.*

At the request of Senator Hall, 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 Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 351**, Dedicating severance tax proceeds.

**Senate Bill 356**, Eliminating consumers sales and service tax exemption for 2016 fiscal year.

**Senate Bill 439**, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances.

And,

**Senate Bill 462**, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 400**, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund.

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

**Com. Sub. for Senate Bill 400** (originating in the Committee on Finance)—A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended, relating to dedication and deposit of certain tax proceeds; reducing amount of sales tax proceeds annually dedicated to School Major Improvement Fund by \$999,996 for fiscal year 2017; amending monthly deposit requirements; specifying retroactive effect; and reducing amount of sales tax proceeds annually dedicated to School Construction Fund by \$3 million for fiscal year 2017.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 424**, Allowing fire departments assess fees.

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

**Com. Sub. for Senate Bill 424** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-1-3d of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-17-12 of said code, all relating to county commissions authorizing reasonable fees charged for fire department or fire company response to fires or other calls for assistance; describing the means to be used for calculating and charging fees for responding to fire or other calls for assistance; prohibiting fire company or fire department from seeking reimbursement where the property is assessed a fire service levy or fire service fee; and establishing the method for revising and reauthorizing the county fire service fee by the county commission.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 507**, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 515**, Authorizing payment of certain claims against state.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

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

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

February 11, 2016

**VIA HAND DELIVERY**

The Honorable Tim Armstead  
Speaker, West Virginia House of Delegates  
Room 228M, Building 1  
State Capitol Complex



1900 Kanawha Blvd., East  
Charleston, West Virginia 25305

Re: Enrolled House Bill 4005

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 4005.

The Legislature of West Virginia enacted the Wages for Construction of Public Improvements Act in 1935 to ensure that laborers, workers, and mechanics receive fair wages on state public improvement contracts. Contending that the prevailing wage rates for building bridges, digging ditches, and tunneling sewers have become too generous, several legislators sought the Act's repeal during the 2015 Regular Session of the Legislature. I encouraged a less drastic course of action, and urged the Legislature to collaborate with Workforce West Virginia and our state's foremost universities to improve the Act's methodology for calculating prevailing wage rates. Working together, we achieved a reasonable compromise in 2015, modernizing the Act instead of extinguishing it.

Our compromise, it turns out, was all for naught. Enrolled House Bill 4005 repeals the Act in an about-face from our eighty-one year history of paying laborers, workers, and mechanics fairly for constructing public improvements. Because I favor compromise and fairness over extreme measures, I disapprove and return this bill.

Sincerely,

Earl Ray Tomblin  
*Governor*

cc: The Hon. William P. Cole III  
*President of the Senate*  
The Hon. Natalie E. Tennant  
*Secretary of State*

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

**Enr. House Bill 4005**, Repealing prevailing hourly rate of wages requirements.

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

**Enr. House Bill 4005**, Repealing prevailing hourly rate of wages requirements.

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

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled House Bill 4005, the same was put and prevailed.

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

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. H. B. 4005) passed with its title, as a result of the objections of the Governor.

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

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Trump, Gaunch, Walters, Ashley, Snyder, Beach, Takubo, Maynard, Kessler, Palumbo, Blair, Miller, Williams, Kirkendoll, Woelfel, Romano, Mullins, Unger, Laird, Sypolt, Stollings and Plymale:**

**Senate Bill 591**—A Bill to amend and reenact §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, all relating to voter registration list maintenance and the combined voter registration and driver licensing fund; and providing that under certain circumstances moneys from that fund would be transferred to another fund.

Referred to the Committee on the Judiciary.

**By Senator Hall:**

**Senate Bill 592**—A Bill to amend and reenact §24B-5-3 of the Code of West Virginia, 1931, as amended, relating to pipeline safety and the method of calculating the amount of special license fees paid by pipeline companies to the Public Service Commission.

Referred to the Committee on Government Organization.

**By Senator Carmichael:**

**Senate Bill 593**—A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to disqualification for unemployment benefits; and providing that an individual shall be disqualified for benefits for any week, or portion of a week, in which he or she did not work as a result of a strike.

Referred to the Committee on the Judiciary.

**By Senators Prezioso, Plymale and Gaunch:**

**Senate Bill 594**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§12-3-10g, relating to requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice.

Referred to the Committee on Government Organization.

**By Senators Gaunch, Blair, Boso, Carmichael, Kirkendoll, Maynard, Prezioso, Stollings, Walters, Plymale and Williams:**

**Senate Bill 595**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-15c; and to amend said code by adding thereto a new section, designated §18-7A-17b, all relating to retirement credit for members of the West Virginia National Guard; and establishing procedure for purchase of military service credit by members of certain retirement systems with current or prior service in the West Virginia National Guard.

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

**By Senators Carmichael and Walters:**

**Senate Bill 596**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, relating to permitting natural gas companies to enter upon real property in certain instances for limited purposes; setting forth those instances and purposes; making legislative findings; establishing a procedure to enter upon the property; requiring the company to pay for damages; excluding certain activities; exempting the company and its agents from trespass penalties if certain conditions are met; and providing that certain other rights are not impaired.

Referred to the Committee on the Judiciary.

**By Senators Ferns and Plymale:**

**Senate Bill 597**—A Bill to amend and reenact §5F-1-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-2D-2 and §16-2D-5 of said code; to amend and reenact §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5 and §16-5F-

6 of said code; to amend and reenact §16-29B-3, §16-29B-5, §16-29B-6, §16-29B-7, §16-29B-8, §16-29B-9, §16-29B-11, §16-29B-12, §16-29B-13, §16-29B-14, §16-29B-15, §16-29B-17, §16-29B-18, §16-29B-19a, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25 and §16-29B-26 of said code; to amend said code by adding thereto a new section, designated §16-29B-5a; to amend and reenact §16-29G-2, §16-29G-4, §16-29G-5 and §16-29G-6 of said code; and to amend and reenact §16-29I-4 of said code, all relating generally to the Health Care Authority; employment of the members of the Board of the West Virginia Health Care Authority; setting salaries for board members; creating the position of Executive Director of the Health Care Authority; making the executive director the administrative head of the Health Care Authority; setting forth the qualifications of the executive director; adding the executive director to the Public Employees Insurance Agency Advisory Board; clarifying where the administrative duties of the Health Care Authority are to be carried out; clarifying that the Board of Directors of the Health Care Authority is the adjudicatory arm of the Health Care Authority; requiring that the members of the board of directors be employed on a part-time basis; setting forth other employment requirements for the board of directors; expanding the board of directors from three to five members; setting forth qualifications for appointment to the board of directors; providing that the board of directors shall report to the executive director; establishing compensation for the board of directors; setting forth minimum hearing requirements before the board of directors; providing for recommended decisions by the board of directors to the executive director; setting forth executive director procedure for review and approval of recommended decisions of the board of directors; providing for remand of a decision; clarifying that the executive director has all rule-setting powers; providing for a study by the Health Care Authority of concerns of hospitals in border counties; requiring a comprehensive study of the certificate of need program, including possible elimination of certificate of need; eliminating rate review from the authority of the Health Care Authority; making technical corrections; and updating code reference.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Walters, Boso and Carmichael:**

**Senate Bill 598**—A Bill to amend and reenact §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said code; and to amend and reenact §29-22C-8, §29-22C-27 and §29-22C-27a of said code, all relating to transferring certain revenues derived from racetrack video lottery and racetrack table games from the special fund established for greyhound racetrack licensees to the State Excess Lottery Revenue Fund; defunding the West Virginia Greyhound Breeding Development Fund and transferring money dedicated to the Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation by the Legislature; and eliminating the requirement that video lottery licensee must hold a racing license to renew video lottery license or racetrack table games license.

Referred to the Committee on Finance.

Senators Stollings, Plymale, Gaunch, Sypolt, Kessler and Prezioso offered the following resolution:

**Senate Concurrent Resolution 35**—Requesting that the West Virginia Legislature proclaim the week of March 7 through March 13, 2016, to be MS Awareness Week and commend observance of the week and to encourage all West Virginians to learn more about multiple sclerosis and what they can do to support individuals with MS and their families.

Whereas, Multiple sclerosis (MS) is a neurological disease of the central nervous system affecting at least 2.3 million people worldwide; and

Whereas, The National Multiple Sclerosis Society reports that in our state, we serve more than 3,000 people diagnosed with MS,

and that the disease generally strikes people in the prime of life, between ages 20 through 50, and causes unpredictable effects in which the progression, severity and specific symptoms cannot be foreseen, and the cause and cure for this often debilitating disease remain unknown; and

Whereas, The National Multiple Sclerosis Society has been committed for more than 70 years to creating a world free of MS, heightening public knowledge about and insight into the disease while mobilizing people and resources so that everyone affected by MS can live their best lives as we stop MS in its tracks, restore what has been lost and end MS forever; and

Whereas, Since 1946 the National Multiple Sclerosis Society has been a driving force of MS research, relentlessly pursuing prevention, treatment and a cure and has invested more than \$920 million in groundbreaking research; and

Whereas, Funds raised through the National Multiple Sclerosis Society fuel the efforts of more than 380 research projects globally totaling nearly \$54 million annually at the best medical centers, universities and other institutions throughout the United States and abroad. Because of this, MS research has never been more hopeful than it is today; and

Whereas, Discovering the cause, finding a cure and preventing future generations from being diagnosed with MS is an important task that all Americans support; and

Whereas, The State of West Virginia recognizes the importance of finding the cause and cure of MS, a chronic and often devastating disease, and expresses its appreciation and admiration for the dedication that the National Multiple Sclerosis Society has shown toward a future free of MS; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the week of March 7 through March 13, 2016, is hereby proclaimed to be MS Awareness Week, and commend observance of the week and to encourage all West Virginians to learn more

about multiple sclerosis and what they can do to support individuals with MS and their families; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby requested to forward a copy of this resolution to the representatives of MS Awareness.

Which, under the rules, lies over one day.

Senators Palumbo, Walters, Gaunch, Takubo, Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Cole (Mr. President), Facemire, Ferns, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Trump, Unger, Williams, Woelfel and Yost offered the following resolution:

**Senate Resolution 34**—Memorializing the life of Virginia Mae Ellars, devoted wife, mother, sister and friend; former long-time employee of the West Virginia Senate; and dedicated public servant.

Whereas, Virginia Mae Ellars was a lifelong resident of Charleston, West Virginia, and enjoyed a long, distinguished career in the West Virginia Senate; and

Whereas, Virginia Mae Ellars began her tenure in the West Virginia Senate in 1948 as an interim committee secretary and would go on to become the Bill Clerk and Chief Journal Clerk of the Senate before her retirement in 1986; and

Whereas, Virginia Mae Ellars continued serving the Senate part-time after her retirement as a proofreader during legislative sessions, training new staff and imparting her 38 years of institutional knowledge to them; and

Whereas, Virginia Mae Ellars was married to her beloved husband, James, with whom she shared the joy of having three children: Cherie, Daniel and James; and



Whereas, Virginia Mae Ellars was devoted to her family and friends, was a role model to many and demonstrated the importance of home and family in preserving our culture, our moral values, our traditions and our crafts; and

Whereas, Virginia Mae Ellars was a dedicated public servant who truly loved the West Virginia Senate and it is fitting that the Senate pay tribute to her life, legacy and loyalty; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of Virginia Mae Ellars, devoted wife, mother, sister and friend; former long-time employee of the West Virginia Senate; and dedicated public servant; and, be it

*Further Resolved*, That the Senate expresses its most sincere and heart-felt condolences to the family of Virginia Mae Ellars; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the family of Virginia Mae Ellars.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senator Sypolt presented a petition from Harriet Hartman and numerous West Virginia residents, urging the Legislature to preserve the Nancy Hanks Antique Cabin and Historic Memorial in Mineral County.

Referred to the Committee on Government Organization.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 32**, CW2 Robert D. 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 Concurrent Resolution 33**, Requesting WV Infrastructure and Jobs Development Council study and report on consolidation regarding public water and sewer utilities.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 73**, Creating felony crime of knowingly leaving scene of crash resulting in serious bodily injury.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 73) 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 429**, Adopting two National Association of Insurance Commissioners' models to protect enrollees and general public and permit greater oversight.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 429) 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 465**, Allowing professional employer insure certain risks through pure insurance captive.

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

Senator Mullins requested a ruling from the Chair as to whether he should be excused from voting under Senate Rule 43 as he is an owner of a professional employer organization.

The Chair replied that any impact on Senator Mullins 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 465) 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 469**, Clarifying what personal funds are exempt from levy following judgment.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 469) 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 501**, Relating to 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 501) 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.

**Senate Bill 299**, Creating Library Facilities Improvement 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 328**, Creating West Virginia Veterans Program Fund.

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

**Senate Bill 403**, Relating to cooperative extension workers.

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 404**, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases.

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

**Senate Bill 459**, Requiring county board of education to pay tuition to Mountaineer Challenge Academy.

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

**Senate Bill 483**, Marshall County LSIC waiver.

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 517**, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner.

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 524**, Rewriting Board of Barbers and Cosmetologists article.

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

**Senate Bill 558**, Maintaining solvency of Unemployment Compensation Fund.

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.

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

**Senate Bill 147**, Providing consumers sales and service tax and use tax exemption for certain services and tangible personal property sold for repair, remodeling and maintenance of aircraft.

**Com. Sub. for Senate Bill 272**, Allowing investigators from Attorney General's office to carry concealed weapons.

**Com. Sub. for Senate Bill 298**, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays.

**Senate Bill 423**, Providing for disposition of unclaimed and unredeemed savings bond.

**Com. Sub. for Senate Bill 493**, Allowing creation of self-settled spendthrift trusts.

**Com. Sub. for Senate Bill 510**, Establishing Adult Drug Court Participation Fund.

**Com. Sub. for Senate Bill 511**, Establishing Court Advanced Technology Subscription Fund.

**Senate Bill 516**, Relating to registration for selective service.

**Senate Bill 583**, Repealing certain obsolete legislative rules by Department of Administration.

**Senate Bill 584**, Repealing certain obsolete legislative rules by DEP.

**Senate Bill 585**, Repealing certain obsolete legislative rules by DHHR.

**Senate Bill 586**, Repealing certain obsolete legislative rules by Department of Military Affairs and Public Safety.

**Senate Bill 587**, Repealing certain obsolete legislative rules by Department of Revenue.

**Senate Bill 588**, Repealing certain obsolete legislative rules by Department of Transportation.

**Senate Bill 589**, Repealing certain obsolete legislative rules by miscellaneous agencies and boards.

And,

**Senate Bill 590**, Repealing certain obsolete legislative rules by Department of Commerce.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Trump, Hall, Prezioso, Leonhardt and Snyder.

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

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

A message from The Clerk of the House of Delegates announced the passage by a vote of a majority of all the members elected to the House of Delegates taken by yeas and nays, notwithstanding the objections of the Governor, of

**Enr. Senate Bill 1**, Establishing WV Workplace Freedom Act.

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

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Blair, the name of Senator Blair was removed as a sponsor of **Senate Bill 508** (*Relating to civil claims for private nuisance*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 15, 2016, at 11 a.m.

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## MONDAY, FEBRUARY 15, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Chaplain David Smith, St. Marys Correctional Center, St. Marys, 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 Friday, February 12, 2016,

At the request of Senator Gaunch, 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 Carmichael, and by unanimous consent, the provisions of rule number fifty-four of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant United States military veterans and Cayden Philip Blair, grandson of the Honorable Craig Blair, a senator from the fifteenth district, privileges of the floor for the day.

The Senate then proceeded to the third order of business.

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 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

On motion of Senator Carmichael, 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 Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Ashley, Karnes and Woelfel.

*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 passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4147**—A Bill to amend and reenact §18-9D-2, §18-9D-3, §18-9D-4c and §18-9D-16 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-9D-22, all relating to making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority.

Referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Blair, 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 315** (originating in the Committee on Transportation and Infrastructure), Providing for construction of statewide fiber optic broadband infrastructure network.

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

**Com. Sub. for Com. Sub. for Senate Bill 315** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto seventeen new sections, designated §31-15A-1a, §31-15A-9a, §31-15A-10a, §31-15A-11a, §31-15A-11b, §31-15A-12a, §31-15A-13a, §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a; to amend and reenact §31-15A-2, §31-15A-8, §31-15A-10, §31-15A-11 and §31-15A-17 of said code; and to amend and reenact §31-15C-4 of said code, all relating generally to development of infrastructure in the state; establishing purposes for amendments to develop broadband infrastructure; providing for development of broadband middle mile infrastructure; defining new terms; creating separate infrastructure fund for broadband middle mile infrastructure projects; providing for deposits and expenditures; requiring certain agencies to apply for grant funds in furtherance of broadband middle mile infrastructure projects; setting forth additional powers and duties for Water Development Authority and Broadband Enhancement Council; creating West Virginia Infrastructure Fund for Broadband Middle Mile Development; providing for disposition of funds on termination or dissolution of authority; authorizing issuance of broadband middle mile revenue bonds; creating West Virginia Broadband Middle Mile Infrastructure Revenue Debt Service Fund; providing for funding of debt service fund; specifying requirements for issuance of bonds; providing for contents of trust agreement and trustee for bonds; specifying remedies available to bondholders, noteholders and trustees; making broadband middle mile infrastructure revenue bonds lawful investments; providing for purchase, cancellation and refunding of bonds; declaring bonds are not state debts and are exempt from taxation; requiring periodic reporting; limiting personal liability; and permitting legislative and emergency rulemaking.

With the recommendation that the committee substitute for committee substitute 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 529**, Making certain sport and educational fantasy games lawful.

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

**Com. Sub. for Senate Bill 529** (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 §47-28-1 and §47-28-2, all relating to fantasy games; defining “fantasy game”; providing that fantasy games are lawful; and clarifying that fantasy games are not subject to criminal penalties or sanctions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Hall, Carmichael, Prezioso and Plymale:**

**Senate Bill 599**—A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating generally to Uniform Unclaimed Property Act; clarifying intent of Legislature that the state’s insurance laws regulating insurance apply to proceeds of unclaimed life or endowment insurance policies and annuities payable upon death; eliminating any perceived inconsistency between insurance laws and Uniform Unclaimed Property Act; eliminating unintended interpretation of law

expressed in the case of *State of West Virginia ex rel. John D. Perdue v. Nationwide Life Insurance Company*, No. 14-0100 (W. Va. June 16, 2015); clarifying that law as it existed prior to such decision regarding when presumption of abandonment arises with respect to a life or endowment insurance policy or annuity payable upon proof of death be consistent with insurance laws; and providing that this amendment shall have retroactive effect given its intent to restate and clarify law as it did exist and was intended to exist prior to above-referenced court decision.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Williams, Walters, Woelfel, Snyder, Takubo, Miller, Stollings, Kessler and Plymale:**

**Senate Bill 600**—A Bill to amend and reenact §3-10-5, §3-10-6, §3-10-7 and §3-10-8 of the Code of West Virginia, 1931, as amended, all relating to requiring vacancies in the House of Delegates, State Senate, circuit court clerk, county commission, county clerk, prosecuting attorney, sheriff, assessor or county surveyor be filled by a person affiliated with the same party as the person vacating the office was affiliated at the time of his or her last election to the office or if not elected at the time of his or her appointment.

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

**By Senator Boso:**

**Senate Bill 601**—A Bill to amend and reenact §22-15-1, §22-15-2, §22-15-6, §22-15-10 and §22-15-13 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §22-15-9a; to amend and reenact §22C-4-2 of said code; to amend said code by adding thereto a new section, designated §22C-4-31; and to amend said code by adding thereto a new section, designated §24-2-1L, all relating to legislative findings relating to oil and gas solid waste facility; definitions; applicability of the fee for a certificate of site approval; promulgation of rules; limits and standards applicable to oil and gas solid waste facilities; provisions regarding certain permits that will not apply to or be required of oil and gas solid waste facilities;

exception from the jurisdiction of county and regional solid waste authorities; and exception from the jurisdiction of the Public Service Commission.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 602**—A Bill to amend and reenact §29-12D-1 and §29-12D-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §29-12D-1a; to amend and reenact §55-7B-9, §55-7B-9c and §55-7B-9d of said code; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating to the Patient Injury Compensation Fund; providing that the board may not compensate claimants who have not filed a claim by a specific date; providing an assessment on licenses; providing an assessment on trauma center interventions; amending the limit on liability for economic damages in causes of actions against a trauma facility; providing that a claimant's attorney fees may not be paid out of the fund; providing that several liability applies in all cases under the Medical Professional Liability Act; amending the filing fee for causes of action under the Medical Professional Liability Act; and directing the clerk of the court to deposit a portion of the filing fee into the fund.

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

**By Senators Carmichael, Stollings, Boso and Prezioso:**

**Senate Bill 603**—A Bill to amend and reenact §15-5-20 of the Code of West Virginia, 1931, as amended, relating to requiring preplanning, preparing and provisioning of public facilities for use as shelters for elderly and disabled during emergency situations when utilities and public services are not available for extended periods.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Takubo, Stollings and Boso:**

**Senate Bill 604**—A Bill to amend and reenact §11-19-2 of the Code of West Virginia, 1931, as amended, relating to increasing

the excise tax on bottled soft drinks, syrups and dry mixtures; dedicating eighty percent of the proceeds to the benefit of the four-year School of Medicine, Dentistry and Nursing of West Virginia University, the Joan C. Edwards School of Medicine of Marshall University and the West Virginia School of Osteopathic Medicine; and dedicating twenty percent of the increase to the West Virginia Department of Health and Human Resources to be used for the expansion of Medicaid beginning in the year 2017.

Referred to the Committee on Finance.

**By Senators Ferns, Yost and Boso:**

**Senate Bill 605**—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to continuing personal income tax adjustment to gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee.

Referred to the Committee on Finance.

**By Senators Stollings, Boso, Mullins and Takubo:**

**Senate Bill 606**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5 and §16-5Y-6, all relating to establishing an advisory council on rare diseases; creating the advisory council and its composition; setting terms of members; defining words and phrases; defining the duties and the powers of the advisory council; setting out particular duties of the Secretary of the Department of Health and Human Resources; and establishing a special revenue account.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Takubo and Stollings:**

**Senate Bill 607**—A Bill to amend and reenact §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-17-4b, all relating to increasing the tax rate on cigarettes and

tobacco products; requiring a physical inventory of tax stamps and tobacco products and e-cigarette liquids upon the effective date of tax imposition or tax rate increase; applying tax rate changes to inventories; requiring a report of the inventory be filed sixty days after the effective date of the tax imposition or tax rate change; levying the excise tax on e-cigarette liquid; dedicating a portion of the revenues generated to the tobacco cessation efforts of the Department of Health and Human Resources; including defining terms; providing for administration of the tax on e-cigarette liquid; specifying penalty for failure to file required reports; specifying criminal sanctions; and specifying effective date.

Referred to the Committee on Finance.

Senators Ferns and Plymale offered the following resolution:

**Senate Concurrent Resolution 36**—Requesting Division of Highways name bridge number 35-70/1-0.01 (35A141) (40.06690 – 80-69312), locally known as Washington Avenue Bridge, carrying County Route 70/1 over interstate 70 in Ohio County, the “U. S. Army SPC5 Joseph Richard ‘Rick’ Schafer Memorial Bridge”.

Whereas, Joseph Richard “Rick” Schafer was born April 29, 1949, in Wheeling, West Virginia, the son of Joseph E. Schafer, Jr., deceased, and Betty J. Pappert Schafer; and

Whereas, Joseph Richard Schafer grew up with three sisters: Beverly Schafer Yankwitt of Port Charlotte, Florida; Paula Schafer Wood of Ocala, Florida; and Lynnette Schafer of Wheeling, West Virginia; and

Whereas, Joseph Richard Schafer enjoyed playing Little League baseball and high school football; and

Whereas, Joseph Richard Schafer graduated from Central Catholic High School in Wheeling and attended West Liberty State College; and



Whereas, Joseph Richard Schafer would cross the Washington Avenue Bridge near his home almost every day to be with friends or to meet the girlfriend he would later marry; and

Whereas, Prior to entering the U. S. Army, Joseph Richard Schafer married Vicki Dayton of Wheeling, West Virginia; and

Whereas, SPC5 Joseph Richard Schafer entered the U. S. Army on May 29, 1969, and was trained as an engineer equipment repairman; and

Whereas, SPC5 Joseph Richard Schafer was deployed to Vietnam on September 15, 1970; and

Whereas, Joseph Richard Schafer was killed in Vietnam on May 6, 1971, while driving a military vehicle involved in an accident; and

Whereas, It is appropriate to name the bridge for SPC5 Joseph Richard “Rick” Schafer who gave his life for his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 35-70/1-0.01 (35A141) (40.06690 – 80-69312), locally known as Washington Avenue Bridge, carrying County Route 70/1 over interstate 70 in Ohio County, the “U. S. Army SPC5 Joseph Richard ‘Rick’ Schafer Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army SPC5 Joseph Richard ‘Rick’ Schafer 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 Laird, Stollings, Palumbo, Kessler, Plymale, Williams and Yost offered the following resolution:

**Senate Resolution 35**—Designating February 15, 2016, as Corrections Day at the Legislature.

Whereas, The West Virginia Division of Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services are committed to enhancing public safety by providing safe, secure and humane facilities, operating an effective system of offender re-entry and community supervision, reducing offender recidivism and assisting victims of crime; and

Whereas, The Division of Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services are further committed to providing effective beneficial services that promote positive development and accountability while preserving community safety and sustaining a work environment predicated upon principles of professionalism with dignity and respect for all; and

Whereas, It is the vision of the Division of Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services to be recognized as innovative leaders in providing quality correctional services; and

Whereas, The adult and juvenile correctional population continues to expand and it is important for agency representatives and policymakers to appreciate the nature and magnitude of the growth; and

Whereas, Previous information provided to this body should assist public officials and agency representatives in planning for the future and developing policies for the management of the West Virginia correctional population, both adult and juvenile, as well as providing adequate pay, benefits and a safe, secure workplace for the employees in the correctional system; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 15, 2016, as Corrections Day at the Legislature; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Division of Corrections.

At the request of Senator Laird, 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 Carmichael, and by unanimous consent, the remarks by Senators Laird, Kirkendoll, Woelfel and Kessler regarding the adoption of Senate Resolution 35 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Leonhardt, Palumbo, Stollings, Kessler, Plymale, Williams, Prezioso and Yost offered the following resolution:

**Senate Resolution 36**—Designating February 15, 2016, as Veterans Visibility Day at the Legislature.

Whereas, From the Revolutionary War, which gave America its identity as a free and democratic nation, to this moment, America's men and women have always risen to the call of duty in order to defend and preserve our freedom and to help maintain freedom throughout the world; and

Whereas, Per capita, more citizens from West Virginia have served in our nation's armed forces than from any other state and we are proud of our citizens who, despite danger, have done what they must for peace and freedom; and

Whereas, Through wars, conflicts and the threat of terror, thousands of West Virginians have paid the ultimate price for

freedom with their lives and thousands more have been wounded in battle; and

Whereas, The Senate is proud to honor those currently serving in harm's way in Iraq, Afghanistan and in other countries all over the world to protect democracy from the threat of terror; and

Whereas, It is always important that we honor the many brave West Virginians who have faced the enemy, been wounded and even given their lives not only for our freedom, but for freedom around the world; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 15, 2016, as Veterans Visibility Day at the Legislature; and, be it

*Further Resolved,* That the Senate expresses its sincere gratitude to all West Virginian veterans and those men and women currently serving in the armed forces to protect our freedom; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Department of Veterans Assistance.

At the request of Senator Leonhardt, 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 Carmichael, and by unanimous consent, the remarks by Senator Leonhardt regarding the adoption of Senate Resolution 36 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Romano, Facemire, Kessler, Stollings, Plymale and Yost offered the following resolution:

**Senate Resolution 37**—Recognizing Harrison County, West Virginia, as the County of Champions.

Whereas, Harrison County, West Virginia, has a long-standing tradition of winning championships in the arenas of athletics and academia, with the likes of USC football coach John McKay, NFL Hall of Famer Frank Gatsky and Frank Loria, Virginia Tech's First All-American and Academic All-American, among many others; and

Whereas, The 2015-2016 academic year was no exception; and

Whereas, The Robert C. Byrd High School cheerleaders displayed their talents in winning four consecutive state championships with titles from 2012, 2013, 2014 and 2015, led by Coach Karen Thomason and Coach Jennifer Banko; and

Whereas, The Bridgeport High School football team has won a state championship in each class—A, AA and AAA—on their way to winning a total of nine state championships, including three consecutive titles in 2013, 2014 and 2015, led by head coach Josh Nicewarner; and

Whereas, The Bridgeport High School baseball team has won four state championships, including back-to-back titles in 2014 and 2015, led by head coach Robert Shields; and

Whereas, The Bridgeport High School boys' tennis team won the 2015 class AA/A state championship; and

Whereas, Vincent Pinti, a freshman at Bridgeport High School, won first place in the Voice of Democracy competition and will now represent West Virginia in Washington, D. C., for the national competition in March 2016; and

Whereas, Katie Mossburg, a senior at Bridgeport High School, was elected Governor of Girls State and has been selected as a National Merit semi-finalist; and

Whereas, These Harrison County teams and individuals have displayed strong will and determination in perfecting their skills,

and in doing so, continuing the tradition of the County of Champions; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Harrison County, West Virginia, as the County of Champions; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives from Harrison County.

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.

On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senator Williams presented a petition from Melvin Bonner and thirty-four Hambleton residents, requesting the proposed route for Corridor H highway be shifted south of Wolf Run Road, Hambleton, Tucker County, area.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 35,** Requesting WV Legislature proclaim week of March 7 through March 13, 2016, as MS Awareness Week.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 299**, Creating Library Facilities Improvement 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 299) 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 328**, Creating West Virginia Veterans Program 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 Committee Substitute for Senate Bill 328 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt,

Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. 328) 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 403**, Relating to cooperative extension 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 403) 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 404**, Removing prohibition on billing persons for testing for HIV and sexually transmitted 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. 404) 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 459**, Requiring county board of education to pay tuition to Mountaineer Challenge Academy.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 459) 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 483**, Marshall County LSIC waiver.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Karnes—1.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 483) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2016.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Karnes—1.

Absent: Miller—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. 483) takes effect July 1, 2016.

*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 517**, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. 517) 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 524**, Rewriting Board of Barbers and Cosmetologists article.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. 524) 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 558**, Maintaining solvency of Unemployment Compensation 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 558) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. 558) 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.

**Senate Bill 147**, Providing consumers sales and service tax and use tax exemption for certain services and tangible personal property sold for repair, remodeling and maintenance of aircraft.

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 nine-o, by striking out the section caption and substituting therefor a new section caption, to read as follows:

**§11-15-9o. Exemption for purchases of services and tangible personal property sold for the repair, remodeling and maintenance of aircraft operated under a fractional ownership program.;**

On page one, section nine-o, lines two and three, by striking out the words “owned and”;

On page one, section nine-o, line four, by striking out the words “owned and”;

On page one, section nine-o, line six, by striking out the words “owned and”;

And,

On page one, section nine-o, line nine, by striking out the words “owned and”.

The bill (S. B. 147), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 272**, Allowing investigators from Attorney General's office 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 298**, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays.

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

**Senate Bill 423**, Providing for disposition of unclaimed and unredeemed savings bond.

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 493**, Allowing creation of self-settled spendthrift 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 510**, Establishing Adult Drug Court Participation 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 511**, Establishing Court Advanced Technology Subscription Fund.

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

**Senate Bill 516**, Relating to registration for selective service.

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

**Senate Bill 583**, Repealing certain obsolete legislative rules by Department of Administration.

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

**Senate Bill 584**, Repealing certain obsolete legislative rules by DEP.

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

**Senate Bill 585**, Repealing certain obsolete legislative rules by DHHR.

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

**Senate Bill 586**, Repealing certain obsolete legislative rules by Department of Military Affairs and Public Safety.

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

**Senate Bill 587**, Repealing certain obsolete legislative rules by Department of Revenue.

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

**Senate Bill 588**, Repealing certain obsolete legislative rules by Department of Transportation.

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

**Senate Bill 589**, Repealing certain obsolete legislative rules by miscellaneous agencies and boards.

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

**Senate Bill 590**, Repealing certain obsolete legislative rules by Department of Commerce.

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.

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

**Com. Sub. for Senate Bill 10**, Creating Unborn Child Protection from Dismemberment Abortion Act.

**Com. Sub. for Com. Sub. for Senate Bill 16**, Providing tax credit for providing broadband service to unserved areas.

**Com. Sub. for Senate Bill 105**, Creating Tim Tebow Act allowing nonpublic school student participate in SSAC member school athletics.

**Com. Sub. for Senate Bill 267**, Modifying removal procedure for certain county, school district and municipal officers.

**Com. Sub. for Senate Bill 283**, Creating crime when fire is caused by operation of clandestine drug laboratory.

**Com. Sub. for Senate Bill 313**, Relating to school calendar and allowing limited use of available accrued instructional time.

**Senate Bill 351**, Dedicating severance tax proceeds.

**Senate Bill 356**, Eliminating consumers sales and service tax exemption for 2016 fiscal year.

**Com. Sub. for Senate Bill 400**, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund.

**Com. Sub. for Senate Bill 424**, Allowing fire departments assess fees.



**Com. Sub. for Senate Bill 436**, Defining adequate shelter for dogs and cats.

**Senate Bill 439**, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances.

**Senate Bill 462**, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

**Com. Sub. for Senate Bill 504**, Relating to confidentiality of juvenile records.

**Senate Bill 507**, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.

And,

**Senate Bill 515**, Authorizing payment of certain claims against state.

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 Blair.

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

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Miller.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 16, 2016, at 11 a.m.

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## TUESDAY, FEBRUARY 16, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Thomas Price, Roxalana Gospel Tabernacle, Dunbar, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Art Kirkendoll, a senator from the seventh district.

Pending the reading of the Journal of Monday, February 15, 2016,

At the request of Senator Takubo, 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 a communication from the Office of Tax Appeals, submitting its annual report, in accordance with §11-10A-7 of the Code of West Virginia.

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

The Clerk presented a communication from the Department of Transportation, Office of Administrative Hearings, submitting its annual report as required by §17C-5C-2 of the Code of West Virginia.

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

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 123**, Treatment for sexually transmitted diseases.

On motion of Senator Carmichael, 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:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-4F-1, §16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; that §30-3-14 of said code be amended and reenacted; that §30-3E-17 of said code be amended and reenacted; that §30-5-14 of said code be amended and reenacted; that §30-7-11 of said code be amended and reenacted; and that §30-14-11 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 4F. EXPEDITED PARTNER THERAPY.**

#### **§16-4F-1. Definitions.**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings:

(1) “Department” means the West Virginia Department of Health and Human Resources.

(2) “Expedited partner therapy” means prescribing, dispensing, furnishing or otherwise providing prescription antibiotic drugs to the sexual partner or partners of a person clinically diagnosed as infected with a sexually transmitted disease without physical examination of the partner or partners.

(3) “Health care professional” means:

(A) An allopathic physician licensed pursuant to article three, chapter thirty of this code;

(B) An osteopathic physician licensed pursuant to article fourteen, chapter thirty of this code;

(C) A physician assistant licensed pursuant to section four, article three-e, chapter thirty of this code;

(D) An advanced practice registered nurse authorized with prescriptive authority pursuant to section fifteen-a, article seven, chapter thirty of this code; or

(E) A pharmacist licensed pursuant to article five, chapter thirty of this code.

(4) “Sexually transmitted disease” means a disease that may be treated by expedited partner therapy as determined by rule of the department.

**§16-4F-2. Expedited partner therapy.**

(a) Notwithstanding any other provision of law to the contrary, a health care professional who makes a clinical diagnosis of a sexually transmitted disease may provide expedited partner therapy for the treatment of the sexually transmitted disease if, in the judgment of the health care professional, the sexual partner is unlikely or unable to present for comprehensive health care, including evaluation, testing and treatment for sexually transmitted diseases. Expedited partner therapy is limited to a sexual partner who may have been exposed to a sexually transmitted disease within the previous sixty days and who is able to be contacted by the patient.

(b) Any health care professional who provides expedited partner therapy shall comply with all necessary provisions of article four of this chapter.

(c) A health care professional who provides expedited partner therapy shall provide counseling for the patient, including advice that all women and symptomatic persons, and in particular women

with symptoms suggestive of pelvic inflammatory disease, are encouraged to seek medical attention. The health care professional shall also provide in written or electronic format materials provided by the department to be given by the patient to his or her sexual partner.

**§16-4F-3. Informational materials.**

(a) The department shall provide information and technical assistance as appropriate to health care professionals who provide expedited partner therapy. The department shall develop and disseminate in electronic and other formats the following written materials:

(1) Informational materials for sexual partners, as described in subsection (c), section two of this article;

(2) Informational materials for persons who are repeatedly diagnosed with sexually transmitted diseases; and

(3) Guidance for health care professionals on the safe and effective provision of expedited partner therapy.

(b) The department may offer educational programs about expedited partner therapy for health care professionals.

**§16-4F-4. Limitation of liability.**

(a) A health care professional who provides expedited partner therapy in good faith without fee or compensation under this article and provides counseling and written materials as required in subsection (c), section two of this article is not subject to civil or professional liability in connection with the provision of the therapy, counseling and materials, except in the case of gross negligence or willful and wanton misconduct. A health care professional is not subject to civil or professional liability for choosing not to provide expedited partner therapy.

(b) A pharmacist or pharmacy is not subject to civil or professional liability for choosing not to fill a prescription that

would cause that pharmacist or pharmacy to violate any provision of article five, chapter thirty of this code.

**§16-4F-5. Rulemaking.**

The Secretary of the Department of Health and Human Resources shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to designate certain diseases as sexually transmitted diseases which may be treated by expedited partner therapy. The department shall consider the recommendations and classifications of the federal Department of Health and Human Services, Centers for Disease Control and Prevention and other nationally recognized medical authorities in making these designations.

**CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

**ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

**§30-3-14. Professional discipline of physicians and podiatrists; reporting of information to board pertaining to medical professional liability and professional incompetence required; penalties; grounds for license denial and discipline of physicians and podiatrists; investigations; physical and mental examinations; hearings; sanctions; summary sanctions; reporting by the board; reapplication; civil and criminal immunity; voluntary limitation of license; probable cause determinations.**

(a) The board may independently initiate disciplinary proceedings as well as initiate disciplinary proceedings based on information received from medical peer review committees, physicians, podiatrists, hospital administrators, professional societies and others.

The board may initiate investigations as to professional incompetence or other reasons for which a licensed physician or podiatrist may be adjudged unqualified based upon criminal convictions; complaints by citizens, pharmacists, physicians, podiatrists, peer review committees, hospital administrators,

professional societies or others; or unfavorable outcomes arising out of medical professional liability. The board shall initiate an investigation if it receives notice that three or more judgments, or any combination of judgments and settlements resulting in five or more unfavorable outcomes arising from medical professional liability have been rendered or made against the physician or podiatrist within a five-year period. The board may not consider any judgments or settlements as conclusive evidence of professional incompetence or conclusive lack of qualification to practice.

(b) Upon request of the board, any medical peer review committee in this state shall report any information that may relate to the practice or performance of any physician or podiatrist known to that medical peer review committee. Copies of the requests for information from a medical peer review committee may be provided to the subject physician or podiatrist if, in the discretion of the board, the provision of such copies will not jeopardize the board's investigation. In the event that copies are provided, the subject physician or podiatrist is allowed fifteen days to comment on the requested information and such comments must be considered by the board.

The chief executive officer of every hospital shall, within sixty days after the completion of the hospital's formal disciplinary procedure and also within sixty days after the commencement of and again after the conclusion of any resulting legal action, report in writing to the board the name of any member of the medical staff or any other physician or podiatrist practicing in the hospital whose hospital privileges have been revoked, restricted, reduced or terminated for any cause, including resignation, together with all pertinent information relating to such action. The chief executive officer shall also report any other formal disciplinary action taken against any physician or podiatrist by the hospital upon the recommendation of its medical staff relating to professional ethics, medical incompetence, medical professional liability, moral turpitude or drug or alcohol abuse. Temporary suspension for failure to maintain records on a timely basis or failure to attend staff or section meetings need not be reported. Voluntary cessation of

hospital privileges for reasons unrelated to professional competence or ethics need not be reported.

Any managed care organization operating in this state which provides a formal peer review process shall report in writing to the board, within sixty days after the completion of any formal peer review process and also within sixty days after the commencement of and again after the conclusion of any resulting legal action, the name of any physician or podiatrist whose credentialing has been revoked or not renewed by the managed care organization. The managed care organization shall also report in writing to the board any other disciplinary action taken against a physician or podiatrist relating to professional ethics, professional liability, moral turpitude or drug or alcohol abuse within sixty days after completion of a formal peer review process which results in the action taken by the managed care organization. For purposes of this subsection, “managed care organization” means a plan that establishes, operates or maintains a network of health care providers who have entered into agreements with and been credentialed by the plan to provide health care services to enrollees or insureds to whom the plan has the ultimate obligation to arrange for the provision of or payment for health care services through organizational arrangements for ongoing quality assurance, utilization review programs or dispute resolutions.

Any professional society in this state comprised primarily of physicians or podiatrists which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, medical professional liability, moral turpitude or drug or alcohol abuse shall report in writing to the board within sixty days of a final decision the name of the member, together with all pertinent information relating to the action.

Every person, partnership, corporation, association, insurance company, professional society or other organization providing professional liability insurance to a physician or podiatrist in this state, including the State Board of Risk and Insurance Management, shall submit to the board the following information within thirty days from any judgment or settlement of a civil or medical professional liability action excepting product liability



actions: The name of the insured; the date of any judgment or settlement; whether any appeal has been taken on the judgment and, if so, by which party; the amount of any settlement or judgment against the insured; and other information required by the board.

Within thirty days from the entry of an order by a court in a medical professional liability action or other civil action in which a physician or podiatrist licensed by the board is determined to have rendered health care services below the applicable standard of care, the clerk of the court in which the order was entered shall forward a certified copy of the order to the board.

Within thirty days after a person known to be a physician or podiatrist licensed or otherwise lawfully practicing medicine and surgery or podiatry in this state or applying to be licensed is convicted of a felony under the laws of this state or of any crime under the laws of this state involving alcohol or drugs in any way, including any controlled substance under state or federal law, the clerk of the court of record in which the conviction was entered shall forward to the board a certified true and correct abstract of record of the convicting court. The abstract shall include the name and address of the physician or podiatrist or applicant, the nature of the offense committed and the final judgment and sentence of the court.

Upon a determination of the board that there is probable cause to believe that any person, partnership, corporation, association, insurance company, professional society or other organization has failed or refused to make a report required by this subsection, the board shall provide written notice to the alleged violator stating the nature of the alleged violation and the time and place at which the alleged violator shall appear to show good cause why a civil penalty should not be imposed. The hearing shall be conducted in accordance with ~~the provisions of~~ article five, chapter twenty-nine-a of this code. After reviewing the record of the hearing, if the board determines that a violation of this subsection has occurred, the board shall assess a civil penalty of not less than \$1,000 nor more than \$10,000 against the violator. The board shall notify any person so assessed of the assessment in writing and the notice shall specify

the reasons for the assessment. If the violator fails to pay the amount of the assessment to the board within thirty days, the Attorney General may institute a civil action in the circuit court of Kanawha County to recover the amount of the assessment. In any civil action, the court's review of the board's action shall be conducted in accordance with ~~the provisions of~~ section four, article five, chapter twenty-nine-a of this code. Notwithstanding any other provision of this article to the contrary, when there are conflicting views by recognized experts as to whether any alleged conduct breaches an applicable standard of care, the evidence must be clear and convincing before the board may find that the physician or podiatrist has demonstrated a lack of professional competence to practice with a reasonable degree of skill and safety for patients.

Any person may report to the board relevant facts about the conduct of any physician or podiatrist in this state which in the opinion of that person amounts to medical professional liability or professional incompetence.

The board shall provide forms for filing reports pursuant to this section. Reports submitted in other forms shall be accepted by the board.

The filing of a report with the board pursuant to any provision of this article, any investigation by the board or any disposition of a case by the board does not preclude any action by a hospital, other health care facility or professional society comprised primarily of physicians or podiatrists to suspend, restrict or revoke the privileges or membership of the physician or podiatrist.

(c) The board may deny an application for license or other authorization to practice medicine and surgery or podiatry in this state and may discipline a physician or podiatrist licensed or otherwise lawfully practicing in this state who, after a hearing, has been adjudged by the board as unqualified due to any of the following reasons:

(1) Attempting to obtain, obtaining, renewing or attempting to renew a license to practice medicine and surgery or podiatry by

bribery, fraudulent misrepresentation or through known error of the board;

(2) Being found guilty of a crime in any jurisdiction, which offense is a felony, involves moral turpitude or directly relates to the practice of medicine. Any plea of nolo contendere is a conviction for the purposes of this subdivision;

(3) False or deceptive advertising;

(4) Aiding, assisting, procuring or advising any unauthorized person to practice medicine and surgery or podiatry contrary to law;

(5) Making or filing a report that the person knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record required by state or federal law; or inducing another person to do any of the foregoing. The reports and records covered in this subdivision mean only those that are signed in the capacity as a licensed physician or podiatrist;

(6) Requesting, receiving or paying directly or indirectly a payment, rebate, refund, commission, credit or other form of profit or valuable consideration for the referral of patients to any person or entity in connection with providing medical or other health care services or clinical laboratory services, supplies of any kind, drugs, medication or any other medical goods, services or devices used in connection with medical or other health care services;

(7) Unprofessional conduct by any physician or podiatrist in referring a patient to any clinical laboratory or pharmacy in which the physician or podiatrist has a proprietary interest unless the physician or podiatrist discloses in writing such interest to the patient. The written disclosure shall indicate that the patient may choose any clinical laboratory for purposes of having any laboratory work or assignment performed or any pharmacy for purposes of purchasing any prescribed drug or any other medical goods or devices used in connection with medical or other health care services;

As used in this subdivision, “proprietary interest” does not include an ownership interest in a building in which space is leased to a clinical laboratory or pharmacy at the prevailing rate under a lease arrangement that is not conditional upon the income or gross receipts of the clinical laboratory or pharmacy;

(8) Exercising influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity;

(9) Making a deceptive, untrue or fraudulent representation in the practice of medicine and surgery or podiatry;

(10) Soliciting patients, either personally or by an agent, through the use of fraud, intimidation or undue influence;

(11) Failing to keep written records justifying the course of treatment of a patient, including, but not limited to, patient histories, examination and test results and treatment rendered, if any;

(12) Exercising influence on a patient in such a way as to exploit the patient for financial gain of the physician or podiatrist or of a third party. Any influence includes, but is not limited to, the promotion or sale of services, goods, appliances or drugs;

(13) Prescribing, dispensing, administering, mixing or otherwise preparing a prescription drug, including any controlled substance under state or federal law, other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician’s or podiatrist’s professional practice. ~~Provided, That a~~ A physician who discharges his or her professional obligation to relieve the pain and suffering and promote the dignity and autonomy of dying patients in his or her care and, in so doing, exceeds the average dosage of a pain relieving controlled substance, as defined in Schedules II and III of the Uniform Controlled Substance Act, does not violate this article;

(14) Performing any procedure or prescribing any therapy that, by the accepted standards of medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed and written consent;

(15) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities that the person knows or has reason to know he or she is not competent to perform;

(16) Delegating professional responsibilities to a person when the physician or podiatrist delegating the responsibilities knows or has reason to know that the person is not qualified by training, experience or licensure to perform them;

(17) Violating any provision of this article or a rule or order of the board or failing to comply with a subpoena or subpoena duces tecum issued by the board;

(18) Conspiring with any other person to commit an act or committing an act that would tend to coerce, intimidate or preclude another physician or podiatrist from lawfully advertising his or her services;

(19) Gross negligence in the use and control of prescription forms;

(20) Professional incompetence; or

(21) The inability to practice medicine and surgery or podiatry with reasonable skill and safety due to physical or mental impairment, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol. A physician or podiatrist adversely affected under this subdivision shall be afforded an opportunity at reasonable intervals to demonstrate that he or she may resume the competent practice of medicine and surgery or podiatry with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor any orders entered by the board shall be used against the physician or podiatrist in any other proceeding.

(d) The board shall deny any application for a license or other authorization to practice medicine and surgery or podiatry in this state to any applicant who, and shall revoke the license of any physician or podiatrist licensed or otherwise lawfully practicing within this state who, is found guilty by any court of competent

jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other than generally accepted therapeutic purposes. Presentation to the board of a certified copy of the guilty verdict or plea rendered in the court is sufficient proof thereof for the purposes of this article. A plea of nolo contendere has the same effect as a verdict or plea of guilt. Upon application of a physician that has had his or her license revoked because of a drug related felony conviction, upon completion of any sentence of confinement, parole, probation or other court-ordered supervision and full satisfaction of any fines, judgments or other fees imposed by the sentencing court, the board may issue the applicant a new license upon a finding that the physician is, except for the underlying conviction, otherwise qualified to practice medicine: *Provided*, That the board may place whatever terms, conditions or limitations it deems appropriate upon a physician licensed pursuant to this subsection.

(e) The board may refer any cases coming to its attention to an appropriate committee of an appropriate professional organization for investigation and report. Except for complaints related to obtaining initial licensure to practice medicine and surgery or podiatry in this state by bribery or fraudulent misrepresentation, any complaint filed more than two years after the complainant knew, or in the exercise of reasonable diligence should have known, of the existence of grounds for the complaint shall be dismissed: *Provided*, That in cases of conduct alleged to be part of a pattern of similar misconduct or professional incapacity that, if continued, would pose risks of a serious or substantial nature to the physician's or podiatrist's current patients, the investigating body may conduct a limited investigation related to the physician's or podiatrist's current capacity and qualification to practice and may recommend conditions, restrictions or limitations on the physician's or podiatrist's license to practice that it considers necessary for the protection of the public. Any report shall contain recommendations for any necessary disciplinary measures and shall be filed with the board within ninety days of any referral. The recommendations shall be considered by the board and the case

may be further investigated by the board. The board after full investigation shall take whatever action it considers appropriate, as provided in this section.

(f) The investigating body, as provided in subsection (e) of this section, may request and the board under any circumstances may require a physician or podiatrist or person applying for licensure or other authorization to practice medicine and surgery or podiatry in this state to submit to a physical or mental examination by a physician or physicians approved by the board. A physician or podiatrist submitting to an examination has the right, at his or her expense, to designate another physician to be present at the examination and make an independent report to the investigating body or the board. The expense of the examination shall be paid by the board. Any individual who applies for or accepts the privilege of practicing medicine and surgery or podiatry in this state is considered to have given his or her consent to submit to all examinations when requested to do so in writing by the board and to have waived all objections to the admissibility of the testimony or examination report of any examining physician on the ground that the testimony or report is privileged communication. If a person fails or refuses to submit to an examination under circumstances which the board finds are not beyond his or her control, failure or refusal is prima facie evidence of his or her inability to practice medicine and surgery or podiatry competently and in compliance with the standards of acceptable and prevailing medical practice.

(g) In addition to any other investigators it employs, the board may appoint one or more licensed physicians to act for it in investigating the conduct or competence of a physician.

(h) In every disciplinary or licensure denial action, the board shall furnish the physician or podiatrist or applicant with written notice setting out with particularity the reasons for its action. Disciplinary and licensure denial hearings shall be conducted in accordance with ~~the provisions of~~ article five, chapter twenty-nine-a of this code. However, hearings shall be heard upon sworn testimony and the rules of evidence for trial courts of record in this state shall apply to all hearings. A transcript of all hearings under

this section shall be made, and the respondent may obtain a copy of the transcript at his or her expense. The physician or podiatrist has the right to defend against any charge by the introduction of evidence, the right to be represented by counsel, the right to present and cross-examine witnesses and the right to have subpoenas and subpoenas duces tecum issued on his or her behalf for the attendance of witnesses and the production of documents. The board shall make all its final actions public. The order shall contain the terms of all action taken by the board.

(i) In disciplinary actions in which probable cause has been found by the board, the board shall, within twenty days of the date of service of the written notice of charges or sixty days prior to the date of the scheduled hearing, whichever is sooner, provide the respondent with the complete identity, address and telephone number of any person known to the board with knowledge about the facts of any of the charges; provide a copy of any statements in the possession of or under the control of the board; provide a list of proposed witnesses with addresses and telephone numbers, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil Procedure; provide inspection and copying of the results of any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing: *Provided*, That the board shall not be required to furnish or produce any materials which contain opinion work product information or would be a violation of the attorney-client privilege. Within twenty days of the date of service of the written notice of charges, the board shall disclose any exculpatory evidence with a continuing duty to do so throughout the disciplinary process. Within thirty days of receipt of the board's mandatory discovery, the respondent shall provide the board with the complete identity, address and telephone number of any person known to the respondent with knowledge about the facts of any of the charges; provide a list of proposed witnesses with addresses and telephone numbers, to be called at hearing, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil



Procedure; provide inspection and copying of the results of any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing.

(j) Whenever it finds any person unqualified because of any of the grounds set forth in subsection (c) of this section, the board may enter an order imposing one or more of the following:

(1) Deny his or her application for a license or other authorization to practice medicine and surgery or podiatry;

(2) Administer a public reprimand;

(3) Suspend, limit or restrict his or her license or other authorization to practice medicine and surgery or podiatry for not more than five years, including limiting the practice of that person to, or by the exclusion of, one or more areas of practice, including limitations on practice privileges;

(4) Revoke his or her license or other authorization to practice medicine and surgery or podiatry or to prescribe or dispense controlled substances for a period not to exceed ten years;

(5) Require him or her to submit to care, counseling or treatment designated by the board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice medicine and surgery or podiatry;

(6) Require him or her to participate in a program of education prescribed by the board;

(7) Require him or her to practice under the direction of a physician or podiatrist designated by the board for a specified period of time; and

(8) Assess a civil fine of not less than \$1,000 nor more than \$10,000.

(k) Notwithstanding the provisions of section eight, article one of this chapter, if the board determines the evidence in its

possession indicates that a physician's or podiatrist's continuation in practice or unrestricted practice constitutes an immediate danger to the public, the board may take any of the actions provided in subsection (j) of this section on a temporary basis and without a hearing if institution of proceedings for a hearing before the board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The board shall render its decision within five days of the conclusion of a hearing under this subsection.

(1) Any person against whom disciplinary action is taken pursuant to ~~the provisions of~~ this article has the right to judicial review as provided in articles five and six, chapter twenty-nine-a of this code: *Provided*, That a circuit judge may also remand the matter to the board if it appears from competent evidence presented to it in support of a motion for remand that there is newly discovered evidence of such a character as ought to produce an opposite result at a second hearing on the merits before the board and:

(1) The evidence appears to have been discovered since the board hearing; and

(2) The physician or podiatrist exercised due diligence in asserting his or her evidence and that due diligence would not have secured the newly discovered evidence prior to the appeal.

A person may not practice medicine and surgery or podiatry or deliver health care services in violation of any disciplinary order revoking, suspending or limiting his or her license while any appeal is pending. Within sixty days, the board shall report its final action regarding restriction, limitation, suspension or revocation of the license of a physician or podiatrist, limitation on practice privileges or other disciplinary action against any physician or podiatrist to all appropriate state agencies, appropriate licensed health facilities and hospitals, insurance companies or associations writing medical malpractice insurance in this state, the American Medical Association, the American Podiatry Association, professional societies of physicians or podiatrists in the state and any entity responsible for the fiscal administration of Medicare and Medicaid.

(m) Any person against whom disciplinary action has been taken under ~~the provisions of~~ this article shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the practice of medicine and surgery or podiatry on a general or limited basis. At the conclusion of a suspension, limitation or restriction period the physician or podiatrist may resume practice if the board has so ordered.

(n) Any entity, organization or person, including the board, any member of the board, its agents or employees and any entity or organization or its members referred to in this article, any insurer, its agents or employees, a medical peer review committee and a hospital governing board, its members or any committee appointed by it acting without malice and without gross negligence in making any report or other information available to the board or a medical peer review committee pursuant to law and any person acting without malice and without gross negligence who assists in the organization, investigation or preparation of any such report or information or assists the board or a hospital governing body or any committee in carrying out any of its duties or functions provided by law is immune from civil or criminal liability, except that the unlawful disclosure of confidential information possessed by the board is a misdemeanor as provided in this article.

(o) A physician or podiatrist may request in writing to the board a limitation on or the surrendering of his or her license to practice medicine and surgery or podiatry or other appropriate sanction as provided in this section. The board may grant the request and, if it considers it appropriate, may waive the commencement or continuation of other proceedings under this section. A physician or podiatrist whose license is limited or surrendered or against whom other action is taken under this subsection may, at reasonable intervals, petition for removal of any restriction or limitation on or for reinstatement of his or her license to practice medicine and surgery or podiatry.

(p) In every case considered by the board under this article regarding discipline or licensure, whether initiated by the board or upon complaint or information from any person or organization, the board shall make a preliminary determination as to whether

probable cause exists to substantiate charges of disqualification due to any reason set forth in subsection (c) of this section. If probable cause is found to exist, all proceedings on the charges shall be open to the public who are entitled to all reports, records and nondeliberative materials introduced at the hearing, including the record of the final action taken: *Provided*, That any medical records, which were introduced at the hearing and which pertain to a person who has not expressly waived his or her right to the confidentiality of the records, may not be open to the public nor is the public entitled to the records.

(q) If the board receives notice that a physician or podiatrist has been subjected to disciplinary action or has had his or her credentials suspended or revoked by the board, a hospital or a professional society, as defined in subsection (b) of this section, for three or more incidents during a five-year period, the board shall require the physician or podiatrist to practice under the direction of a physician or podiatrist designated by the board for a specified period of time to be established by the board.

(r) Notwithstanding any other provisions of this article, the board may, at any time, on its own motion, or upon motion by the complainant, or upon motion by the physician or podiatrist, or by stipulation of the parties, refer the matter to mediation. The board shall obtain a list from the West Virginia State Bar's mediator referral service of certified mediators with expertise in professional disciplinary matters. The board and the physician or podiatrist may choose a mediator from that list. If the board and the physician or podiatrist are unable to agree on a mediator, the board shall designate a mediator from the list by neutral rotation. The mediation shall not be considered a proceeding open to the public and any reports and records introduced at the mediation shall not become part of the public record. The mediator and all participants in the mediation shall maintain and preserve the confidentiality of all mediation proceedings and records. The mediator may not be subpoenaed or called to testify or otherwise be subject to process requiring disclosure of confidential information in any proceeding relating to or arising out of the disciplinary or licensure matter mediated: *Provided*, That any confidentiality agreement and any

written agreement made and signed by the parties as a result of mediation may be used in any proceedings subsequently instituted to enforce the written agreement. The agreements may be used in other proceedings if the parties agree in writing.

(s) A physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

## **ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.**

### **§30-3E-17. Complaint process.**

(a) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings and procedures a physician assistant licenses and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in articles three and/or fourteen of this chapter, depending on which board licenses the physician assistant.

(b) The boards may impose the same discipline, restrictions and/or limitations upon the license of a physician assistant as they are authorized to impose upon physicians and/or podiatrists.

(c) The boards shall direct to the appropriate licensing board a complaint against a physician assistant, a supervising physician and/or an alternate supervising physician.

(d) In the event that independent complaint processes are warranted by the boards with respect to the professional conduct of a physician assistant or a supervising and/or alternate supervising physician, the boards are authorized to work cooperatively and to disclose to one another information which may assist the recipient appropriate licensing board in its disciplinary process. The determination of what information, if any, to disclose shall be at the discretion of the disclosing board.

(e) A physician assistant licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS,  
PHARMACY INTERNS AND PHARMACIES.**

**§30-5-14. Prohibiting the dispensing of prescription orders in  
absence of practitioner-patient relationship.**

A pharmacist may not compound or dispense any prescription order when he or she has knowledge that the prescription was issued by a practitioner without establishing a valid practitioner-patient relationship. An online or telephonic evaluation by questionnaire, or an online or telephonic consultation, is inadequate to establish a valid practitioner-patient relationship: *Provided*, That this prohibition does not apply:

- (1) In a documented emergency;
- (2) In an on-call or cross-coverage situation; or

(3) For the treatment of sexually transmitted diseases by expedited partner therapy as set forth in article four-f, chapter sixteen of this code; or

~~(3)~~ (4) Where patient care is rendered in consultation with another practitioner who has an ongoing relationship with the patient and who has agreed to supervise the patient's treatment, including the use of any prescribed medications.

**ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

**§30-7-11. Denial, revocation or suspension of license; grounds  
for discipline.**

(a) The board shall have the power to deny, revoke or suspend any license to practice registered professional nursing issued or applied for in accordance with the provisions of this article, or to otherwise discipline a licensee or applicant upon proof that he or she:

~~(a)~~ (1) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to practice registered professional nursing; or

~~(b)~~ (2) Has been convicted of a felony; or

~~(c)~~ (3) Is unfit or incompetent by reason of negligence, habits or other causes; or

~~(d)~~ (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or

~~(e)~~ (5) Is mentally incompetent; or

~~(f)~~ (6) Is guilty of conduct derogatory to the morals or standing of the profession of registered nursing; or

~~(g)~~ (7) Is practicing or attempting to practice registered professional nursing without a license or reregistration; or

~~(h)~~ (8) Has wilfully or repeatedly violated any of the provisions of this article.

(b) An Advanced practice registered nurse licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

## **ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.**

### **§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.**

(a) The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes:

(1) Conviction of a felony, as shown by a certified copy of the record of the trial court;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Violation of any provision of this article regulating the practice of osteopathic physicians and surgeons;

(4) Fraud, misrepresentation or deceit in procuring or attempting to procure admission to practice;

(5) Gross malpractice;

(6) Advertising by means of knowingly false or deceptive statements;

(7) Advertising, practicing or attempting to practice under a name other than one's own;

(8) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs.

(b) The board shall also have the power to suspend or revoke for cause any certificate of authorization issued by it. It shall have the power to reinstate any certificate of authorization suspended or revoked by it.

(c) An osteopathic physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.;

And,

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

**Eng. Senate Bill 123**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-4F-1, §16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3E-17 of said code; to amend and reenact §30-5-14 of said code; to amend and reenact §30-7-11 of said code; and to amend and reenact §30-14-11 of said code, all relating to treatment for sexually transmitted diseases; providing for expedited partner therapy; defining terms; allowing prescribing of antibiotics to sexual partners of patient without prior examination of partner; requiring patient counseling; establishing counseling criteria; requiring informational materials be prepared by the Department of Health and Human Resources; providing limited liability for



providing expedited partnership therapy; requiring rulemaking; and providing that physicians, physician assistants, pharmacists and advanced practice registered nurses are not subject to disciplinary action for providing certain treatment for sexually transmitted diseases for sexual partners of patient.

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

Engrossed Senate Bill 123, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 123) 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 261**, Bringing state code relating to daylight saving time in conformity with federal code.

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

**Senate Concurrent Resolution 16**, US Army CPL John Belcastro Bridge.

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 2615**—A Bill to amend and reenact §32-3-301 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §32-5-501, §32-5-502, 32-5-503, §32-5-504, and §32-5-505, all relating to creation of a new exemption to the securities registration rule with the commissioner for intrastate securities offerings under the West Virginia Small Business Capital Act.

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 4146**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to abuse-deterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid analgesic drugs; providing direct health care services cover abuse-deterrent opioid analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs; defining terms; providing an effective date; providing for cost sharing; providing for cost tier location; and allowing cost containment measures.

Referred to the Committee on Banking and Insurance; and then 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 4188**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas, welcome centers, and roads; providing for sponsorship agreements; providing for agreement requirements; providing for disposition of funds received from agreements; providing for the promulgation of emergency or legislative rules; and providing for a report of the status of the program.

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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4218**—A Bill to amend and reenact §24C-1-2 of the Code of West Virginia, 1931, as amended, relating to the One-call system; revising the definition of “underground facility”.

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 July 1, 2016, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4228**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to transportation network companies generally; providing definitions; establishing that transportation network companies and transportation network company drivers are not certain common carriers, contract carriers or motor carriers and do not provide taxicab or for-hire vehicle service; requirements to obtain permit from the Division of Motor Vehicles; requiring an agent for service of process; collection and

disbursement of fees for permit; providing for fare collection, electronic receipts and identification of vehicles and drivers; requiring automobile liability insurance; requiring disclosures relating to insurance; allowing automobile insurers to exclude certain coverages; establishing status of drivers and relationship between drivers and transportation network companies; requiring transportation network companies to implement a policy of zero tolerance for the use of alcohol or drugs by drivers; providing requirements and conditions for being a driver; requiring vehicle inspections; prohibiting street hails; requiring transportation network companies to adopt policy relating to the prohibition of cash payments; requiring transportation network companies to adopt policy relating to nondiscrimination; requiring compliance with law; prohibiting additional charges in certain circumstances; requiring retention of customer records; providing exclusivity of provisions governing regulation of business activities of companies and drivers; prohibiting local governmental entities or special districts from imposing requirements of licensure, fee, tax, entry registration or operation; prescribing certain tax limitations and exemptions; and specifying certain other provisions of law that are not affected by provisions of article.

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 4309**—A Bill to amend and reenact §61-2-29b of the Code of West Virginia, 1931, as amended, relating to increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person, protected person or incapacitated adult; increasing the criminal penalty for the offense of financial exploitation of \$1,000 or more.

Referred to the Committee on the Judiciary.

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 2**—Requesting the Division of Highways to name the bridge on County Route 4/1, Gibbons Run Road, over North River in Hampshire County, bridge number 14-4/1-2.29, (14A011), latitude 39.33852, longitude -78.50974, as the “U.S. Army PVT William Frederick Kump 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 14**—Designating the second Friday in July as West Virginia Collector Car Appreciation Day.

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 19**—Requesting the Division of Highways to name the bridge on U. S. Route 19 at mile marker 15.55 over the West Fork River in Clarksburg, Harrison County, the “H. Laban White Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

**Senate Bill 54**, Altering how tax is collected on homeowners' associations.

And has amended same.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 293**, Neighborhood Investment Program Act.

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

**Com. Sub. for Senate Bill 293** (originating in the Committee on Finance)—A Bill to amend and reenact §11-13J-3, §11-13J-4, §11-13J-4a, §11-13J-10 and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating generally to Neighborhood Investment Program Act; reauthorizing act until July 1, 2021; defining terms “community based” and “emergency assistance”; modifying definition of “economically disadvantaged area”; reducing frequency of required project transferee reports; reducing number of required advisory board meetings; reducing required number of West Virginia Development Office reports to the board; eliminating guidance on what a community-based project is when the board is evaluating a project; removing requirement that Tax Commissioner annually publish addresses of taxpayers who claim the credit; and reducing frequency of program assessments by the director.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Karnes, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 434**, Allowing home-based micro-processed foods sold at farmers markets.

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

**Com. Sub. for Senate Bill 434** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-35-5, relating to permitting sale of home-based, micro-processed foods at farmers markets; requiring seventy percent from vendor's garden or farm; requiring recordkeeping and labeling; clarifying foods requiring permit and exempted foods; establishing permit requirements and limitations; setting for permit inspections and fees; and limiting sales to seven hundred fifty units per year.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Robert Karnes,  
*Chair.*

Senator Gaunch, 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 547**, Adjusting limits on consumer loans for which finance charges can be imposed.

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,

C. Edward Gaunch,  
*Chair.*

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

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

Your Committee on Finance has had under consideration

**Eng. House Bill 4148**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

And,

**Eng. Com. Sub. for House Bill 4158**, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Gaunch, 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 4244**, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

And,

**Eng. Com. Sub. for House Bill 4245**, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

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

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Ashley, Hall, Kessler, Palumbo, Romano, Williams, Woelfel, Yost, Plymale and Facemire:**

**Senate Bill 608**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8, §30-41-9, §30-41-10, §30-41-11, §30-41-12, §30-41-13, §30-41-14 and §30-41-15, all relating to the West Virginia Court Reporter Act of 2016; providing a short title; defining certain terms; providing licensure and reporting firm requirements; providing court reporters are not required to be involved in all legal proceedings; providing for the creation of the West Virginia Board of Court Reporting; designating membership requirements and

setting terms of service for board members; establishing duties for the board; providing a procedure to handle complaints against court reporters and reporting firms; providing for fines for certain violations and noncompliance with the article; providing for reciprocal agreements with governmental or other entities; providing guidelines for determining when state licensure laws apply over another state's licensure laws in case of conflict; requiring and providing for fees for licensure or registration; addressing license and registration renewal; requiring continuing legal education for licensees; requiring licensees to provide changes of address; providing guidelines for grandfathering licensure of court reporters; providing for the disposition and disbursement of moneys collected by the board; requiring the board to annually establish a budget; and authorizing the board to contract for services under certain circumstances.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill 609**—A Bill to amend and reenact §16-29B-26 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §16-29B-28 and §16-29B-29, all relating to jurisdiction of the Health Care Authority; establishing exemption from state and federal antitrust laws; providing legislative findings; setting forth intent and purpose; and establishing the Health Care Authority as state regulatory body over certain hospital functions in this state.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Gaunch, Yost, Stollings, Beach, Palumbo, Kirkendoll, Facemire, Kessler, Mullins, Boso, Snyder, Cline, Miller, Prezioso, Williams, Plymale, Takubo, Hall, Trump and Romano:**

**Senate Bill 610**—A Bill to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3 and §11-15-3c of said code; to amend said code by adding thereto a new section, designated §11-15-18c; to amend

and reenact §17-3-1 of said code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-10-1, §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding thereto a new section, designated §17A-10-3c; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-8 and §17B-2-11 of said code; and to amend and reenact §17D-2-2 of said code, all relating to generating and maintaining revenue for maintenance of roads and infrastructure; increasing flat tax rate portion for diesel fuel; increasing general consumers sales and service tax; dedicating portion of general consumers sales and service tax imposed to State Road Fund; providing that general consumers sales and service tax on motor vehicle repairs, parts and services be deposited into State Road Fund; increasing and adding certain fees related to motor vehicles, registration, titles, license plates, decals, records, licenses and identification cards; creating new registration class for alternative fuel vehicles; and changing privilege tax rate and privilege tax calculation on motor vehicles.

Referred to the Committee on Finance.

Senators Kessler, Yost, Stollings, Laird, Unger, Prezioso, Williams, Plymale, Romano and Facemire offered the following resolution:

**Senate Resolution 38**—Recognizing the West Virginia Federation of Democratic Women.

Whereas, The West Virginia Federation of Democratic Women works to promote an informed electorate through political education; and

Whereas, The West Virginia Federation of Democratic Women works to increase the effectiveness of women in the cause of good government through active political participation; and

Whereas, The West Virginia Federation of Democratic Women facilitates cooperation among Democratic women's clubs; and

Whereas, The West Virginia Federation of Democratic Women fosters loyalty to the Democratic Party and promotes its ideals; and

Whereas, The West Virginia Federation of Democratic Women works for the election of the Democratic Party's nominees; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia Federation of Democratic Women; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the West Virginia Federation of Democratic Women.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senators Cline, Gaunch, Karnes and Leonhardt, respectively, presented petitions from the National Association for Gun Rights and numerous West Virginia residents, supporting Engrossed Committee Substitute for House Bill 4145 (*Relating to carry or use of a handgun or deadly weapon*).

Referred to the Committee on the Judiciary.

Senator Kessler presented a petition from Christine Campbell and numerous West Virginia residents, requesting the Legislature to stop cutting benefits and fairly fund PEIA.

Referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 36**, US Army SPC5 Joseph Richard “Rick” Schafer Memorial Bridge.

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

The Senate then proceeded to the eighth order of business.

**Eng. Senate Bill 147**, Providing consumers sales and service tax and use tax exemption for certain services and tangible personal property sold for repair, remodeling and maintenance 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 147) 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 272**, Allowing investigators from Attorney General’s office 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—29.

The nays were: Kessler, Miller, Palumbo, Snyder and Yost—5.

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. 272) 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 298,** Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 298) 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 423**, Providing for disposition of unclaimed and unredeemed savings bond.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 423) 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 493**, Allowing creation of self-settled spendthrift 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 493) 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 510**, Establishing Adult Drug Court Participation 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 510) 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**, Establishing Court Advanced Technology Subscription 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings,



Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 511) 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 516**, Relating to registration for selective service.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 516) 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 583**, Repealing certain obsolete legislative rules by Department of 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 583) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 583) 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 584**, Repealing certain obsolete legislative rules by DEP.

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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 584) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 584) 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 585**, Repealing certain obsolete legislative rules by 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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 585) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 585) 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 586**, Repealing certain obsolete legislative rules by Department of Military Affairs and Public Safety.

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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 586) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 586) 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 587**, Repealing certain obsolete legislative rules by Department of Revenue.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 587) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 587) 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 588**, Repealing certain obsolete legislative rules by Department of Transportation.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 588) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 588) 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 589**, Repealing certain obsolete legislative rules by miscellaneous agencies and 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 589) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 589) 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 590**, Repealing certain obsolete legislative rules by 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 590) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 590) 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 Senate Bill 10**, Creating Unborn Child Protection from Dismemberment Abortion Act.

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

At the request of Senator Ferns, 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 16**, Providing tax credit for providing broadband service to unserved areas.

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 105**, Creating Tim Tebow Act allowing nonpublic school student participate in SSAC member school athletics.

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:

On page one, section twenty-five-b, line eight, after the word "Commission" by changing the period to a colon and inserting the following proviso: *Provided*, That the nonpublic school has agreed to open its extracurricular activities to Tebow students.

Following discussion,

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

On motion of Senator Palumbo, the following amendment to the bill (Com. Sub. for S. B. 105) was next reported by the Clerk and adopted:

On page two, section twenty-five-b, line sixteen, after the word "school" by changing the period to a colon and inserting the

following proviso: *Provided*, That the extracurricular activity is not offered at the private, parochial or church school or school operated by a religious order where the Tebow student is enrolled.

On motion of Senator Romano, the following amendments to the bill (Com. Sub. for S. B. 105) were next reported by the Clerk:

On page one, section twenty-five-b, line six, after the word “activities” by striking out the comma and the words “including athletic teams,”;

And,

On page two, section twenty-five-b, line thirteen, by striking out the word “includes” and inserting in lieu thereof the word “means”.

At the request of Senator Romano, and by unanimous consent, Senator Romano’s amendments to the bill were withdrawn.

The bill (Com. Sub. for S. B. 105), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 267**, Modifying removal procedure for certain county, school district and municipal officers.

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 283**, Creating crime when fire is caused by operation of clandestine drug laboratory.

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 313**, Relating to school calendar and allowing limited use of available accrued instructional time.

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

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

**Senate Bill 351**, Dedicating severance tax proceeds.

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

**Senate Bill 356**, Eliminating consumers sales and service tax exemption for 2016 fiscal year.

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 400**, Reducing amount of sales tax proceeds dedicated to School Major Improvement 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 424**, Allowing fire departments assess fees.

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

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

**Com. Sub. for Senate Bill 436**, Defining adequate shelter for dogs and cats.

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

**Senate Bill 439**, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances.

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

**Senate Bill 462**, Reducing deposit of excess lottery proceeds into WV Infrastructure 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 504**, Relating to confidentiality of juvenile records.

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

**Senate Bill 507**, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.

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

**Senate Bill 515**, Authorizing payment of certain claims against state.

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.

Senator Carmichael requested unanimous consent that the bills on first reading each be read a first time and ordered to second reading.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, his foregoing request was withdrawn.

**Com. Sub. for Com. Sub. for Senate Bill 315**, Providing for construction of statewide fiber optic broadband infrastructure network.

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

**Com. Sub. for Senate Bill 529**, Making certain sport and educational fantasy games lawful.

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

Senator Trump moved that the bill be referred to the Committee on Finance.

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

The question being on the adoption of Senator Trump's aforestated motion, and on this question, Senator Woelfel demanded the yeas and nays.

The roll being taken, the yeas were: Ashley, Facemire, Hall, Kessler, Kirkendoll, Laird, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings, Trump, Unger, Williams and Yost—16.

The nays were: Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Karnes, Leonhardt, Maynard, Mullins, Plymale, Sypolt, Takubo, Walters, Woelfel and Cole (Mr. President)—18.

Absent: None.

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

The bill (Com. Sub. for S. B. 529) was then ordered to second reading.

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 Kessler.

The Senate next proceeded to the thirteenth order of business.

At the request of Senator Boso, the name of Senator Boso was removed as a sponsor of **Senate Bill 604** (*Increasing excise tax on bottled soft drinks, syrups and dry mixtures*).

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 17, 2016, at 11 a.m.

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## WEDNESDAY, FEBRUARY 17, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Mike Harper, North Hills Baptist Church, Charleston, 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 16, 2016,

At the request of Senator Boley, 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, and

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

**Eng. Senate Bill 15**, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

On motion of Senator Carmichael, 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 thirty, line one, after the words “drug or” by inserting the word “medical”;

And,

On page one, section thirty, line eleven, after the words “drugs or” by inserting the word “medical”.

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

Engrossed Senate Bill 15, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 15) 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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2122**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-12-16, relating to making it illegal for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a human corpse or person being provided medical care or assistance; defining terms; creating a criminal offense for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a human corpse or person being provided medical care or assistance; creating a criminal offense for first responders to knowingly disclose any photograph, film, videotape, record, or other reproduction of the image of a human corpse or person being provided medical care or assistance; providing for exceptions to the criminal offenses; providing for criminal penalties; providing for enhanced penalties for subsequent offenses; and designating as “Jonathon’s Law”.

Referred to the Committee on the Judiciary.

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 2800**, Adding law-enforcement officers’ contact information and names of family members to the list of exemptions from public records requests.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Lane, Hanshaw and Shaffer.

The Senate proceeded to the fourth order of business.

Senator Walters, 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 88**, WV Water Sustainability Institute.

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,

Chris Walters,  
*Chair.*

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

Senator Boso, 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 179**, DEP, Oil and Gas rule relating to horizontal well development.

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,

Gregory L. Boso,  
*Chair.*

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

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 259** (originating in the Committee on Government Organization), Amending Unfair Trade Practices Act.

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

**Com. Sub. for Com. Sub. for Senate Bill 259** (originating in the Committee on the Judiciary)—A Bill to repeal §47-11A-10, §47-11A-12 and §47-11A-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-11A-1, §47-11A-2, §47-11A-5, §47-11A-6, §47-11A-8, §47-11A-9 and §47-11A-14 of said code, all relating to unfair trade practices; providing legislative findings; designating article the Unfair Trade Practices Act; making it unlawful for a retailer or wholesaler to sell, offer for sale or advertise for sale any product or item of merchandise at a price less than cost with the intent to destroy or the effect of destroying competition; providing that a violation of the article constitutes a misdemeanor; defining “retailer” and “wholesaler”; providing for how cost is to be determined; exempting certain sales, offers to sell or advertisements to sell from the provisions of the article; providing that an injured person or entity may maintain an action to enjoin continuance of any violation of the article; providing that an injured person or entity may maintain an action for damages; providing that actual damages, if alleged and proven, be assessed; providing for an absolute defense to an action to enjoin or for damages filed under the article; providing jurisdiction to the circuit courts; and providing purposes of the article.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, 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 320**, Permitting practice of telemedicine.

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

**Com. Sub. for Senate Bill 320** (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 §30-3-13a; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to the practice of medicine; permitting practice of telemedicine; establishing requirements; making exceptions; defining terms; and authorizing rulemaking.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 320), under the original double committee reference, was then referred to the Committee on Finance.

Senator Walters, 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 327**, Proposing construction of modern highway from Pikeville, KY, to Beckley, WV.

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

**Com. Sub. for Senate Bill 327** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8d, relating to construction of a modern highway from Pikeville, Kentucky, to Beckley, West Virginia; requiring Commissioner of Highways to determine how the highway can be best funded and constructed; stating legislative findings; and requiring reports and hearings and public meetings.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 327), under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Walters, 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 332**, Entering into Interstate 73 Compact.

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

**Com. Sub. for Senate Bill 332** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6 and §17-29-7, all relating to entering into Interstate

73 Compact; entering into an agreement with five other states to develop and promote a plan for the design, construction, financing and operation of Interstate 73 corridor; designating certain officials to participate in an interstate commission to carry out the purposes of the compact; establishing composition, powers and duties of the commission; authorizing funding for commission operations; authorizing legislators to receive compensation and expense reimbursement for activities related to membership on the commission; designating agency staff to support commission activities; and establishing terms of withdrawal from the compact.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. 332), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Senate Bill 352**, Dedicating corporation net income tax proceeds to railways.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Ferns, 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 431**, Authorizing pharmacists and pharmacy interns dispense opioid antagonists.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

Senator Walters, 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 476**, Relating to driving restrictions in school zones.

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,

Chris Walters,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill 488**, Requiring WV Secondary School Activities Commission manage hypertrophic cardiomyopathy.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4175**, Relating generally to home schooling.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 538**, Relating to salaries of appointed officers fixed by Governor.

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,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration



**Senate Bill 552**, Eliminating requirement sheriff pay jury costs to State Treasury.

And,

**Senate Bill 573**, Prohibiting municipal annexation which would result in unincorporated territory within municipality.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 553**, Merging purposes and provisions of Volunteer Fire Department Workers' Compensation Subsidy Program and Fund.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 579**, Eliminating WV Port Authority.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 582**, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

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

**Com. Sub. for Senate Bill 582** (originating in the Committee on Finance)—A Bill to amend and reenact § 11-14C-9 of the Code of West Virginia, 1931, as amended, relating to providing a refundable exemption from the flat rate component of the state motor fuel excise tax on all gallons of motor fuel sold for use or consumed in railroad diesel locomotives; setting a cap on the exemption per year; and requiring a proportionate disbursement if claims exceed the cap.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Ferns, 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 597**, Relating to Health Care Authority.

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

**Com. Sub. for Senate Bill 597** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §5F-1-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5 and §16-5F-6 of said code; to amend and reenact §16-29B-3, §16-29B-5, §16-29B-6, §16-29B-7, §16-29B-8, §16-29B-9, §16-29B-11, §16-29B-12, §16-29B-13, §16-29B-14, §16-29B-15, §16-29B-17, §16-29B-18, §16-29B-19a, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25 and §16-29B-26 of said code; to amend said code by adding thereto two new sections, designated §16-29B-5a and §16-29B-28; to amend and reenact §16-29G-2, §16-29G-5 and §16-29G-6 of said code; and to amend and reenact §16-29I-4 of said code, all relating generally to the Health Care Authority; employment of the members of the Board of the West Virginia Health Care Authority; providing authority to set salaries for board members; creating the position of Executive Director of the Health Care Authority; making the executive director the administrative head of the Health Care Authority; setting forth the qualifications of the executive director; providing the executive director is appointed by the Governor with advice and consent of the Senate; providing the executive director reports to the Secretary of the Department of Health and Human Resources; placing the Health Care Authority under the Department of Health and Human Resources; adding the executive director to the Public Employees Insurance Agency Advisory Board; clarifying where the administrative duties of the Health Care Authority are to be carried out; clarifying that the Board of Directors of the Health Care Authority is the adjudicatory arm of the Health Care Authority; requiring that the members of the board of directors be employed on a part-time basis; setting forth other employment requirements for the board of directors; expanding the board of directors from three to five members; setting forth qualifications for appointment to the board of directors; providing that the board of directors shall report to the executive director; establishing compensation for the

board of directors; setting forth minimum hearing requirements before the board of directors; providing for recommended decisions by the board of directors to the executive director; setting forth executive director procedure for review and approval of recommended decisions of the board of directors; providing for remand of a decision; clarifying that the executive director has all rule-setting powers; providing for a study by the Health Care Authority of concerns of hospitals in border counties; requiring a comprehensive study of the certificate of need program, including possible elimination of certificate of need; making technical corrections; granting authority to the Health Care Authority to review proposed cooperative agreements; defining terms; setting out legislative findings and purpose; allowing cooperative agreements between hospitals and health care providers; setting forth goals of a cooperative agreement; establishing a review process for cooperative agreements; setting forth standards for review of cooperative agreements; granting enforcement powers over cooperative agreements to the Health Care Authority; providing for rulemaking; requiring reporting to the Health Care Authority; setting out what must be included in a report; allowing the Health Care Authority to render a decision regarding reduced competition when a cooperative agreement pertains to an acquisition, merger or combination of hospitals or health care providers; and updating code references.

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,

Ryan J. Ferns,  
*Chair.*

At the request of Senator Hall, 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 Health and Human Resources.

Senator Walters, 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 18**, Wilbur Lee Clayton Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 18** (originating in the Committee on Transportation and Infrastructure)—Requesting Division of Highways name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the “USAF Airman First Class Wilbur Lee Clayton Memorial Bridge”.

Whereas, Wilbur Lee Clayton was born in the small town of Moorefield, West Virginia, and attended elementary and high school there before heading off to Potomac State College, followed by West Virginia University; and

Whereas, Wilbur Lee Clayton’s college education was interrupted when he joined the United States Air Force in July, 1963, attended basic training at Lackland Air Force Base in San Antonio, Texas, and spent eleven months at Chanute Air Force Base in Rantoul, Illinois, being trained in Minuteman Missile maintenance; and

Whereas, In July, 1964, he was assigned to the 341st Missile Maintenance Squadron at Malmstrom Air Force Base in Great Falls, Montana, where his work involved primarily the alignment and targeting of Minuteman Missiles; and

Whereas, After being honorably discharged in July, 1967, Wilbur Lee Clayton resumed his education at Eastern Montana College in Billings, Montana, and following tradition established by his grandfather and grandmother, earned a Bachelor’s Degree in Education; and

Whereas, In 1970 he returned east to Franklin County, Virginia, to be closer to his parents. He remained there until 1978, at which time he was hired to teach social studies at Moorefield High School, fulfilling a desire to return home to Hardy County and the family farm where he grew up. There, he then built his home, raised his three children and happily remained until his untimely death in 1992; and

Whereas, Being a positive influence in the lives of hundreds of his junior high and high school students during his twenty-four years of teaching was without question Wilbur Lee Clayton's greatest contribution to the State of West Virginia; and

Whereas, Being highly respected and genuinely loved by students and colleagues, he was a man of quiet mannerisms and a subtle sense of humor that was reflected in his teaching style; and

Whereas, Wilbur Lee Clayton's classroom became a place where students felt comfortable and confident knowing that there was an even playing field. All were treated the same; consequences were dealt out fairly; rewards were given equally; and

Whereas, There was a two-way exchange of respect between teacher and student; and

Whereas, After all these years after his unexpected death at age fifty-two, his former students praise him for the competent, compassionate, humorous teacher that he was and still acclaim him as their favorite teacher ever; and

Whereas, There can be no greater contribution than to have been this quiet, unassuming man who served his country proudly and set for himself the task of being a wonderful, competent and compassionate teacher and positive role model. Wilbur Lee Clayton lived a simple life devoted to helping students succeed not only in school, but more importantly, in life; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 16-48-13.65 (16A124), locally known as Clifford

Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the “USAF Airman First Class Wilbur Lee Clayton Memorial Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “USAF Airman First Class Wilbur Lee Clayton 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.

**Senate Concurrent Resolution 20**, US Army CPL Troy Matthews Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 20** (originating in the Committee on Transportation and Infrastructure)—Requesting Division of Highways name bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge”.

Whereas, Troy Matthews was born July 8, 1914, in Putnam County, West Virginia, the son of Ed and Hulda Matthews. As a young man, the family lived on Cabin Creek in Kanawha County where his father worked in the coal mines. After the coal mine wars in the late 20s, his parents bought a small farm in Sissonville and moved the family there; and

Whereas, Troy enlisted in the United States Army on June 8, 1941, and was sent to Fort Knox, Kentucky, where he was trained as a tank mechanic and served in Headquarters Company, 2nd Battalion, 3rd Armored Division. He served in Northern France, the Ardennes (Belgium) and Rhineland (Germany — European Theater of Operations) where he was wounded as a result of enemy action on September 15, 1944; and

Whereas, His wounds resulted in paralysis to his right arm and hand and serious wounds to his back and leg. He spent over a year in several military hospitals and was discharged from the Army as a Tec 5 (Corporal) from Northington General Hospital in Tuscaloosa, Alabama, on October 11, 1945. His decorations include the European Theater Ribbon, Good Conduct Medal, three Bronze Battle Stars and a Purple Heart; and

Whereas, Although his injuries were severe, and his right hand and arm paralyzed, he learned to write again with his left hand and to do most anything he could do before his injuries. He farmed, worked on equipment and in March, 1950, he went to work for the Department of the Navy at the Naval Ordnance Plant in South Charleston, West Virginia, where he helped to make tracked military vehicles. He worked there until the plant was decommissioned and closed in 1961 after being sold to FMC. At that time, he applied for and received his disability retirement based on his service record and related disability. Although retired, he continued to work for many years as a dispatcher for Point Express, a trucking company in Charleston; and

Whereas, Troy was married to the late Glyda Boggess Matthews. They had three children: Linda, Dennis and Jay. Troy passed away on May 20, 1984, at the age of 69; and

Whereas, Naming the bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge” is an appropriate recognition of his contributions to his country, state, community and Kanawha County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge”; and, be it



*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL Troy Matthews Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and any surviving members of the family of CPL Troy Matthews.

And,

**Senate Concurrent Resolution 27**, Herman Daner Rogers Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 27** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the “U. S. Army PFC Herman Daner Rogers Memorial Bridge”.

Whereas, Herman Daner Rogers was born in Kanawha County on February 8, 1924; and

Whereas, Herman Daner Rogers served this country during WWII as a PFC in the U. S. Army, being engaged in fierce combat in Normandy, Northern France, and the Rhineland in Central Europe; and

Whereas, PFC Herman Daner Rogers displayed heroism and courage on various fields of battle upon which he served, including for action taken during a fourteen-day attack, resulting in the destruction of an entire German division for which an honor was bestowed upon him by U. S. Army Lieutenant General George Patton, Jr. Among the medals and honors he received for his service to this country are the Bronze Star Medal, the EAME Theater Ribbon with four Bronze Stars per, the American Theater Ribbon,

the Good Conduct Ribbon, the World War II Victory Medal and Combat Infantry Badge. He later received the Jubilee of Liberty award from then-Congresswoman Shelley Moore Capito in 2001 for which he was extremely proud; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the “U. S. Army PFC Herman Daner Rogers Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Herman Daner Rogers Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Drema K. Rogers Justice, the daughter of PFC Herman Daner Rogers.

With the recommendation that the three committee substitutes be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (Com. Sub. for S. C. R. 18, 20 and 27) 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 Walters, 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**, Rev. Rexford Montgomery Workman Memorial Bridge.

**Senate Concurrent Resolution 21**, US Army S/SGT Delmer R. Jones Memorial Bridge.

**Senate Concurrent Resolution 22**, Trautwein Family Bridge.

**Senate Concurrent Resolution 23**, Johnny Mack Bryant Memorial Bridge.

**Senate Concurrent Resolution 24**, US Army PFC Arland W. Hatcher Memorial Bridge.

**Senate Concurrent Resolution 25**, US Army PFC Cornelius Vance Memorial Bridge.

**Senate Concurrent Resolution 26**, Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge.

**Senate Concurrent Resolution 28**, US Marine Corps CPL Ronald "Duke" Varney Memorial Bridge.

And,

**Senate Concurrent Resolution 29**, US Army SSG Landon Clair Ray and US Army SPC4 Garry Dwight Haynes Memorial Bridge.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (S. C. R. 19, 21, 22, 23, 24, 25, 26, 28 and 29) 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 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 4145**, Relating to carry or use of a handgun or deadly weapon.

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.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Stollings, Plymale, Unger and Prezioso:**

**Senate Bill 611**—A Bill to amend and reenact §18-9F-9 of the Code of West Virginia, 1931, as amended, relating to requiring that the State Board of Education include, in the legislative rule on a model school crisis plan that it promulgates, certain protocols for responding to injuries and other medical emergencies on school property after normal school hours be included in school crisis response plans by certain date; and providing the applicability and requirements of those protocols as they apply to sports injuries.

Referred to the Committee on Education.

**By Senators Gaunch and Ashley:**

**Senate Bill 612**—A Bill to amend and reenact §46A-2-115 of the Code of West Virginia, 1931, as amended, relating to limits on charges a secured lender may recover from a consumer borrower upon default.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Ashley and Plymale:**

**Senate Bill 613**—A Bill to amend and reenact §31A-4-26 of the Code of West Virginia, 1931, as amended, relating to defining “unimpaired capital” and “unimpaired surplus” for purposes of calculating the lending limit of a state-chartered bank.

Referred to the Committee on Banking and Insurance.

**By Senators Gaunch and Ashley:**

**Senate Bill 614**—A Bill to amend and reenact §46A-2-121 of the Code of West Virginia, 1931, as amended, relating to unconscionability and fraudulent conduct.

Referred to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill 615**—A Bill to amend and reenact §31-18E-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Land Reuse Agency Authorization Act; including a municipal land bank as an agency that may acquire property; and providing that a municipal land bank may have the right of first

refusal to buy any tax delinquent property, within municipal limits, for taxes owed and any related fees before the tax delinquent property is placed for public auction at tax sales.

Referred to the Committee on Government Organization.

**By Senators Boso, Ashley, Blair, Kirkendoll, Sypolt, Walters, Yost and Ferns:**

**Senate Bill 616**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to workers compensation disability and death benefits; defining “professional firefighter”; and requiring the Insurance Commissioner to study the effects of the rebuttable presumptions created on the premiums charged for workers’ compensation for professional firefighters and the overall impact of the risk management programs, wage replacement, premium calculation for the cost providing coverage and the separation of professional firefighter functions from nonactive, nonfirefighting or support functions in volunteer fire departments.

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

**By Senator Blair:**

**Senate Bill 617**—A Bill to amend and reenact §6-7-1 of the Code of West Virginia, 1931, as amended, relating to setting pay periods to a semi-monthly schedule for officers and employees of the state, state institutions of higher education and the Higher Education Policy Commission.

Referred to the Committee on Government Organization.

**By Senators Carmichael, Hall and Unger:**

**Senate Bill 618**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-15-12b, relating generally to economic development; and allowing Economic Development Authority to refinance indebtedness of certain licensed commercial whitewater outfitters.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Blair, Carmichael, Cline, Gaunch, Karnes, Mullins and Trump:**

**Senate Bill 619**—A Bill to amend and reenact §29A-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §29A-3-5 and §29A-3-11 of said code; to amend said code by adding thereto a new section, designated §29A-3-19; to amend said code by adding thereto a new section, designated §29A-3A-20; and to amend said code by adding thereto a new article, designated §29A-3C-1, §29A-3C-2, §29A-3C-3, §29A-3C-4, §29A-3C-5 and §29A-3C-6, all relating to creating the Small Business Regulatory Relief Act; requiring sunset provisions in all future rulemaking affecting agencies and higher education; requiring sunset provisions in all future modifications of rules affecting agencies and higher education; providing exceptions; requiring agencies to respond to public comments during the rule-making process; requiring agencies to explain why or why not public comments were incorporated into the rule; providing that failure of an agency to adequately explain why or why not public comments were incorporated into the rule is grounds for rejection of the rule; requiring additional information to be included when an agency submits proposed legislation to the Legislative Rule-Making Review Committee, including an economic impact statement, detailed description of the purpose or objective of the rule, explanation of the statutory authority, public comments and written responses by the agency concerning those comments, requiring the agency's response address each issue and concern expressed by the comments received and whether the rule will be overly burdensome on business and industry by setting forth specific factors that must be addressed; creating the Small Business Regulatory Board; making findings; setting forth membership; establishing its authority to review and analyze existing and proposed rules for their impact on small businesses; requiring each agency to have at least one employee who serves as the small business regulatory coordinator for that agency; establishing their duties; requiring economic impact statements to be filed; providing for injunctive relief; requiring all executive branch agencies to review and evaluate all rules, guidelines, policies and recommendations with those of any federal counterparts and determine if the state's rules, guidelines, policies and recommendations are more stringent than

those counterparts; requiring notice and comment for its own rules, guidelines, policies and recommendations; requiring the board to submit a report to the Legislature; requiring each agency to review each of its rules within four years to determine if its rules should be continued without change, modified or repealed; and defining the term “small business”.

Referred to the Committee on Government Organization.

**By Senators Hall, Plymale, Unger and Prezioso:**

**Senate Bill 620**—A Bill to amend and reenact §5A-3-1 and §5A-3-3 of the Code of West Virginia, 1931, as amended, all relating to exempting the State Police from Purchasing Division requirements.

Referred to the Committee on Government Organization.

**By Senators Palumbo, Ashley, Gaunch, Karnes, Mullins, Walters and Ferns:**

**Senate Bill 621**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24A-2-7, relating to exempting taxicab companies whose drivers are independent contractors from providing workers’ compensation coverage for the drivers.

Referred to the Committee on the Judiciary.

Senators Stollings, Plymale, Unger and Maynard offered the following resolution:

**Senate Concurrent Resolution 37**—Requesting Division of Highways to name bridge numbers 22-119-0.04, NB & SB (22A102 & 22A103), latitude 38.18215, longitude -81.84941, on U. S. Route 119, otherwise known as the North Pinnacle Rock Creek Bridge, in Lincoln County, the “U. S. Army PFC Willie Paul Wilson Bridge”.

Whereas, PFC Willie Paul Wilson, known to his family and friends as “Jenkie”, was born on November 11, 1925, in Julian, West Virginia, to John and Elsie Wilson; and



Whereas, PFC Willie Paul Wilson enlisted in the U. S. Army on February 29, 1944, and was assigned to Company K, 1st Platoon, 262nd Regiment; and

Whereas, PFC Willie Paul Wilson was killed on Christmas Eve, 1944, aboard the S. Leopoldville, a Belgian troopship being used in the English Channel to transport troops and supplies for the Allied war effort. On that evening, a German submarine torpedoed the S. Leopoldville when it was only five miles from the shore, killing at least 802 people in the most deadly tragedy to ever befall an American Infantry Division as the result of an enemy submarine attack; and

Whereas, PFC Willie Paul Wilson was awarded the Purple Heart on June 30, 1945, for the wounds that resulted in his death; and

Whereas, It is fitting that PFC Willie Paul Wilson be memorialized and honored for his great sacrifice in the area where he lived; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Division of Highways to name bridge numbers 22-119-0.04 NB & SB (22A102 & 22A103), latitude 38.18215, longitude -81.84941, on U. S. Route 119, otherwise known as the North Pinnacle Rock Creek Bridge, in Lincoln County, the “U. S. Army PFC Willie Paul Wilson 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 Willie Paul Wilson Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of PFC Willie Paul Wilson.

Which, under the rules, lies over one day.

Senators Leonhardt, Ferns, Cline, Unger, Blair, Beach, Boley, Stollings and Laird offered the following resolution:

**Senate Resolution 39**—Designating February 17, 2016, as Nurses Unity Day at the Legislature.

Whereas, One in forty-three West Virginians is a nurse; and

Whereas, Nurses make a significant contribution of time, energy, heart and care toward the healing of our residents who are ill and suffering; and

Whereas, Nurses are powerful advocates for the health and well-being of all West Virginians, providing education, screening, nursing intervention, evaluation and research to improve the health of West Virginia residents throughout the life span from prebirth to the end of life; and

Whereas, Nurses meet the health needs of West Virginians not only in hospitals and long-term care facilities, but conveniently in their homes, at school, at work, at church, in community health centers, on the phone and on the internet; and

Whereas, The Institute of Medicine recognizes nurses as key to solving our current rising cost of chronic illness through their expanding leadership as coordinators and collaborators of interdisciplinary health care teams; and

Whereas, The expanding roles of Advanced Practice Registered Nurses as Nurse Anesthetists, Nurse Midwives, and Certified Nurse Practitioners in a variety of specialties provide improved cost-effective access to health services in our rural state; and

Whereas, The American public has voted to acknowledge nurses as the most trusted professional for twelve years; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 17, 2016, as Nurses Unity Day at the Legislature; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of West Virginia Nurses Unity Day.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senator Ashley presented a petition from the National Association for Gun Rights and numerous West Virginia residents, supporting Engrossed Committee Substitute for House Bill 4145 (*Relating to carry or use of a handgun or deadly weapon*).

Referred to the Committee on the Judiciary.

Senator Sypolt presented a petition from Melvin Bonner and thirty-four Hambleton residents, requesting the proposed route for Corridor H highway be shifted south of Wolf Run Road, Hambleton, Tucker County, area.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Com. Sub. for Senate Bill 10**, Creating Unborn Child Protection from Dismemberment Abortion Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 16, 2016, for

amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Plymale and Stollings, the following amendment to the bill was reported by the Clerk:

On page three, section one, line thirty-seven, after the word "article" by inserting a comma and the words "if the American Congress of Obstetricians and Gynecologists issues a confirmation that the conduct of the licensed medical practitioner was outside the scope of practice or contrary to the standard of care,".

Following discussion,

The question being on the adoption of the amendment offered by Senators Plymale and Stollings to the bill (Com. Sub. for S. B. 10), the same was put.

The result of the voice vote being inconclusive, Senator Stollings demanded a division of the vote.

A standing vote being taken, there were nine "yeas" and twenty-three "nays".

Whereupon, Senator Cole (Mr. President) declared the amendment offered by Senators Plymale and Stollings to the bill rejected.

There being no further amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 10 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 10 pass?"

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kessler,

Kirkendoll, Leonhardt, Maynard, Mullins, Prezioso, Sypolt, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—24.

The nays were: Beach, Facemire, Laird, Miller, Palumbo, Romano, Snyder, Stollings and Takubo—9.

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. 10) 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 Snyder, and by unanimous consent, the remarks by Senators Stollings, Ferns, Karnes and Palumbo regarding Engrossed Committee Substitute for Senate Bill 10 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 16**, Providing tax credit for providing broadband service to unserved areas.

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 16 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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 Com. Sub. for S. B. 16) 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 105**, Creating Tim Tebow Act allowing nonpublic school student participate in SSAC member school athletics.

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 105 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Palumbo, Romano, Sypolt, Takubo, Trump, Unger, Walters, Woelfel and Cole (Mr. President)—25.

The nays were: Beach, Kessler, Laird, Prezioso, Snyder, Stollings, Williams and Yost—8.

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. 105) 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 267**, Modifying removal procedure for certain county, school district and municipal officers.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Unger—1.

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. 267) 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 283,** Creating crime when fire is caused by operation of clandestine drug laboratory.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 283) 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 351**, Dedicating severance 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 351) 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 356**, Eliminating consumers sales and service tax exemption for 2016 fiscal year.

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

On motion of Senator Carmichael, the bill was committed to the Committee on Rules.

**Eng. Com. Sub. for Senate Bill 400**, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund.

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

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



**Eng. Com. Sub. for Senate Bill 436**, Defining adequate shelter for dogs and cats.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Karnes—1.

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. 436) passed.

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

**Eng. Senate Bill 436**—A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to animal cruelty; defining adequate shelter for certain dogs and cats; giving discretion in determining adequate shelter in certain circumstances; and setting forth criminal penalties.

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

**Eng. Senate Bill 439**, Eliminating requirement that budget director approve requisitions for personal services payment 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall,

Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 439) 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 462**, Reducing deposit of excess lottery proceeds into WV Infrastructure 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Miller and Unger—2.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 462) 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 504**, Relating to confidentiality of juvenile 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 504) 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 507**, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 507) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 507) 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 515**, Authorizing payment of certain claims against 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 515) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 515) 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 Senate Bill 313**, Relating to school calendar and allowing limited use of available accrued instructional time.

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

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

**Com. Sub. for Com. Sub. for Senate Bill 315**, Providing for construction of statewide fiber optic broadband infrastructure network.

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 424**, Allowing fire departments assess fees.

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

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

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

(d) ~~and~~ Reimbursement fees for services rendered by the fire company or fire department must be reasonable: ~~Provided, however, That no~~ and the total fee for responding to any single incident or accident shall ~~may not~~ exceed \$500 \$5,000, except: (1) An incident or accident involving hazardous materials; (2) a fire incident at commercial use properties or structures; or (3) a fire incident at industrial use properties or structures: *Provided, That the fee for any incident involving a single-family dwelling assessed against an owner-occupied residence may not exceed \$1,000.*

Following discussion,

The question being on the adoption of Senator Kessler's amendment to the bill, and on this question, Senator Kessler demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Leonhardt, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings, Takubo, Unger, Williams, Woelfel, Yost and Cole (Mr. President)—18.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Maynard, Mullins, Sypolt, Trump and Walters—15.

Absent: Plymale—1.

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

The bill (Com. Sub. for S. B. 424), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 529**, Making certain sport and educational fantasy games lawful.

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

On motion of Senator Romano, the following 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 28. FANTASY GAMES.**

**§47-28-1. Definitions.**

(a) “Fantasy game” means a fantasy or simulation sports game or educational game or contest that meets the following conditions:

(1) The value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the fantasy game.

(2) All winning outcomes reflect the relative knowledge and skill of participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

(3) A winning outcome is not based on the score, point spread or performance of a single team or combination of such teams, or on any single performance of an individual athlete or player in a single event.

(b) “Fantasy game operator” means a person, as defined in section one, article nine of this chapter, that offers fantasy games for a cash prize to more than ten thousand members of the public.

**§47-28-2. Fantasy games authorized.**

(a) Nothing in this code shall be deemed to prohibit the offering of or participation in fantasy games as defined in this article.

(b) Nothing in this code or in any regulation, rule, ordinance or other law shall be deemed or construed to provide or impose criminal penalties or sanctions of any kind for offering or participating in fantasy games as defined in this article.

(c) A fantasy game operator offering fantasy games to residents of this state shall register annually with the West Virginia Attorney General and pay an initial registration fee of \$250,000 and an annual renewal fee of \$25,000 to be placed into the Consumer Protection Recovery Fund (Fund 1509). The Attorney General shall endeavor to protect all rights of West Virginians who participate in fantasy games and shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code in order to implement the provisions of this article to protect West Virginia consumers and regulate fantasy game operators. The registration fees required by this section shall be used for the purposes of the protection of West Virginia consumers, including, but not limited to, consumers of fantasy games.

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

The bill (Com. Sub. for S. B. 529), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

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

**Senate Bill 54**, Altering how tax is collected on homeowners' associations.

**Com. Sub. for Senate Bill 293**, Neighborhood Investment Program Act.



**Com. Sub. for Senate Bill 434**, Allowing home-based micro-processed foods sold at farmers markets.

**Eng. House Bill 4148**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

**Eng. Com. Sub. for House Bill 4158**, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

**Eng. Com. Sub. for House Bill 4244**, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

And,

**Eng. Com. Sub. for House Bill 4245**, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Palumbo, Hall and Miller.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Palumbo were ordered printed in the Appendix to the Journal.

At the request of Senator Blair, unanimous consent being granted, the remarks by Senator Hall were ordered printed in the Appendix to the Journal.

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

The Senate again proceeded to the twelfth order of business.

Remarks were made by Senator Prezioso.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Prezioso were ordered printed in the Appendix to the Journal.

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

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Plymale.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 18, 2016, at 11 a.m.

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## THURSDAY, FEBRUARY 18, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Mike House, Ambassador Baptist Church, Elkins, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable John R. Unger II, a senator from the sixteenth district.

Pending the reading of the Journal of Wednesday, February 17, 2016,

At the request of Senator Blair, 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 3019**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-2-13, all relating to requiring official business and records of the state and its political subdivisions be conducted in English, and providing exceptions, limitations, and a definition.

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, 2016, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4209**—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; changing rate of tax imposed on certain eligible acute care hospitals for the fiscal year 2017; specifying purposes for which funds collected may be expended; providing for distribution of remaining funds at the end of fiscal year; and extending expiration date for tax.

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 4291**—A Bill to amend and reenact §61-8D-5 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for teachers and service personnel who commit sexual offenses against children with whom they hold positions of trust; providing that upon conviction for sexual offenses against children with whom they hold positions of trust such teachers and service personnel are prohibited from being

employed by any educational, vocational, training, day care, group home, foster care program, or rehabilitation facility in the state; and defining terms.

Referred to the Committee on Education; 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. Com. Sub. for House Bill 4323**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents by well operators and pipeline operators; defining terms; establishing reporting requirements; establishing obligations of local emergency telephone operators; providing for recording and handling of calls; setting forth administrative civil penalty; and providing appeal process.

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 4347**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to providing pregnant women priority to substance abuse treatment.

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 4378**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §44A-3-17 and §44A-3-18, all relating to access to and receipt of certain information regarding a protected person by

certain relatives of the protected person; defining “relative”; providing a relative may apply for access to a “protected person”; setting forth time standards in which to conduct a hearing after an application is filed; providing for an emergency hearing under particular circumstances; providing for service of an application upon a guardian and setting time standards for service thereof; providing for the entry of an order by the court following application and a hearing conducted thereon; providing standards for a court to observe and implement in issuing a ruling on an application; providing the court may issue attorney’s fees to a prevailing party; setting forth particular duties for a guardian; and, providing criteria upon which a court may relieve a guardian of further responsibility.

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 4417**—A Bill to amend and reenact §46A-2-130 the Code of West Virginia, 1931, as amended, relating to limitations on garnishment generally; potentially increasing wages protected from garnishment.

Referred to the Committee on the Judiciary.

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

**Senate Bill 218**, Division of Labor rule relating to minimum wage and maximum hours.

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

**Com. Sub. for Senate Bill 218** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to minimum wage and maximum hours.

And,

**Senate Bill 481**, Authorizing distillery operators to offer liquor for purchase and consumption on premises.

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

**Com. Sub. for Senate Bill 481** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating to authorizing operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises if purchased and consumed at a licensed Class A private club operating on the premises of the distillery or mini-distillery; and allowing distilleries and mini-distilleries to sell and serve alcohol beginning at 10:00 a.m. on Sundays.

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 339**, Establishing Judicial Compensation Commission.

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

**Com. Sub. for Senate Bill 339** (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 §51-12-1, §51-12-2 and §51-12-3, all relating to establishing a judicial compensation commission; setting responsibilities for commission; establishing membership of commission; setting terms of service for appointed members; setting eligibility requirements for certain commission members; providing that members of commission are ineligible for appointment to state judicial position while serving on commission; providing for reimbursement of expenses incurred in carrying out responsibilities of commission; providing for filling of vacancies on commission; giving commission authority to make salary recommendations for certain judicial officers to the Legislature; providing for location of commission meetings; setting meeting notice requirements; directing election of a chairperson; setting quorum requirements; permitting commission to request staff assistance from Joint Committee on Government and Finance and administrative office of Supreme Court of Appeals; requiring meetings be conducted pursuant to open meetings laws; directing commission to study compensation structure for certain judicial officers for purposes of preparing a report; setting forth required factors to be considered in making recommendations regarding compensation; providing for filling of commission vacancies; establishing certain dates for commission action; providing for filing of commission reports and recommendations with certain offices; requiring a bill enacting commission's salary recommendations be introduced by the presiding officer of the Senate and House of Delegates no later than the twentieth day of legislative session following receipt of report; requiring a bill enacting commission's salary recommendations be reintroduced by the presiding officer of the Senate and House of Delegates in each subsequent legislative session if not enacted; providing that commission be adjourned for three years following submission of report; and making technical corrections.

With the recommendation that the 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 455**, Allowing person to be both limited video lottery operator and retailer.

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 S. Trump IV,  
*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

**Senate Bill 478**, Authorizing licensees who sell growlers to offer samples.

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

Your Committee on Finance has had under consideration

**Senate Bill 500**, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network.

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

**Com. Sub. for Senate Bill 500** (originating in the Committee on Finance)—A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the State Police to hold training classes for certification to access and use the West Virginia Automated Police Network; authorizing a fee to be charged for the training; creating fund in which the fees are to be deposited; and specifying what the funds may be used for.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 505**, Exempting certain uses of field gas from motor fuel excise taxes.

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

Respectfully submitted,

Mike Hall,  
*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 520**, Allowing PEIA ability to recover benefits or claims obtained through fraud.

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

**Com. Sub. for Senate Bill 520** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §5-16-12 and §5-16-12a of the Code of West Virginia, 1931, as amended, all relating to willful misrepresentation to gain benefits or payment under the Public Employees Insurance Act; establishing certain acts as violations of the act; providing for civil liability for improperly received benefits, overpayments or other sums; authorizing set off by the director to recover overpayment; authorizing investigation by the director of misrepresentations by an employer, employee or providers under the Public Employees Insurance Act; authorizing the director to issue administrative subpoenas; providing requirements for service of subpoenas; authorizing fees for service and witnesses; establishing a process to compel obedience with a subpoena; authorizing the agency to recover benefits or claims obtained by fraud through administrative hearing; providing for the confidentiality of data; and providing criminal penalties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 563**, Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members.

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,

C. Edward Gaunch,  
*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

**Senate Bill 581**, Eliminating sunset provision terminating pilot domestic violence court program.

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

**Com. Sub. for Senate Bill 581** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §48-27-301 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-2A-2 of said code, all relating to eliminating the sunset provision terminating the pilot domestic violence court program; continuing domestic violence court initiative designed to prevent domestic violence; expanding the initiative from one pilot court to five courts; permitting Supreme Court of Appeals to determine each domestic violence court is to be located; and making other technical and conforming changes.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 595**, Relating to retirement credit for members of WV National Guard.

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

**Com. Sub. for Senate Bill 595** (originating in the Committee on Pensions)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-15c; and to amend said code by adding thereto a new section, designated §18-7A-17b, all relating to retirement credit for members of the West Virginia National Guard; and establishing procedure for purchase of military service credit by members of certain retirement systems with current or prior service in the West Virginia National Guard.

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,

C. Edward Gaunch,  
*Chair.*

The bill (Com. Sub. for S. B. 595), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

**Eng. House Bill 4161**, Relating to levies on classifications of property by the Board of Public Works.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Walters, Blair, Mullins, Takubo and Carmichael:**

**Senate Bill 622**—A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to the composition of the Public Employees Insurance Agency Finance Board; reducing the number of members; and changing the experience requirements for members.

Referred to the Committee on Government Organization.

**By Senators Plymale (By Request), Woelfel (By Request) and Facemire:**

**Senate Bill 623**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4 and §5-30-5, all relating to state recognition of Native American tribes; defining terms; designating certain tribes as recognized by the state; establishing criteria for state recognition of additional tribes; authorizing unique

trademarks for certain arts and crafts; prohibiting gambling; and providing criminal penalty for unauthorized use of trademark.

Referred to the Committee on Government Organization.

**By Senators Gaunch, Cline, Takubo, Trump, Walters, Woelfel, Plymale, Prezioso, Boso, Ferns and Facemire:**

**Senate Bill 624**—A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and to amend and reenact §62-1D-8 of said code, all relating generally to human trafficking; designating the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; eliminating existing criminal offense and penalties for human trafficking; creating felony offenses and penalties for trafficking an individual; defining terms; creating felony offenses and penalties for using an individual in forced labor; creating felony offenses and penalties for using an individual in debt bondage; creating felony offenses and penalties for compelling an adult through coercion to engage in commercial sexual activity; creating a felony offense for maintaining or making available a minor for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offense; creating a felony offense of patronizing an individual to engage in commercial sexual activity; clarifying that each victim shall be considered a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for disgorgement of profits and debarment from state and local government contracts; making victims eligible for compensation under the Crime Victims Compensation Fund; providing for criminal immunity for offense

of prostitution if individual was a minor at time of offense and was a victim at time of offense; providing for expungement of prostitution conviction for victims of trafficking; and authorizing law enforcement to use wiretaps to conduct investigations.

Referred to the Committee on the Judiciary.

**By Senators Trump, Kessler, Unger, Walters, Prezioso and Facemire:**

**Senate Bill 625**—A Bill to amend and reenact §22-30-14 of the Code of West Virginia, 1931, as amended, relating to limitations on public access to information relating to the Aboveground Storage Tank Act.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Mullins, Stollings and Plymale:**

**Senate Bill 626**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to requiring the Secretary of the Department of Health and Human Resources to seek a waiver within the Supplemental Nutrition Assistance Program to allow that benefits issued under the Supplemental Nutrition Assistance Program be limited to purchases with the same or similar nutritional value as purchases allowable under the Women's, Infant and Children Program; requiring the secretary to coordinate with appropriate state agencies in seeking the waiver; and requiring the secretary to report to the Legislative Oversight Commission on Health and Human Resources Accountability concerning progress made toward seeking the waiver by December 31, 2017.

Referred to the Committee on Health and Human Resources.

**By Senators Takubo, Maynard, Mullins, Stollings, Trump and Plymale:**

**Senate Bill 627**—A Bill to amend and reenact §30-3A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7-23 of said code, all relating to permitting physicians to decline prescribing controlled substance in certain circumstances; limiting disciplinary action on medical license for

not prescribing or discontinuing prescribing controlled substance in certain circumstances; precluding criminal action for not prescribing or discontinuing prescribing controlled substance in certain circumstances; and limiting liability for not prescribing or discontinuing prescribing controlled substance in certain circumstances.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Mullins, Stollings, Plymale and Unger:**

**Senate Bill 628**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-10b; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to palliative or emergent treatment for terminally ill or critically injured incapacitated indigent patients whose medical directives would otherwise be made under the authority of the Commissioner of Human Services; defining certain terms; providing that a treating physician with the concurrence of another treating physician may direct a palliative or emergent medical care plan or treatment for terminally ill or critically injured incapacitated indigent patients, including when not to resuscitate, when Human Services delays in providing a directive for medical treatment; and providing that in order to direct a palliative or emergent treatment plan, two treating physicians must concur that Human Services' delay has resulted in the patient having to endure unnecessary pain and suffering and that any remedial medical intervention likely would not lead to any meaningful recovery consistent with restoring an incapacitated indigent patient to a minimally acceptable quality of life.

Referred to the Committee on Health and Human Resources.

**By Senators Takubo, Maynard, Mullins, Stollings and Plymale:**

**Senate Bill 629**—A Bill to amend and reenact §60A-9-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-9-4b, all relating to reports by the Board of Pharmacy; requiring the board to include in its reports any patients in a pain management clinic and



individuals admitted to a hospital or emergency room for a drug overdose; and requiring information from those reports be part of a patient's hospital chart.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

**By Senators Walters, Plymale and Gaunch:**

**Senate Bill 630**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-18f, relating to county boards of education; licensed school psychologists; and providing that maximum licensed school psychologist-pupil ratio is one thousand five hundred pupils for each licensed school psychologist.

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

**By Senator Walters:**

**Senate Bill 631**—A Bill to amend and reenact §18B-1-1d of the Code of West Virginia, 1931, as amended, relating to retirement and separation incentives.

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

**By Senator Sypolt:**

**Senate Bill 632**—A Bill to amend and reenact §18-2-26a of the Code of West Virginia, 1931, as amended, relating to county superintendents of schools and members of county boards meeting to consider whether the laws of this state might better empower and equip the county boards to attain the goals established for public education by the Legislative Oversight Commission on Education Accountability and the state board; and to report to the Legislative Oversight Commission on Education Accountability and the state board.

Referred to the Committee on Education.

Senators Plymale, Woelfel, Stollings, Maynard and Facemire offered the following resolution:

**Senate Concurrent Resolution 38**—Requesting Division of Highways name bridge number 06-64-19.71, EB & WB (06A145, 06A192) (38.41793, -82.26105), locally known as the Ona Mall Bridge, EB and WB, carrying Interstate 64 over Cabell County Route 60/89 in Cabell County, the “U. S. Army PFC Denver Holly Memorial Bridge”.

Whereas, Denver Holly was born in Livingston, West Virginia, on August 11, 1920. He lived in Holly Grove, Hansford, and in a few other towns in Kanawha County until he was 22 years old; and

Whereas, Denver Holly joined the U. S. Army on July 17, 1942. Denver was a Private First Class and served his country in Europe during World War II. He was an infantryman and, during battles, was an ammunition runner. In 1944, he was wounded twice while serving in France; and

Whereas, PFC Denver Holly’s service during World War II earned him the Purple Heart Medal with Cluster, American Theater Service Ribbon, European African Middle Eastern Service Ribbon and World War II Victory Ribbon; and

Whereas, Following his honorable discharge from the Army following the war, PFC Denver Holly lived in Huntington and Barboursville for 41 years; and

Whereas, PFC Denver Holly passed away on December 17, 2015; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 06-64-19.71, EB & WB (06A145, 06A192) (38.41793, -82.26105), locally known as the Ona Mall Bridge, EB and WB, carrying Interstate 64 over Cabell County Route 60/89 in Cabell County, the “U. S. Army PFC Denver Holly Memorial Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Denver Holly Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of the late Denver Holly.

Which, under the rules, lies over one day.

Senators Ferns, Yost, Stollings, Plymale, Maynard, Unger, Leonhardt, Prezioso, Williams and Kessler offered the following resolution:

**Senate Resolution 40**—Designating February 18, 2016, as West Virginia Kids at Risk 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 who are at risk; 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 through the long haul; and

Whereas, These West Virginia professionals and agencies work with West Virginia’s child welfare stakeholders to eliminate policy barriers and day to day practices that reduce the effective utilization of in-state resources; and

Whereas, Our state’s child welfare professionals and agencies do everything possible to provide opportunities for West Virginia’s kids at risk to receive care 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, Our state's stringent licensing requirements and standards of care ensure that children at risk in West Virginia are receiving the best quality of care; and

Whereas, By using West Virginia child welfare professionals and agencies our state is doing what is best for West Virginia's kids at risk and their families; and

Whereas, These West Virginia child care professionals and agencies advocate for and deliver services and support to provide for the safety, well-being and opportunity for kids at risk to achieve their hopes and dreams; 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, The 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 the kids' and families' communities; and

Whereas, This quality care is provided in a variety of settings, including community agencies, hospitals, residential group homes, foster families, emergency shelters, community and educational institutions, and seeks to provide resources and guidance that promotes the safety, well-being and permanency of West Virginia's at-risk kids; 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 Senate recognizes and appreciates the outstanding dedication, devotion and care of West Virginia's child welfare professionals and agencies, and of the West Virginia Child

Care Association, all for their caring, commitment and for making a difference in the lives of at-risk children in the State of West Virginia, their families and communities; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 18, 2016, as West Virginia Kids at Risk Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials with Kids at Risk Day.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

**Senate Concurrent Resolution 37**, US Army PFC Willie Paul Wilson bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 315**, Providing for construction of statewide fiber optic broadband infrastructure network.

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 315 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Cline, Facemire, Ferns, Gaunch, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—29.

The nays were: Carmichael, Hall, Karnes, Prezioso and Woelfel—5.

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. 315) 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 Kessler, and by unanimous consent, the remarks by Senators Walters, Woelfel, Karnes, Carmichael and Boso regarding the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 315 were ordered printed in the Appendix to the Journal.

At the request of Senator Carmichael, 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 400**, Reducing amount of sales tax proceeds dedicated to School Major Improvement 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall,

Karnes, Kessler, Kirkendoll, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—30.

The nays were: Laird, Miller, Snyder and Unger—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. 400) 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 424**, Allowing fire departments assess fees.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 424) 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 529**, Making certain sport and educational fantasy games lawful.

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 529 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Carmichael, Cline, Ferns, Gaunch, Karnes, Kirkendoll, Leonhardt, Maynard, Stollings, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—18.

The nays were: Ashley, Boso, Facemire, Hall, Kessler, Laird, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Unger and Yost—16.

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. 529) 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 Kessler, and by unanimous consent, the remarks by Senator Unger regarding the passage of Engrossed Committee Substitute for Senate Bill 529 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

**Senate Bill 54**, Altering how tax is collected on homeowners' associations.

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 one, section nine-o, line four, by striking out the word “all” and inserting in lieu thereof the word “its”.

The bill (S. B. 54), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 293**, Neighborhood Investment Program 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 313**, Relating to school calendar and allowing limited use of available accrued instructional time.

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

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

On page three, section forty-five, line forty-seven, by striking out the words “that are to” and inserting in lieu thereof the words “which may”;

And,

On page three, section forty-five, lines sixty-one through sixty-eight, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

(2) May count unused accrued instructional time toward the one hundred eighty instructional day requirement: *Provided*, That the instructional days recovered through the use of available accrued instructional time need not be separate instructional days.

Following discussion,

The question being on the adoption of the amendments offered by Senator Mullins to the bill, the same was put and prevailed.

The bill (Com. Sub. for S. B. 313), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 434**, Allowing home-based micro-processed foods sold at farmers markets.

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

**Eng. House Bill 4148**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

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

**Eng. Com. Sub. for House Bill 4158**, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

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

**Eng. Com. Sub. for House Bill 4244**, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

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

**Eng. Com. Sub. for House Bill 4245**, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

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.

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

**Com. Sub. for Com. Sub. for Senate Bill 259**, Amending Unfair Trade Practices Act.

**Senate Bill 352**, Dedicating corporation net income tax proceeds to railways.

**Senate Bill 431**, Authorizing pharmacists and pharmacy interns dispense opioid antagonists.

**Senate Bill 488**, Requiring WV Secondary School Activities Commission manage hypertrophic cardiomyopathy.

**Senate Bill 552**, Eliminating requirement sheriff pay jury costs to State Treasury.

**Senate Bill 553**, Merging purposes and provisions of Volunteer Fire Department Workers' Compensation Subsidy Program and Fund.

**Senate Bill 573**, Prohibiting municipal annexation which would result in unincorporated territory within municipality.

**Senate Bill 579**, Eliminating WV Port Authority.

**Com. Sub. for Senate Bill 582**, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

**Com. Sub. for Senate Bill 597**, Relating to Health Care Authority.

**Eng. Com. Sub. for House Bill 4145**, Relating to carry or use of a handgun or deadly weapon.

And,

**Eng. Com. Sub. for House Bill 4175**, Relating generally to home schooling.

Following a point of inquiry by Senator Unger, with resultant response from Senator Hall,

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Plymale, Kessler, Stollings and Miller.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Plymale were ordered printed in the Appendix to the Journal.

At the request of Senator Stollings, unanimous consent being granted, the remarks by Senator Kessler were ordered printed in the Appendix to the Journal.

At the request of Senator Walters, and by unanimous consent, the remarks by Senator Stollings were ordered printed in the Appendix to the Journal.

At the request of Senator Carmichael, unanimous consent being granted, the remarks by Senator Miller were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, unanimous consent being granted, it was ordered that the Journal show had Senator Plymale been present in the chamber on yesterday, Wednesday, February 17, 2016, he would have voted “yea“ on the passage of Engrossed Committee Substitute for Senate Bill 10, Engrossed Committee Substitute for Committee Substitute for Senate Bill 16, Engrossed Committee Substitute for Senate Bill 267, Engrossed Committee Substitute for Senate Bill 283, Engrossed Senate Bill 351, Engrossed Committee Substitute for Senate Bill 436, Engrossed Senate Bill 439, Engrossed Senate Bill 462, Engrossed Committee Substitute for Senate Bill 504, Engrossed Senate Bill 507 and Engrossed Senate Bill 515 and “nay” on the passage of Engrossed Committee Substitute for Senate Bill 105.

At the request of Senator Prezioso, the name of Senator Prezioso was removed as a sponsor of **Engrossed Committee Substitute for Senate Bill 529** (*Making certain sport and educational fantasy games lawful*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 19, 2016, at 11 a.m.

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## FRIDAY, FEBRUARY 19, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Gary Nelson, Cross Lanes United Methodist Church, Cross Lanes, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jeffrey V. Kessler, a senator from the second district.

Pending the reading of the Journal of Thursday, February 18, 2016,

At the request of Senator Ferns, 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.

On motion of Senator Carmichael, the Senate recessed for five minutes to permit Kelli Chattin to address the Senate on behalf of the Frasure-Singleton Student Legislative Program.

Upon expiration of the recess, the Senate reconvened and 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 2904**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-2-4, to amend said code by adding thereto a new section, designated §7-1-3pp, and, to amend and reenact §7-1-7 of said Code, all relating to accessible county records; requiring county clerks to report certain county official information to the Secretary of State annually; requiring the Secretary of State to annually update a website of county information; requiring county commissions to maintain a website; and requiring the clerk of a county commission to maintain a county ordinance book.

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 4174**—A Bill to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-6-23 of said code, all relating to indoor shooting ranges; exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house; amending the definition of “shooting range” to include an indoor range; exempting activity at indoor shooting ranges from criminal penalties for violations for shooting or discharging a firearm within five hundred feet of any church or dwelling house; and limiting nuisance actions against shooting ranges.

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 4467**—A Bill to amend and reenact §18-2-7c of the Code of West Virginia, 1931, as amended,

relating to including financial aid planning and completion of the Free Application for Federal Student Aid in secondary school instruction in personal finance; including building student familiarity with variety of additional free resources to plan, apply and pay for education and training beyond high school; making finding and declaration; and providing for development and availability of curriculum and instructional resources.

Referred to the Committee on Education.

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

**Senate Bill 48**, Establishing Mental Health, Veteran and Service Members Court.

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 S. Trump IV,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill 134**, Establishing task force to study impact of any state 2- or 4-year campus closure.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Government Organization, with amendments from the Committee on Education pending.

Senator Boso, 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 180**, DEP, Water and Waste Management rule relating to requirements governing water quality standards.

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,

Gregory L. Boso,  
*Chair.*

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

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

Your Committee on Finance has had under consideration

**Senate Bill 420**, Increasing tax rate on cigarette and tobacco products.



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

**Com. Sub. for Senate Bill 420** (originating in the Committee on Finance)—A Bill to amend and reenact §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-17-4b, all relating to increasing tax rate on cigarettes and tobacco products; dedicating \$1 million to tobacco cessation programs; dedicating a portion of the proceeds to Public Employees Insurance Agency; requiring a physical inventory of tax stamps and tobacco products and e-cigarette liquids upon the effective date of tax imposition or tax rate increase; applying tax rate changes to inventories; requiring a report of such inventory be filed sixty days after the effective date of the tax imposition or tax rate change; levying the excise tax on e-cigarette liquid; defining terms; providing for administration of the tax on e-cigarette liquid; specifying penalty for failure to file required reports; specifying criminal sanctions; and specifying effective date.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Ferns, 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 454**, Requiring prescriptions for opioid antagonists be logged into Controlled Substances Monitoring Program.

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

**Com. Sub. for Senate Bill 454** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §60A-9-4, §60A-9-5, §60A-9-5a, §60A-9-7 and §60A-9-8 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Controlled Substances Monitoring Program database; requiring reporting when an opioid antagonist is dispensed by certain persons; clarifying code language related to 72-hour prescriptions; prohibiting licensing boards from issuing or reissuing licenses to practitioners who have not registered for the West Virginia Controlled Substances Monitoring Program database; establishing a fine for failure to register for the West Virginia Controlled Substances Monitoring Program database; establishing a fine for failure to access the West Virginia Controlled Substances Monitoring Program as mandated by the code; providing exceptions to penalties; clarifying language related to the Fight Substance Abuse Fund; placing administrative authority over the Fight Substance Abuse Fund with the Bureau for Public Health; revising code language to use defined terms; and reorganizing existing code language.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 454), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill 485**, Establishing regional recreation authorities and areas.

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

**Com. Sub. for Senate Bill 485** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10 and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4 and §20-15-5 of said code, all relating to establishing regional recreation authorities and areas; establishing trails for off-highway recreational vehicle use; providing for reimbursement by authority for natural resources police officers or county sheriffs; authorizing creation of regional recreation authority as joint development entity formed by three or more contiguous counties; setting forth findings and definitions; establishing powers and composition of governing board; providing for financial review and oversight of public funds; prohibiting certain conduct in regional recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; limiting liability; clarifying duties and responsibilities of participants to landowners and lessors in the regional recreation area; and establishing criminal penalties and civil remedies.

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,

Robert Karnes,  
*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 Natural Resources.

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 508**, Relating to civil claims for private nuisance.

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

**Com. Sub. for Senate Bill 508** (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 §55-7-30, relating generally to civil claims for private nuisance; establishing pre-suit notice and other requirements to bringing a civil claim for private nuisance; tolling the statute of limitations on private nuisance claims for sixty-one days after the required pre-suit notice is provided; establishing and defining a “permit shield” defense to claims for private nuisance; outlining the elements to that defense; providing for exceptions to that defense; and requiring an ownership or possessory interest to assert a claim for private nuisance.

With the recommendation that the 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 548**, Relating to number of magistrates in certain counties.

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

**Com. Sub. for Senate Bill 548** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended, relating to increasing the number of magistrates in Jefferson, Berkeley, Monongalia,

Kanawha and Raleigh counties; and removing legislative findings and obsolete language regarding two studies.

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,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. 548), under the original double committee reference, was then referred to the Committee on Finance.

Senator Boso, 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 565**, Allowing well pad and road construction for oil and gas activities.

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

**Com. Sub. for Senate Bill 565** (originating in the Committee on Energy, Industry and Mining)—A Bill to amend and reenact §22-6A-7 of the Code of West Virginia, 1931, as amended, relating to allowing well pad and road construction for oil and gas activities that are done pursuant to a storm water permit; clarifying that the requirements of the section apply only to well work permits and not storm water permits; and providing notice to property owners.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*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 591**, Relating to voter registration list maintenance and combined voter registration and driver licensing fund.

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

**Com. Sub. for Senate Bill 591** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, all relating to voter registration list maintenance and Combined Voter Registration and Driver Licensing Fund; authorizing Secretary of State to enter into agreement with Division of Motor Vehicles for Division of Motor Vehicles to provide certain information; setting forth information to be provided by Division of Motor Vehicles; permitting Secretary of State to use information for voter registration list maintenance comparison through interstate data-sharing agreement as designated by Secretary of State; identifying additional permissible uses of funds in Combined Voter Registration and Driver Licensing Fund; and providing for periodic transfer of funds from that fund to Supreme Court of Appeals Public Campaign Financing Fund under certain circumstances.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 617**, Returning all salaried and hourly state employees to semimonthly payment schedule for wages.

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

**Com. Sub. for Senate Bill 617** (originating in the Committee on Government Organization)—A Bill to amend and reenact §6-7-1 of the Code of West Virginia, 1931, as amended, relating to setting pay periods to a semi-monthly schedule for officers and employees of the state, state institutions of higher education and Higher Education Policy Commission.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

On motion of Senator Blair, the bill (Com. Sub. for S. B. 617) contained in the foregoing report from the Committee on Government Organization 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

**Senate Joint Resolution 1**, County Economic Development Amendment.

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

**Com. Sub. for Senate Joint Resolution 1** (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to authorizing the Legislature to, by general law, allocate a

portion of ad valorem property taxes paid by owners of certain new manufacturing facilities and large capital additions to existing manufacturing facilities located in counties in which county commissions elect to fund infrastructure capital improvements, in whole or in part, using property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute be adopted; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The resolution (Com. Sub. for S. J. R. 1), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

**By Senator Snyder:**

**Senate Bill 633**—A Bill to amend and reenact §24-2-1 and §24-2-2 of the Code of West Virginia, 1931, as amended, all relating generally to the Public Service Commission; clarifying certain responsibilities regarding those larger public service districts no longer under the commission's control; and clarifying use of certain equitable rate-setting policies.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill 634**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated



§17H-1-1, §17H-1-2, §17H-1-3, §17H-1-4, §17H-1-5, §17H-1-6, §17H-1-7, §17H-1-8 and §17H-1-9, all relating to the creation of the West Virginia Second Chance Driver's License Act; short title; defining terms; providing legislative findings and purpose; directing the Director of the Division of Justice and Community Services to administer the program; setting eligibility requirements to become a program participant; requiring an accounting of all unpaid court costs; providing for development of a consolidated repayment schedule and monthly payment; requiring the Division of Justice and Community Services to collect and distribute unpaid court costs on a pro rata basis; establishing a moratorium on the collection of unpaid court fees by a court or its designee while a participant is in good standing with the program; providing standards for proof of compliance of good standing with the program; requiring the Division of Motor Vehicles to stay a driver's license suspension with certain restrictions for a participant in good standing with the program; allowing the Division of Motor Vehicles to reinstate a suspension or revocation of a driver's license under certain conditions; creating requirements for notice certification; creating a new account in the State Treasury; and providing legislative and emergency rule-making authority.

Referred to the Committee on the Judiciary.

**By Senators Ashley, Carmichael and Gaunch:**

**Senate Bill 635**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-2-6b, relating to the limitation of action that applies to an action to recover the unpaid balance due upon a contract made by a consumer for the purchase of personal property containing terms of financing the purchase price.

Referred to the Committee on the Judiciary.

**By Senators Plymale, Beach, Facemire, Kirkendoll, Prezioso, Romano, Stollings, Yost, Woelfel, Williams, Unger and Kessler:**

**Senate Bill 636**—A Bill to amend and reenact §18A-4-2 of the Code of West Virginia, 1931, as amended, relating to increasing salaries for teachers through fiscal year 2020.

Referred to the Committee on Finance.

**By Senators Trump and Gaunch:**

**Senate Bill 637**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18, §44-5B-19 and §44-5B-20, all relating to the West Virginia Uniform Fiduciary Access to Digital Assets Act of 2016; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets; addressing terms of service agreements; setting forth a procedure for disclosing digital assets; providing for disclosure of the content of electronic communications of deceased users; providing for disclosure of content of electronic communications of a principal; addressing disclosure of digital assets of a principal; addressing disclosure of digital assets held in trust when the trustee is not the original owner or user; addressing disclosure of digital assets to a conservator of a protected person; setting forth a fiduciary's duties and authority; providing for a custodian's compliance and immunity; providing for the uniformity of the application and construction of the article; addressing the relation of the article to Electronic Signatures in Global and National Commerce Act; providing for the severability of the article; and setting a date when the article takes effect.

Referred to the Committee on the Judiciary.

**By Senators Walters, Mullins and Kessler:**

**Senate Bill 638**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-38, relating to defining certain key terms; prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials; prohibiting eye care providers from charging more to enrollees for noncovered services than the normal and customary fee; providing that insurers, vision care plan or vision care discount plans may not provide for a nominal reimbursement in order to claim that a service or material is covered; prohibiting

insurers, vision care plan or vision care discount plan from falsely representing benefits provided to sell coverage or communicate benefits to enrollees; prohibiting the requirement that eye care providers be credentialed through a designated vision plan; providing pay parity for optometrist and ophthalmologists; providing that optometrist and ophthalmologist be held to the same credentialing standards; prohibiting eye care providers from being required to accept all plans and discount plans offered by an insurer, vision care plan or vision care discount plan in order to be on a panel for the insurer, vision care plan or vision care discount plan; prohibiting the insurer, vision care plan or vision care discount plan from changing the terms of an agreement with an eye care provider without communication with and agreement from the eye care provider; permitting eye care providers to use any lab or supplier and notification of contract changes; creating a private right of action for eye care providers; placing limits on charge backs of administrative fees and other recoupments; providing that an insurer, vision care plan or vision care discount plan may not discriminate against a provider based on geographic location of the eye care provider; and authorizing suits for injunctions by persons aggrieved or by Insurance Commissioner and recovery of monetary damages, costs and attorney's fees.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Plymale, Beach, Prezioso, Romano, Stollings, Yost, Williams and Unger:**

**Senate Joint Resolution 11**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by adding thereto a new section, designated section one-d, relating to homestead exemption increase; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of the proposed amendment.

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

Senators Miller, Plymale, Laird and Unger offered the following resolution:

**Senate Concurrent Resolution 39**—Requesting Division of Highways to name bridge numbered 13-60-41.35 (13A118), that intersects over Dry Creek, also known as the Dry Creek Bridge, located at latitude 37.79396, -80.30068 on Route 60, Main Street, in White Sulphur Springs, Greenbrier County, the “Clifford Family Memorial Bridge”.

Whereas, The Clifford family of Greenbrier County first settled in White Sulphur Springs in 1879 when John Joseph Clifford, then a railroad conductor, and his new bride, Mary Ann McDonough Clifford, arrived there to establish their residential home; and

Whereas, The Clifford family became prominent in White Sulphur Springs, where they built their home and raised their many children; and

Whereas, The Cliffords of Greenbrier County have a rich history of military service to this country, as two of John Joseph Clifford’s sons were recipients of the distinguished Silver Star; and

Whereas, Leo Michael Clifford, one of John Joseph Clifford’s sons, served in WWII in Meuse-Argonne, France, in the Argonne Forrest in the 116th Infantry, 29th Division and was wounded and received the Purple Heart for his distinguished and heroic service; and

Whereas, Both of Leo Michael Clifford’s sons, Leo Michael Clifford, Jr., and Thomas Rufus Clifford, served in the Korean War; Leo in the U. S. Army and Thomas in the U. S. Navy; and

Whereas, Many other members of the Clifford family played important and pivotal roles in shaping and contributing to the White Sulphur Springs community. In fact, three of John Joseph Clifford’s great grandchildren still reside in White Sulphur Springs with their respective families; and

Whereas, It is fitting to memorialize the importance of the Clifford family’s longstanding heritage and many civic contributions to the community of White Sulphur Springs in Greenbrier County and their distinguished service in the U. S. military by naming the aforementioned bridge in their cumulative honor; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge numbered 13-60-41.35 (13A118), that intersects over Dry Creek, also known as the Dry Creek Bridge, located at latitude 37.79396, -80.30068 on Route 60, Main Street, in White Sulphur Springs, Greenbrier County, the “Clifford Family Memorial Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Clifford Family Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Gordon W. Lewis, Jr., of White Sulphur Springs, West Virginia.

Which, under the rules, lies over one day.

Senators Maynard, Cole (Mr. President), Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Yost offered the following resolution:

**Senate Resolution 41**—Memorializing the life of the Honorable A. Keith Wagner, former member of the West Virginia Senate and dedicated public servant.

Whereas, The Honorable A. Keith Wagner was born in Bristol, Tennessee, on February 3, 1953, the son of Betty Washington Robinson Wagner and the late William H. “Bill” Wagner; and

Whereas, The Honorable A. Keith Wagner attended the public schools of McDowell County, West Virginia, and graduated from Big Creek High School in War, West Virginia; and

Whereas, The Honorable A. Keith Wagner was awarded a Bachelor of Arts Degree in Music Education at Bluefield State College and was an alumnus of West Virginia Institute of Technology, Marshall University and the West Virginia College of Graduate Studies; and

Whereas, The Honorable A. Keith Wagner served as the Director of the Pride of Iaeger High School's Band of Gold, a band that was recognized throughout the southeastern United States. He also served River View High School in Bradshaw, West Virginia, as "The Voice of the Raiders"; and

Whereas, The Honorable A. Keith Wagner received one the greatest honors of his life, when he directed The Pride of West Virginia Mountaineer Marching Band at a performance at River View High School; and

Whereas, The Honorable A. Keith Wagner was elected to the West Virginia Senate in 1988 as a representative of the Sixth Senatorial District, where he served until 1996. During his tenure, he served as Chairman of the Committee on Government Organization, Chairman of the Committee on Interstate Cooperation, Chairman of the Committee on Transportation, Co-Chair of the Joint Committee on Government Operations; and as a member of the Committees on Banking and Insurance, Education, Judiciary, Labor and Energy, Industry and Mining; and

Whereas, The Honorable A. Keith Wagner went on to serve as the Deputy Commissioner of the West Virginia Alcohol Beverage Control Commission under the administrations of Governor Cecil H. Underwood, Governor Bob Wise and Governor Joe Manchin, III. During his time as Deputy Commissioner, he was vital in creating a drunk driving simulator program that traveled around the state to schools showing students the effects of drinking and driving; and

Whereas, The Honorable A. Keith Wagner was active in community and civic affairs. He served as the Charter President of the Tau Kappa Epsilon Chapter at West Virginia Institute of Technology, as a member of the War Kiwanis Club and was secretary of the Berwind Masonic Lodge 414; a long-time member of the Calvary Baptist Church in War, West Virginia; and a member of the Calvary Baptist Church in Iaeger, West Virginia; and

Whereas, The Honorable A. Keith Wagner was married to his beloved wife, Vickie, with whom he shared the joy of having two children: Adam and Afton; and

Whereas, Sadly, the Honorable A. Keith Wagner passed away on September 15, 2014, leaving behind a host of family and friends, all of whom miss him dearly; and

Whereas, It is fitting, that on this day, the Senate pay tribute to the life and legacy of the Honorable A. Keith Wagner; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of the Honorable A. Keith Wagner, former member of the West Virginia Senate and dedicated public servant; and, be it

*Further Resolved,* That the Senate extends its most sincere and heart-felt condolences to the family of the Honorable A. Keith Wagner; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable A. Keith Wagner.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

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

Senators Williams, Beach, Prezioso, Kessler, Sypolt, Leonhardt, Stollings, Plymale, Yost and Unger offered the following resolution:

**Senate Resolution 42**—Designating February 19, 2016, as West Virginia University and West Virginia University Extension Service Day.

Whereas, West Virginia University is the state's first and largest land-grant university, which is dedicated to serving the citizens of West Virginia; and

Whereas, In 1915, the world's first 4-H camp, Camp Good Luck, was held in Randolph County and later evolved to include county, state, national and international camping opportunities for youths across the globe; and

Whereas, West Virginia University Extension Service's 4-H Youth Development program, the state's largest youth organization, now gives more than eighty thousand West Virginia youths the opportunity to expand their horizons through hands-on educational activities and allows them to acquire new skills through innovative technology; and

Whereas, The West Virginia University Extension Service, the primary outreach arm of West Virginia University, is the "front porch" of West Virginia University with an office in each of the state's fifty-five counties, and has been providing trusted traditions and progressive solutions for the state of West Virginia for more than one hundred years; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 19, 2016, as West Virginia University and West Virginia University Extension Service Day; and, be it

*Further Resolved,* That the Senate recognizes the contributions that West Virginia University, West Virginia University Extension Service and its 4-H Youth Development program make 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 West Virginia University E. Gordon Gee and to the West Virginia University Extension Service.

At the request of Senator Williams, 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 Beach, and by unanimous consent, the remarks by Senators Williams and Sypolt regarding the adoption of Senate Resolution 42 were ordered printed in the Appendix to the Journal.



On motion of Senator Carmichael, the Senate recessed for one minute.

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

### **Petitions**

Senator Laird presented a petition from Linda Green and numerous West Virginia residents, supporting Engrossed Committee Substitute for House Bill 4012 (*West Virginia Religious Freedom Restoration Act*).

Referred to the Committee on the Judiciary.

Senator Miller presented a petition from the National Association for Gun Rights and numerous West Virginia residents, supporting Engrossed Committee Substitute for House Bill 4145 (*Relating to carry or use of a handgun or deadly weapon*).

Referred to the Committee on the Judiciary.

Senator Sypolt presented a petition from Megan Howell and numerous West Virginia residents, supporting Engrossed Committee Substitute for Senate Bill 105 (*Creating Tim Tebow Act allowing nonpublic school student participate in SSAC member school athletics*).

Referred to the Committee on Education.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 38**, Army PFC Denver Holly Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 54**, Altering how tax is collected on homeowners' associations.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 54) 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 293**, Neighborhood Investment Program 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 293) 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 313**, Relating to school calendar and allowing limited use of available accrued instructional time.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 313) passed.

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

**Eng. Com. Sub. for Senate Bill 313**—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to school calendar; allowing unused accrued instructional time to count toward the one hundred eighty instructional day requirement when it's not possible to complete one hundred eighty separate instructional days; requiring emergency rule if necessary; and removing obsolete effective date provision.

Senator Carmichael moved that the bill take effect July 1, 2016.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 313) takes effect July 1, 2016.

*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 434**, Allowing home-based micro-processed foods sold at farmers markets.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 434) 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 4148**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 4148) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 4148) 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 4158**, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4158) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 4158) 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 4244**, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 4244) 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 4245**, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

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 Senate Rule 43 as he is a director of a state-chartered banking 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 4245) 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 Com. Sub. for Senate Bill 259,** Amending Unfair Trade Practices Act.

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

**Senate Bill 352,** Dedicating corporation net income tax proceeds to railways.

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

**Senate Bill 431,** Authorizing pharmacists and pharmacy interns dispense opioid antagonists.

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

**Senate Bill 488,** Requiring WV Secondary School Activities Commission manage hypertrophic cardiomyopathy.



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 three, section twenty-five-b, lines fifty-seven and fifty-eight, by striking out all of paragraph (A) and inserting in lieu thereof a new paragraph, designated paragraph (A), to read as follows:

“(A) Two designated persons, with knowledge of the nearest available telephone, to notify first responders of an unresponsive interscholastic athlete;”;

And,

On page three, section twenty-five-b, line sixty-two, after the word “defibrillator” by changing the semicolon to a comma and inserting the words “if available;”.

The bill (S. B. 488), as amended, was then ordered to engrossment and third reading.

**Senate Bill 552**, Eliminating requirement sheriff pay jury costs to State Treasury.

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

**Senate Bill 553**, Merging purposes and provisions of Volunteer Fire Department Workers’ Compensation Subsidy Program and Fund.

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

**Senate Bill 573**, Prohibiting municipal annexation which would result in unincorporated territory within municipality.

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

**Senate Bill 579**, Eliminating WV Port Authority.

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 582**, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

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 597**, Relating to Health Care Authority.

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

On motions of Senators Ferns and Plymale, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On pages four through seven, lines one through sixty, by striking out all of section two-a;

On page twenty, section five, line two, by striking out the word "The" and inserting in lieu thereof the words "Effective July 1, 2016, the";

On page twenty, section five, line six, after the word "board." by inserting the following: The members of the board in office as of January 1, 2016, shall continue to serve until their respective terms expire or until a successor has been appointed and qualified.;

On page thirty-nine, section twenty-six, after line six, by inserting the following:

It is the intention of the Legislature that this chapter shall also immunize cooperative agreements approved and supervised by the authority and activities conducted pursuant thereto from challenge or scrutiny under both state and federal antitrust law.;

On page forty-one, section twenty-eight, line forty-six, after the word “state” by inserting the words “and to achieve the goals hereinafter set forth”;

On page forty-two, section twenty-eight, line seventy-two, after the word “agreement” by striking out the remainder of the paragraph;

On page forty-two, section twenty-eight, lines seventy-five through eighty, by striking out all of paragraphs (B) and (C) and inserting in lieu thereof the following:

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

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

On page forty-three, section twenty-eight, line one hundred eleven, after the word “decision” by inserting the word “within”;

On page forty-six, section twenty-eight, line one hundred sixty-seven, after the word “authority” by inserting a comma and the words “if the authority determines”;

And,

On page forty-nine, section twenty-eight, after line two hundred fifty-five, by inserting a new subdivision, designated subdivision (2), to read as follows:

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

The bill (Com. Sub. for S. B. 597), as amended, was then ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill 4145**, Relating to carry or use of a handgun or deadly weapon.

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

Senator Carmichael requested unanimous consent that the bill be advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

At the request of Senator Carmichael, and by unanimous consent, his foregoing request was withdrawn.

Thereafter, at the request of Senator Carmichael, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4145) was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4175**, Relating generally to home schooling.

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 three, section one, line forty-seven, by striking out the word “at”;

On page three, section one, after line forty-eight, by inserting a new paragraph, designated paragraph (B), to read as follows:

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.;

And by relettering the remaining paragraphs;

On pages four and five, section one, lines seventy-three through eighty-two, by striking out all of subparagraph (iii) and inserting in lieu thereof a new subparagraph, designated subparagraph (iii), to read as follows:

~~“(iii) The county superintendent is provided with a written narrative indicating that a~~ A ~~portfolio of samples of the child’s work has been~~ is ~~reviewed and that by a certified teacher who determines whether~~ the child’s academic progress for the year is in accordance with the child’s abilities. ~~If the narrative indicates that the child’s academic progress for the year is in accordance with the child’s abilities, the child is considered to have made acceptable progress. This narrative shall be prepared by a certified teacher whose certification number shall be provided. The narrative shall include a statement~~ The teacher shall provide a written narrative about the child’s progress in the areas of reading, language, mathematics, science and social studies and shall note any areas

which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or";

On page five, section one, line eighty-four, after the word "superintendent", by changing the semicolon to a period;

On page five, section one, lines eighty-seven and eighty-eight, by striking out the words "as defined under the appropriate assessment option set forth in paragraph (B) of this subdivision";

On page five, section one, lines ninety-three and ninety-four, by striking out the words "as defined under the appropriate assessment option set forth in paragraph (B) of this subdivision";

And,

On page five, section one, line ninety-six, after the word "provided", by changing the semicolon to a period and striking out the word "and".

On motion of Senator Romano, the following amendment to the bill (Eng. Com. Sub. for H. B. 4175) was next reported by the Clerk:

On page five, section one, line ninety-eight, by striking out the words "at grade levels three, five, eight and eleven, as applicable" and inserting in lieu thereof the word "annually".

Following discussion,

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

The result of the voice vote being inconclusive, Senator Romano demanded a division of the vote.

A standing vote being taken, there were sixteen "yeas" and eighteen "nays".

Whereupon, Senator Cole (Mr. President) declared Senator Romano's amendment to the bill rejected.

The bill (Eng. Com. Sub. for H. B. 4175), as amended by the Committee on Education, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 218**, Division of Labor rule relating to minimum wage and maximum hours.

**Com. Sub. for Senate Bill 339**, Establishing Judicial Compensation Commission.

**Senate Bill 478**, Authorizing licensees who sell growlers to offer samples.

**Com. Sub. for Senate Bill 481**, Authorizing distillery operators to offer liquor for purchase and consumption on premises.

**Com. Sub. for Senate Bill 500**, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network.

**Senate Bill 505**, Exempting certain uses of field gas from motor fuel excise taxes.

**Com. Sub. for Senate Bill 520**, Allowing PEIA ability to recover benefits or claims obtained through fraud.

**Com. Sub. for Senate Bill 581**, Eliminating sunset provision terminating pilot domestic violence court program.

And,

**Eng. House Bill 4161**, Relating to levies on classifications of property by the Board of Public Works.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Gaunch.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, the name of Senator Plymale was removed as a sponsor of **Engrossed Committee Substitute for Senate Bill 529** (*Making certain sport and educational fantasy games lawful*).

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Saturday, February 20, 2016, at 11 a.m.

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## SATURDAY, FEBRUARY 20, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Honorable C. Edward Gaunch, a senator from the eighth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William R. Laird IV, a senator from the tenth district.

Pending the reading of the Journal of Friday, February 19, 2016,

At the request of Senator Mullins, 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 309**, Relating to child-care center licensing and exempting county parks and recreation from licensure.

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 2474**—A Bill to amend and reenact §18-17-1 of the Code of West Virginia, 1931, as amended, relating to the compensation of personnel employed at the West Virginia Schools for the Deaf and the Blind; updating reference to minimum salaries in effect for personnel at facilities under jurisdiction of the State Board of Education; and authorizing board to establish salary schedules or compensation in excess of the minimums for certain teachers at the West Virginia Schools for the Deaf and the Blind.

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 4013**—A Bill to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §3-1-51, and to amend and reenact §17B-2-1 of said code, all relating to voting procedures; requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; setting forth the requirements for that documentation; identifying acceptable documentation; providing alternative

procedures for casting a ballot where acceptable identification is lacking; exempting from disclosure the address of individuals in the Address Confidentiality Program; directing the Secretary of State to educate voters about the identification requirement and develop a program to help ensure that all eligible voters obtain identification; providing for casting of provisional ballot by a person without adequate proof of identification; providing certain exemptions from the requirement to present a photo identification card; modifying provisional ballot procedures; providing for issuance of identification cards at no charge; and establishing procedures for persons over a certain age and lacking certain documents to acquire driver's licenses and photo identification cards.

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. House Bill 4150**—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, 2016, to the Department of Health and Human Resources, Consolidated Medical Service Fund, fund 8723, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Human Rights Commission, fund 8725, fiscal year 2016, organization 0510, and the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

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 4151**—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, 2016, to the Department of Education, State Board of Education – School Lunch Program, fund 8713, fiscal year 2016, organization 0402, and the Department of Education, State Board of Education – Vocational Division, fund 8714, fiscal year 2016, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

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 4159**—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, 2016, to the Public Services Commission – Motor Carrier Division, fund 8743, fiscal year 2016, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

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 4213**—A Bill to repeal §48-1-233.3 of the Code of West Virginia, 1931, as amended, and to repeal §48-1-233.4 of said code, and to repeal §48-9-404 of said code, and to amend said code by adding thereto a new article, designated §48-31-101, §48-31-102, §48-31-103, §48-31-104, §48-31-105, §48-31-106, §48-31-107, §48-31-201, §48-31-202, §48-31-203, §48-31-204, §48-31-205, §48-31-301, §48-31-302, §48-31-303, §48-31-304, §48-31-305, §48-31-306, §48-31-307, §48-31-308, §48-31-309, §48-31-310, §48-31-311, §48-31-401, §48-31-402, §48-31-403, §48-31-404, §48-31-501, §48-31-502 and §48-31-503, all relating to adoption of the “Uniform Deployed Parents Custody and Visitation Act”; defining terms; providing for

enforcement through assessment of attorney fees and costs; establishing procedures to determine matters of child custody and visitation when parents are deployed in military or other national service; requiring notices from deployed parent; providing for out-of-court agreements and establishing minimum requirements therefor; prohibiting consideration of past or future deployments in determining the best interest of the child; authorizing orders for payment of child support during deployment; providing for modification and termination of orders and agreements; and giving guidance for interpretation and construction in conjunction with other laws and orders.

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 4261**—A Bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to student data; prohibiting the department from transferring confidential student information to federal, state or local agencies or other persons or entities; providing for exceptions; authorizing student or redacted data to be provided as part of a contract with a vendor; and adding a new exception providing for the sharing of certain information in the event that the ACT or SAT tests are adopted for use as the state summative assessment.

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 4499**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-1-27; and to amend said code by adding thereto a

new section, designated §52-2-17, all relating to certain persons who have been disqualified or excused from jury service.

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 4520**—A Bill to amend and reenact §16-5G-2 and §16-5G-4 of the Code of West Virginia, 1931, as amended, all relating to hospitals owned or operated by nonprofit corporations, nonprofit associations or local governmental units; clarifying that these hospitals may have only one governing body whose meetings shall be open to the public; enumerating matters which may be acted upon in executive session; and clarifying and expanding authorization for holding of executive sessions.

Referred 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 19th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. 15)**, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

**(S. B. 123)**, Treatment for sexually transmitted diseases.

And,

(S. B. 261), Bringing state code relating to daylight saving time in conformity with federal code.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Ferns, 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 47**, Rewriting licensing requirements for practice of medicine and surgery and podiatry.

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

**Com. Sub. for Senate Bill 47** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-3-13 of the Code of West Virginia, 1931, as amended, relating to practice of medicine; rewriting licensing requirements for practice of medicine and surgery or podiatry; making exceptions; providing for unauthorized practice; requiring notice; establishing criminal penalties; making exceptions; 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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 47), under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 252**, Amending Wiretapping and Electronic Surveillance Act to exclude oral communications.

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

**Com. Sub. for Senate Bill 252** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-1D-2 of the Code of West Virginia, 1931, as amended, relating to Wiretapping and Electronic Surveillance Act; excluding from protection under the act oral communications uttered in a child care center where there are notices posted informing persons that their oral communications are being intercepted; and defining “child care center”.

**Senate Bill 274**, Relating to civil jurisdiction of magistrate courts.

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

**Com. Sub. for Senate Bill 274** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-2-1 of the Code of West Virginia, 1931, as amended, relating to increasing the civil jurisdictional amount in magistrate courts from \$5,000 to \$10,000; and allowing circuit courts to send cases at or under the jurisdictional amount to magistrate courts for trial.

And,

**Senate Bill 376**, Expanding authority of Secretary of State and State Police.

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

**Com. Sub. for Senate Bill 376** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended, relating to background checks for applicants for private investigator and security guard licensure; directing Secretary of State to request a full set of fingerprints from each applicant; stating purpose for requesting fingerprints; and directing fingerprints to be checked through Criminal Identification Bureau of West Virginia State Police and United States Federal Bureau of Investigation.

With the recommendation that the three 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 291**, Law enforcement use of unmanned aircraft systems.

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

**Com. Sub. for Senate Bill 291** (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 §29-2B-1, §29-2B-2, §29-2B-3, §29-2B-4, §29-2B-5, §29-2B-6 and §29-2B-7, all relating to regulation of unmanned aircraft systems; requiring compliance with federal laws and regulations relating to such vehicles; defining terms; creating criminal offenses for certain conduct using an unmanned aircraft system and setting penalties therefor; regulating law enforcement use of unmanned aircraft systems; limiting uses by law enforcement of unmanned aircraft systems; requiring search warrants to be obtained before unmanned aircraft systems may be used in criminal investigations and creating



exemptions thereto; requiring documentation of law-enforcement flights of unmanned aircraft systems and maintenance of records; precluding admissibility in civil, criminal and administrative proceedings of images or the evidence obtained in violation of the provisions of this article; and requiring the West Virginia Aeronautics Commission, the West Virginia Department of Military Affairs and Public Safety, the West Virginia Sheriffs' Bureau for Professional Standards and the West Virginia State Police to propose legislative rules and promulgate emergency rules.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, 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 416**, Allowing terminally ill patients access to investigational products.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

Senator Ferns, 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 438**, Requiring DHHR be present at judicial proceedings.

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,

Ryan J. Ferns,  
*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 Health and Human Resources.

Senator Ferns, 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 456**, Setting maximum amount that can be collected for air-ambulance services.

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,

Ryan J. Ferns,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill 474**, Exempting DEP construction and reclamation contracts from review and approval.

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

**Com. Sub. for Senate Bill 474** (originating in the Committee on Government Organization)—A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting Department of Environmental Protection's construction or reclamation contracts from review and approval requirements of the Division of Purchasing.

**Senate Bill 575**, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services.

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

**Com. Sub. for Senate Bill 575** (originating in the Committee on Government Organization)—A Bill to amend and reenact §5A-10-5 of the Code of West Virginia, 1931, as amended, relating to the Real Estate Division; and providing that any contract or lease in the name of the state for office space which requires the landlord or owner of the premises to provide for or contract for cleaning or janitorial services shall not also require the owner or landlord of the premises to use any particular person, firm or company to provide the cleaning or janitorial services.

And,

**Senate Bill 592**, Relating to pipeline safety.

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

**Com. Sub. for Senate Bill 592** (originating in the Committee on Government Organization)—A Bill to amend and reenact §24B-

5-3 of the Code of West Virginia, 1931, as amended, relating to the method of calculating the amount of special license fees paid by pipeline companies to the Public Service Commission.

With the recommendation that the three 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 621**, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

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

**Com. Sub. for Senate Bill 621** (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 §24A-2-7, relating to exempting taxicab companies whose drivers are independent contractors from providing workers' compensation coverage for the drivers.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, 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 4033**, Adding criminal penalties for the unauthorized practice of pharmacists 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 the Judiciary.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Health and Human Resources pending.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolutions were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Romano, Palumbo, Snyder, Stollings, Prezioso, Kessler and Williams:**

**Senate Bill 639**—A Bill to amend and reenact §3-8-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §3-8-8a, all relating to requiring certain disclosures of election expenditures; clarifying when contributions are required to be disclosed; creating exceptions; clarifying that certain federal entities must make certain state disclosures; requiring disclosure of covered transfers; stating legislative findings; defining terms; providing requirements for disclosure of donations related to the transfer of certain sums of money related to campaign-related disbursements; requiring certain disclosures be made within forty-eight hours; specifying

information required in the disclosures; clarifying the relationship between covered transfers and other regulated areas of election expenditures; creating a misdemeanor offense; and authorizing rule-making authority.

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

**By Senators Kessler, Carmichael, Stollings, Prezioso and Plymale:**

**Senate Bill 640**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-8A-1, §16-8A-2, §16-8A-3, §16-8A-4, §16-8A-5, §16-8A-6, §16-8A-7, §16-8A-8, §16-8A-9, §16-8A-10, §16-8A-11, §16-8A-12, §16-8A-13, §16-8A-14, §16-8A-15, §16-8A-16, §16-8A-17, §16-8A-18, §16-8A-19, §16-8A-20, §16-8A-21, §16-8A-22, §16-8A-23 and §16-8A-24, all relating to creating the Compassionate Use Act for Medical Cannabis; providing for protections for the medical use of cannabis; limitations of article; prohibiting discrimination; authorizing addition of debilitating medical conditions; registering qualifying patients and designated caregivers; issuing registry identification cards; affirmative defense and dismissal for medical marijuana; providing misdemeanor offense and criminal penalties for disclosing certain information; and otherwise providing for the enforcement of this article.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senator Hall:**

**Senate Bill 641**—A Bill to amend and reenact §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-7, §29-22A-8, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said code; and to amend and reenact §29-22C-7, §29-22C-8, §29-22C-27 and §29-22C-27a of said code, all relating to transferring certain revenues derived from racetrack video lottery and racetrack table

games from the special fund established for greyhound racetrack licensees to the State Excess Lottery Revenue Fund; defunding the West Virginia Greyhound Breeding Development Fund and Licensed Racetrack Development Fund and transferring money dedicated thereto to the State Excess Lottery Revenue Fund for appropriation by the Legislature; amending rules related to recall elections for video lottery and racetrack table games; and eliminating the requirement that video lottery licensees at dog tracks must hold a racing license to renew video lottery license or racetrack table games license.

Referred to the Committee on Finance.

**By Senator Sypolt:**

**Senate Bill 642**—A Bill to amend and reenact §18B-9-3 of the Code of West Virginia, 1931, as amended, relating to the temporary higher education classified employees annual salary schedule; providing that when developed and adopted by the Higher Education Policy Commission and the Council for Community and Technical College Education, a new salary structure will replace the schedule that currently exists for higher education classified employees; providing that any provision of law in conflict with the new salary structure is null and void; requiring the commission and council to recommend legislation in 2017 to enact the new salary structure into law; and requiring prior to adoption of the new structure the commission and council must seek comments from affected constituents.

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

**By Senator Blair:**

**Senate Bill 643**—A Bill to amend and reenact §21A-6-1a of the Code of West Virginia, 1931, as amended, relating to requiring individuals receiving unemployment compensation to apply for seasonal employment.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 644**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-10-17, relating to county registration plates; allowing counties to customize county registration plates; providing fees; and requiring Commissioner of the Division of Motor Vehicles to propose rules for legislative approval regarding proper forms to be used in counties that offer customized license plates.

Referred to the Committee on Government Organization.

**By Senators Blair and Yost:**

**Senate Bill 645**—A Bill to amend and reenact §6-9A-2 of the Code of West Virginia, 1931, as amended, relating to classifying the convention and visitor's bureau as a public agency, subject to the ethics act and open meetings law.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill 646**—A Bill to amend and reenact §37-7-2 of the Code of West Virginia, 1931, as amended, relating to the prevention of waste by cotenants; providing that consent to a lawful use of mineral property by a majority of cotenants is not waste and does not constitute a trespass; providing that cotenant is not liable for damages as a result of the lawful use of mineral property consented to by a majority of the ownership interest when an accounting is provided and a pro rata share of revenues and costs are distributed to or reserved for each cotenant, as applicable; allowing joint development of oil and natural gas wells by horizontal drilling under certain circumstances; addressing production royalties where multiple contiguous leases are developed; and providing for severability of provisions.

Referred to the Committee on the Judiciary.

**By Senators Blair and Williams:**

**Senate Bill 647**—A Bill to amend and reenact §7-18-2 of the Code of West Virginia, 1931, as amended, relating to exempting certain complimentary hotel rooms from the hotel occupancy tax.



Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Blair:**

**Senate Bill 648**—A Bill to amend and reenact §17C-3-7 of the Code of West Virginia, 1931, as amended, relating to allowing local authorities to permit flashing traffic signals during low traffic times.

Referred to the Committee on Government Organization.

**By Senator Walters:**

**Senate Bill 649**—A Bill to amend and reenact §31-15-3 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Economic Development Authority; and creating a minority economic development advisory team to assist the Director of the Economic Development Authority in developing and implementing a procedure to address employment and economic development problems of minority populations of West Virginia.

Referred to the Committee on Government Organization.

**By Senators Romano, Facemire and Stollings:**

**Senate Bill 650**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-1-18, relating to Department of Environmental Protection fines against governmental entities or political subdivisions of the state; creating the Department of Environmental Protection Public Improvements Fund, an interest-bearing escrow account managed by the Department of Environmental Protection; requiring a portion of all Department of Environmental Protection fines against governmental entities or political subdivisions of the state be deposited in the Department of Environmental Protection Public Improvements Fund for remediating the violation that gave rise to the fine; stating a process for application for funds; authorizing the release of the funds in certain circumstances; permitting the transfer of the interest accrued to the Department of Environmental Protection; and authorizing the transfer of the funds to the

Department of Environmental Protection under certain circumstances.

Referred to the Committee on Government Organization.

**By Senator Trump:**

**Senate Bill 651**—A Bill to amend and reenact §60A-9-4 and §60A-9-5 of the Code of West Virginia, 1931, as amended, all relating to controlled substance monitoring; expanding access to confidential information; requiring information on reports of emergency department overdose visits; authorizing reporting certain information to law enforcement, the Drug Enforcement Administration, licensing boards of the prescribers and dispensers whose activity is called into question; modifying duties of the West Virginia Controlled Substances Monitoring Program Database Review Committee; and imposing duties on licensing agencies having jurisdiction over certain prescribers and dispensers.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Kessler and Yost:**

**Senate Bill 652**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-1007, relating to prohibiting the Department of Health and Human Resources from discontinuing the bundled service funding and reimbursement system for residential treatment of at-risk children.

Referred to the Committee on Health and Human Resources.

**By Senator Karnes:**

**Senate Bill 653**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §18B-14-3 and §18B-14-4, all relating to increasing higher education student success; requiring that course catalogs include certain information relating to employment, compensation, in-state employment and student success rate; providing exception to requirement; requiring the Higher Education Policy Commission and Council for Community and Technical College Education to

implement rules; creating a voluntary college completion incentive program whereby an institution of higher education accepts less state funding in return for certain incentive bonuses relating to student graduation and employment of graduates; and creating a tax credit for West Virginia resident students successfully completing certain courses of study.

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

**By Senators Maynard, Cline, Mullins and Leonhardt:**

**Senate Bill 654**—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to lowering the severance tax on the extraction of coal from five percent to two percent.

Referred to the Committee on Finance.

**By Senators Ferns, Cline, Mullins and Leonhardt:**

**Senate Bill 655**—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-8 of said code; and to amend and reenact §11-21-12 of said code, all relating generally to taxes; reducing the severance tax on coal to four percent; eliminating the exception for professional services from the consumer use and sales tax; and providing an adjustment decreasing federal adjusted gross income of up to \$20,000 in Social Security benefits.

Referred to the Committee on Finance.

**By Senators Laird, Stollings, Unger, Miller and Palumbo:**

**Senate Bill 656**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-15, relating to creating the Upper Kanawha Valley Resiliency and Revitalization Program for a period of five years; finding that there are challenges facing the Upper Kanawha Valley due to the decision to relocate West Virginia University Institute of Technology from Montgomery, West Virginia, to Beckley, West Virginia; establishing revitalization council to organize and prioritize state resources and technical assistance for Upper

Kanawha Valley; directing revitalization council to develop strategies to stimulate economic activity in and around the municipalities in Upper Kanawha Valley in coordination with certain contributing partners to the extent possible; directing revitalization council to annually report to the Governor and the Legislature; directing Development Office and revitalization council to facilitate economic development incentives for the Upper Kanawha Valley; and authorizing Development Office or other state body to provide state property and equipment to businesses investing in the Upper Kanawha Valley at a reduced cost.

Referred to the Committee on Government Organization.

**By Senator Blair:**

**Senate Bill 657**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating to damages for medical monitoring; establishing requirements for an order for payment of medical monitoring expenses; and providing that an increased risk of disease is not a compensable basis for damages in any civil action.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, Carmichael, Stollings, Ferns, Takubo, Prezioso, Plymale, Unger, Leonhardt and Romano:**

**Senate Bill 658**—A Bill to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing licensed professionals to donate time to the care of indigent and needy in a clinical setting; and allowing for some of donated time to be counted against continuing education required hours.

Referred to the Committee on Health and Human Resources.

**By Senators Stollings (By Request), Prezioso, Yost and Miller:**

**Senate Bill 659**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-4-17, relating to requiring any driver involved in a vehicle accident that results in a death of any person to be drug tested; providing a definition; and providing that the section be known as Livy's Law.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill 660**—A Bill to amend and reenact §30-9-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §30-9-33 and §30-9-34, all relating to modifying the requirements for board members of the Board of Accountancy; requiring training for board members and their representatives from the Attorney General's office in antitrust law and state action immunity; and indemnifying board members and employees for lawsuits alleging antitrust violations.

Referred to the Committee on Government Organization.

**By Senators Miller and Laird:**

**Senate Bill 661**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9A-4, relating to funding of civil legal services for low-income persons.

Referred to the Committee on Finance.

**By Senators Miller and Yost:**

**Senate Bill 662**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3 and §19-36-4, all relating to creating the Food Production Act; making the Department of Agriculture responsible for all food production within the state; making findings; defining a term; and providing rule-making authority.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senators Blair and Unger:**

**Senate Joint Resolution 12**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to the general homestead exemption; permitting the value of a home to freeze at the valuation amount determined when a homeowner turns sixty-five years of age; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senator Blair:**

**Senate Joint Resolution 13**—Proposing an amendment to the Constitution of the State of West Virginia, amending article IX thereof by adding thereto a new section, designated section fourteen, relating to prohibiting adoption or enforcement of a local law, ordinance, resolution, rule or policy that creates a protected classification or promotes discrimination on a basis not contained in state law; recognizing that all life is equal from conception to the grave; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senators Leonhardt, Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Maynard, Mullins, Takubo, Walters, Williams, Yost and Stollings offered the following resolution:

**Senate Concurrent Resolution 40**—Requesting that the West Virginia Legislature encourage passage by Congress of the Toxic Exposure Research Act of 2016.

Whereas, The Toxic Exposure Research Act of 2016 is a bill to establish in the Department of Veterans Affairs a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the armed forces that are related to that exposure, to

establish an advisory board on these health conditions and for other purposes; and

Whereas, No additional funds are to be authorized or appropriated to carry out the act because amounts otherwise made available for the purposes of the act will be used; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature of the State of West Virginia urges the members of Congress to pass the proposed legislation entitled the Toxic Exposure Research Act of 2016, the purpose of which is to establish in the Department of Veterans Affairs a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the armed forces that are related to that exposure, to establish an advisory board on such health conditions and for other purposes; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to send copies of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives and to the members of the United States Senate and House of Representatives from this state.

Which, under the rules, lies over one day.

Senators Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 41**—Requesting Division of Highways to name bridge number 03-9/2-0.01 (03A053) (37.95860, -81.85398), locally known as Missouri Fork Bridge, carrying County Route 9/2 over Hewett Creek in Boone County, the “U. S. Army SGT Philip Ray Casto Memorial Bridge”.

Whereas, SGT Philip Ray Casto was born January 29, 1942, in Hewett, the first of three children to Girt and Hazel (Ball) Casto and attended Missouri Fork and Spencer Grade schools and graduated from Scott High School in 1959; and

Whereas, SGT Philip Ray Casto married Doris Jean Caruthers in 1964 and shortly thereafter was drafted into the U. S. Army. He went on to serve his country in Germany, specializing in radio communications and as a rifle sharpshooter. Being honorably discharged in June, 1966, he and his wife returned home to Boone County to await the arrival of their daughter, Debra Chambers; and

Whereas, After his discharge, SGT Philip Ray Casto worked at Barkers' Hardware and later with Logan Auto Parts in Madison, which he went on to manage for nearly 20 years. SGT Casto never failed to go out on any given night, no matter the time, so that a customer, whether it was a coal mine in need or a friend broken down beside the road, could get the parts needed to be up and running, most times fixing the vehicle himself; and

Whereas, SGT Philip Ray Casto later worked for Eastern States Mine Supply, where he once again served the county day and night supplying any need, retiring in 2004; and

Whereas, SGT Philip Ray Casto loved cars or pretty much anything with a motor. He always made them just a little better. Everyone knew where to find him when a problem arose with their vehicle. Most weekends you could find SGT Philip Ray Casto building or repairing drag racing cars or riding in the hills of Boone County in the first dune buggy built, of course, by him; and

Whereas, SGT Philip Ray Casto was also an avid gardener. It was never a strange sight for anyone who knew SGT Casto to see him on his tractor preparing for another huge garden. He gave away at least most everything he grew, leaving fresh vegetables on neighbors' porches with no expectation of anything in return; and

Whereas, SGT Casto had a second child, a boy named Steve, born in 1973. Regretfully, he and his wife divorced in 1978, but later remarried and had another son; and

Whereas, Except for the time he served in the Army, SGT Casto lived all of his life in Boone County, and all but eleven of those years were lived on Missouri Fork in Hewitt; and



Whereas, SGT Casto passed away at the Veterans Hospital in Huntington on August 11, 2015. He was 73 years old; and

Whereas, It is fitting that SGT Philip Ray Casto be memorialized and honored for his service in the area where he lived; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Division of Highways to name bridge number 03-9/2-0.01 (03A053) (37.95860, -81.85398), locally known as Missouri Fork Bridge, carrying County Route 9/2 over Hewett Creek in Boone County, the “U. S. Army SGT Philip Ray Casto 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 SGT Philip Ray Casto 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 Secretary of the Department of Transportation and to the family of SGT Philip Ray Casto.

Which, under the rules, lies over one day.

Senators Kirkendoll, Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution 42**—Requesting Division of Highways to name the newly constructed bridge, number 23-10-19.39 (23A365), (37.84226, -81.97681), locally known as the Guyandotte River Bridge, carrying WV Route 10 over the Guyandotte River in Logan County, the “U. S. Navy LCDR Helen Elizabeth Peck Memorial Bridge”.

Whereas, Helen Elizabeth Peck was born on August 28, 1910, in Logan, West Virginia, as one of six children of John Edwin and Minerva Peck, whose American lineage extends back to the time of the Revolutionary War; and

Whereas, Helen Elizabeth Peck attended and graduated from Marshall University with a major concentration in elementary education and mathematics and, subsequently, earned her West Virginia teaching certificate; and

Whereas, Helen Elizabeth Peck became a teacher in Logan County schools and then, during World War II, was commissioned as a Lieutenant in the Women's Reserve of the U. S. Navy; and

Whereas, Lieutenant Helen Elizabeth Peck served for nearly four years at the hydrographic office with Central Naval Operations in Washington, D. C., where she worked with LORAN navigation, which was a top secret project at that time; and

Whereas, After completing her active duty, Helen Elizabeth Peck continued service in the Naval Reserve where she attained the rank of Lieutenant Commander; and

Whereas, She returned to teaching in Logan County schools where she worked in various positions at the elementary and junior high school levels, including a period as principal of an elementary school, until her retirement in her early 1970s; and

Whereas, Lieutenant Commander Helen Elizabeth Peck was, apart from her period of active duty in military service, a lifelong resident of Logan County; and

Whereas, It is only fitting that we name this bridge in Lieutenant Commander Helen Elizabeth Peck's honor to acknowledge her many years of service to her nation, her students and her community; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the newly constructed bridge, number 23-10-19.39 (23A365) (37.84226, -81.97681), locally known as the Guyandotte River Bridge, carrying WV Route 10 over the Guyandotte River in Logan County, the "U. S. Navy LCDR Helen Elizabeth Peck Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Navy LCDR Helen Elizabeth Peck 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 Secretary of the Department of Transportation and to the family of Lieutenant Commander Helen Elizabeth Peck.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 39**, Clifford Family Memorial Bridge.

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

At the request of Senator Kirkendoll, 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 259**, Amending Unfair Trade Practices 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—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. 259) 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 352**, Dedicating corporation net income tax proceeds to railways.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 352) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—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. 352) 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 431**, Authorizing pharmacists and pharmacy interns dispense opioid antagonists.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 431) 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 488**, Requiring WV Secondary School Activities Commission manage hypertrophic cardiomyopathy.

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

At the request of Senator Sypolt, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Sypolt, the following amendment to the bill was reported by the Clerk and adopted:

On page three, section twenty-five-b, line forty-nine, after the word "have" by inserting the word "been".

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

Engrossed Senate Bill 488 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Facemire and Kessler—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 488) 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 552**, Eliminating requirement sheriff pay jury costs to State Treasury.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 552) 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 553**, Merging purposes and provisions of Volunteer Fire Department Workers' Compensation Subsidy Program and 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 553) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2016.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—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. 553) takes effect July 1, 2016.

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

**Eng. Senate Bill 573**, Prohibiting municipal annexation which would result in unincorporated territory within municipality.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 573) 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 579**, Eliminating WV Port 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes,



Laird, Leonhardt, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—29.

The nays were: Kirkendoll, Maynard and Stollings—3.

Absent: Facemire and Kessler—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. 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 582**, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Facemire and Kessler—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. 582) 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 597**, Relating to Health Care Authority.

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

At the request of Senator Ferns, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Ferns, the following amendment to the bill was reported by the Clerk and adopted:

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

That §5F-1-3a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §9-4C-7 of said code be amended and reenacted; that §11-27-9 and §11-27-11 of said code be amended and reenacted; that §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5 and §16-5F-6 of said code be amended and reenacted; that §16-29B-3, §16-29B-5, §16-29B-6, §16-29B-7, §16-29B-8, §16-29B-9, §16-29B-11, §16-29B-12, §16-29B-13, §16-29B-14, §16-29B-15, §16-29B-17, §16-29B-18, §16-29B-19a, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25 and §16-29B-26 of said code be amended and reenacted; that said code be amended by adding thereto two new sections, designated §16-29B-5a and §16-29B-28; that §16-29G-2, §16-29G-5 and §16-29G-6 of said code be amended and reenacted; and that §16-29I-4 of said code be amended and reenacted, all to read as follows:.

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

Engrossed Committee Substitute for Senate Bill 597 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Plymale, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—25.

The nays were: Laird, Miller, Palumbo, Prezioso, Romano, Snyder and Unger—7.

Absent: Facemire and Kessler—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. 597) passed.

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

**Eng. Com. Sub. for Senate Bill 597**—A Bill to amend and reenact §5F-1-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §9-4C-7 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5 and §16-5F-6 of said code; to amend and reenact §16-29B-3, §16-29B-5, §16-29B-6, §16-29B-7, §16-29B-8, §16-29B-9, §16-29B-11, §16-29B-12, §16-29B-13, §16-29B-14, §16-29B-15, §16-29B-17, §16-29B-18, §16-29B-19a, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25 and §16-29B-26 of said code; to amend said code by adding thereto two new sections, designated §16-29B-5a and §16-29B-28; to amend and reenact §16-29G-2, §16-29G-5 and §16-29G-6 of said code; and to amend and reenact §16-29I-4 of said code, all relating generally to the Health Care Authority; employment of the members of the Board of the West Virginia Health Care Authority; creating effective date; providing executive director to set salaries for board members; allowing current members to serve until their term expires or they are reappointed; creating the position of Executive Director of the Health Care Authority; making the executive director the administrative head of the Health Care Authority; setting forth the qualifications of the executive director; providing the executive director is appointed by the Governor with advice and consent of the Senate; providing the executive director reports to the Secretary of the Department of Health and Human Resources; placing the Health Care Authority under the Department of Health and Human Resources; adding the executive director to the Public Employees Insurance Agency Advisory Board; clarifying where the administrative duties of the Health Care Authority are to be carried out; clarifying that the Board of Directors of the Health Care Authority is the adjudicatory arm of the Health Care Authority; requiring that the members of the board of directors be employed

on a part-time basis; setting forth other employment requirements for the board of directors; expanding the board of directors from three to five members; setting forth qualifications for appointment to the board of directors; providing that the board of directors shall report to the executive director; setting forth minimum hearing requirements before the board of directors; providing for recommended decisions by the board of directors to the executive director; setting forth executive director procedure for review and approval of recommended decisions of the board of directors; providing for remand of a decision; clarifying that the executive director has all rule-setting powers; providing for a study by the Health Care Authority of concerns of hospitals in border counties; requiring a comprehensive study of the certificate of need program, including possible elimination of certificate of need; making technical corrections; granting authority to the Health Care Authority to review proposed cooperative agreements; defining terms; setting out legislative findings and purpose; allowing cooperative agreements between hospitals and health care providers; setting forth goals of a cooperative agreement; establishing a review process for cooperative agreements; setting forth standards for review of cooperative agreements; granting enforcement powers over cooperative agreements to the Health Care Authority; providing for rulemaking; requiring reporting to the Health Care Authority; setting out what must be included in a report; allowing the Health Care Authority to render a decision regarding reduced competition when a cooperative agreement pertains to an acquisition, merger or combination of hospitals or health care providers; and updating code references.

Senator Carmichael moved that the bill take effect from passage.

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

The nays were: Laird, Miller, Palumbo, Prezioso, Romano, Snyder and Unger—7.

Absent: Facemire and Kessler—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. 597) 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 4175**, Relating generally to home schooling.

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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—26.

The nays were: Beach, Laird, Palumbo, Romano, Snyder and Yost—6.

Absent: Facemire and Kessler—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 H. B. 4175) 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 4175**—A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating generally to home schooling; clarifying that a child who is exempt from compulsory school attendance is not subject to prosecution for failure to attend school and is not a status offender; requiring superintendent to show probable cause when seeking order to deny home instruction; modifying who is to provide notice of intent to provide home instruction; changing notice of intent

frequency from annually to a one time notification; removing requirement that notice of intent include the grade level of child; requiring notice of intent include certain assurances; requiring notice upon termination of home instruction for a child who is of compulsory attendance age or change in county of residence; removing requirement for notice of intent two weeks prior to withdrawal from school; modifying requirement that the person providing home instruction have a high school diploma or equivalent; removing requirement that person providing home instruction outline plan of instruction for ensuing year; replacing specific annual deadline for obtaining an academic assessment of the child with the requirement that the assessment be obtained annually; removing requirement to submit results of the assessment to superintendent annually; removing requirement for parent or legal guardian to pay assessment cost when given outside public school; allowing use of a nationally normed standardized achievement test normed not more than ten years from the date of administration; removing requirement that the nationally normed standardized achievement test be administered under standardized conditions; requiring nationally normed standardized achievement test be administered by a person qualified in accordance with the test's published guidelines; permitting parent or legal guardian to administer nationally normed standardized achievement test; modifying criteria for determining acceptable progress under the nationally normed standardized achievement test academic assessment option; removing requirement to provide written narrative of portfolio assessment to superintendent annually; removing requirement to provide certification number of the certified teacher providing written narrative; removing requirement that criteria for acceptable progress be mutually agreed upon by certain parties under the alternative academic assessment of proficiency academic assessment option; requiring parent or legal guardian to keep academic assessments for three years; making requirement for county board to notify parent or legal guardian of services available to assist in the assessment of the child's eligibility for special education services applicable only upon request; and requiring parent or legal guardian to submit to superintendent results of required assessments at grade levels three, five, eight and eleven by certain date.

*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 218**, Division of Labor rule relating to minimum wage and maximum hours.

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

On motion of Senator Carmichael, the bill was committed to the Committee on Rules.

**Com. Sub. for Senate Bill 339**, Establishing Judicial Compensation Commission.

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

On motions of Senators Trump and Snyder, the following 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 12. JUDICIAL COMPENSATION COMMISSION.**

**§51-12-1. Judicial Compensation Commission established; membership.**

(a) The Judicial Compensation Commission is hereby established. The commission shall be responsible for studying the compensation structure for justices of the Supreme Court of Appeals, circuit court judges, family court judges, magistrates and any other judicial officer subject to election and which office requires the judge to hold a professional license to serve in that position. The commission shall also be responsible for determining adequate compensation for those positions to ensure that highly qualified persons will be attracted to serve on the bench.

(b) The commission is comprised of five members as follows:

(1) The Dean of the West Virginia University College of Law;

(2) Two members appointed by the Governor;

(3) One member appointed by the President of the Senate; and

(4) One member appointed by the Speaker of the House of Delegates.

(c) Any person appointed to serve on the commission pursuant to subdivisions (2), (3) and (4), subsection (b) of this section shall serve for four years. The initial appointments to the commission shall be made by July 1, 2016. No public employee, elected public official, person receiving a pension from the State of West Virginia or officer of any political party may be appointed to serve on the commission pursuant to subdivision (2), (3) or (4), subsection (b) of this section, nor may any member so appointed be a member of the West Virginia State Bar. Upon expiration of any term, the person previously appointed shall continue to serve until his or her successor is duly appointed and qualified to serve on the commission.

(d) A member of the commission is not eligible for appointment to a state judicial position as long as he or she is serving as a member of the commission.

(e) The members of the commission shall serve without compensation but shall be reimbursed by the Joint Committee on Government and Finance for reasonable expenses incurred in carrying out the responsibilities of the commission. Commission members shall be reimbursed at the same rate established for public employees.

(f) In the event of a vacancy on the commission, the unexpired term shall be filled in the same manner used to make the original appointment within sixty days of the vacancy.

**§51-12-2. Commission meetings; where held; how conducted.**

(a) The commission shall meet in Charleston, West Virginia, at the place and time designated by the chairperson with at least ten days' written notice to the members of the commission.



(b) The commission shall meet at the call of the chairperson or at the request of a majority of the members.

(c) For purposes of calling the first meeting, the Dean of the West Virginia University College of Law shall serve as the initial chairperson. At its first meeting, the members of the commission will select a chairperson. In the event that the member selected to serve as chairperson ceases to be a member of the commission, the Dean of West Virginia University College of Law shall serve as the chairperson for purposes of calling the next meeting.

(d) A majority of the commission members shall constitute a quorum.

(e) The commission shall meet as often as is necessary to conduct a thorough review of judicial compensation and prepare the report and recommendations described in section three of this article.

(f) The commission may request staff assistance from the Joint Committee on Government and Finance and the administrative office of the Supreme Court of Appeals as necessary.

(g) All meetings of the commission and all business conducted by the commission shall be subject to the open meetings provisions of article nine-a, chapter six of this code.

**§51-12-3. Judicial Compensation Commission reports and recommendations; legislative action.**

(a) During any time it is convened, the commission shall study the compensation structure for justices of the Supreme Court of Appeals, circuit court judges, family court judges, magistrates and any other judicial officer subject to election and which office requires the judge to hold a professional license to serve in that position for purposes of making a recommendation concerning appropriate compensation for those judicial officers.

(b) In recommending the appropriate salaries of the state's judicial officers, the commission shall consider the following factors:

(1) The skill and experience required of the particular judgeship at issue;

(2) The value of comparable service performed by justices and judges, as determined by reference to judicial compensation in other states and in the federal government;

(3) The value of comparable service performed in the private sector including, but not limited to, private judging, arbitration, and mediation;

(4) The compensation of attorneys in the private sector;

(5) The cost of living;

(6) The compensation presently received by other public officials in the state;

(7) The level of overall compensation adequate to attract the most highly qualified individuals in the state, from a diversity of life and professional experiences, to serve the judiciary without unreasonable hardship and with judicial independence unaffected by financial concerns; and

(8) Any other information the commission may find relevant in its mission to determine the appropriate compensation for the state's judicial officers.

(c) The commission shall prepare its first report containing its recommendations no later than September 1, 2017. The commission shall then prepare subsequent reports on or before September 1 of each year thereafter, except during those years that the commission is adjourned pursuant to the provisions of this article.

(d) The commission shall send a copy of its recommendations to the Governor, the President of the Senate, the Speaker of the House of Delegates, the chairman of the Senate Committee on the Judiciary, the chairman of the House Committee on the Judiciary, the Chief Justice of the Supreme Court of Appeals and the Administrative Director of the Supreme Court of Appeals.

(e) In each year following the year in which a recommendation is received from the commission, a bill adopting the salary recommendations made by the commission shall be introduced by the presiding officer in both the Senate and the House of Delegates no later than the twentieth day of the regular legislative session.

(f) The commission shall continue to meet and prepare updated recommendations, and a bill adopting the salary recommendations shall continue to be introduced in accordance with the following schedule:

(1) If the bill introduced pursuant to subsection (e) of this section is enacted adopting the complete recommendations of the commission, the commission shall then be adjourned for three years from the effective date of the increase.

(2) If the bill introduced pursuant to subsection (e) of this section is not enacted or, if that bill is enacted, but adopts salaries less than those which were recommended by the commission, the commission shall continue to meet annually to prepare updated recommendations to provide to the parties identified in subsection (d) of this section.

Senator Ashley requested a ruling from the Chair as to whether he should be excused from voting under Senate Rule 43 as his spouse is running for election and it would have an effect if she would be elected.

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

Thereafter, at the request of Senator Trump, and by unanimous consent, further consideration of the bill (Com. Sub. for S. B. 339) and the pending amendment offered by Senators Trump and Snyder was deferred until the conclusion of bills on today's second reading calendar.

**Senate Bill 478**, Authorizing licensees who sell growers to offer samples.

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 one, section six-b, line thirteen, by striking out “(i)” and inserting in lieu thereof “(j)”.

The bill (S. B. 478), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 481**, Authorizing distillery operators to offer liquor for purchase and consumption on premises.

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 500**, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network.

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

**Senate Bill 505**, Exempting certain uses of field gas from motor fuel excise taxes.

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 520**, Allowing PEIA ability to recover benefits or claims obtained through fraud.

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 581**, Eliminating sunset provision terminating pilot domestic violence court program.

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 4145**, Relating to carry or use of a handgun or deadly weapon.

Having been read a second time on yesterday, Friday, February 19, 2016, and now coming up in regular order, was reported by the Clerk.

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:

That §20-2-6a of the Code of West Virginia, 1931, as amended, be repealed; that §61-7-3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §61-7-4a, §61-7-15a and §61-7-17, all to read as follows:

## **ARTICLE 7. DANGEROUS WEAPONS.**

### **§61-7-3. Carrying a deadly weapon without provisional license or other authorization by persons under twenty-one years of age; penalties.**

(a) Any person under twenty-one years of age and not otherwise prohibited from possessing firearms under section seven of this article who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in ~~the county~~ jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in ~~the penitentiary~~ a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.

(b) ~~It shall be the duty of the~~ The prosecuting attorney in all cases ~~to shall~~ ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it ~~shall be is~~ a second or subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and ~~shall~~ may not be permitted to use discretion in introducing evidence to prove the same on the trial.

#### **§61-7-4. License to carry deadly weapons; how obtained.**

(a) Except as provided in subsection (h) of this section, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons ~~permits~~ license may only be issued for pistols ~~or~~ and revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older; ~~Provided, That any individual who is less than twenty one years of~~

~~age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty one years of age: *Provided, however,* That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty one years of age, then the individual issued the license is no longer eligible and must return his or her license to the issuing sheriff;~~

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this section in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery either under ~~the provisions of section twenty-eight, article two of this chapter or the~~

~~provisions of~~ subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of section seven of this article or federal law, including 18 U. S. C. §922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.



(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U. S. C. §922(g) or (n).

(c) Sixty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: Provided, That the completed course includes the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private

or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States military, reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States military, reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature and NRA or state instructor identification number, if applicable.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under ~~the provisions of~~ section two, article five, chapter sixty-one of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty-five days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia

State Police within thirty days of receipt. The license is valid for five years throughout the state, unless sooner revoked.

(h) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all fifty-five counties in size, appearance and information and shall feature a photograph of the licensee.

(i) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for

a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed ~~handgun~~ weapon license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed ~~deadly~~ weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within twenty days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding ~~the provisions of~~ subsection (a) of this section, with respect to application by a former law-enforcement officer honorably retired from agencies governed by article fourteen, chapter seven of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this code; and article seven, chapter twenty of this code, an honorably retired officer is

exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this ~~shall be~~ section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals or any other information that would identify an applicant for or holder of a concealed weapon ~~permit license~~, is confidential: *Provided:* That ~~such~~ this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a ~~permit license~~; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(r) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon ~~permit license~~ issued in accordance with the provisions of this section authorizes the holder of the ~~permit license~~ to carry a concealed pistol or revolver on the lands or waters of this state.

**§61-7-4a. Provisional license to carry deadly weapons; how obtained.**

(a) Any person who is at least eighteen years of age and less than twenty-one years of age who desires to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for a provisional license, and pay to the sheriff, at the time of application, a fee of \$25, of which \$5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Provisional licenses may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is at least eighteen years of age and less than twenty-one years of age;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside, or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this section within five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery under either section

twenty-eight, article two of this chapter or subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction, or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under section seven of this article or federal law, including 18 U. S. C. §922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon;

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For provisional license applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant

Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index, and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A provisional license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available does not indicate that receipt of or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U. S. C. §922(g) or (n).

(c) Twenty dollars of the application fee and any fees for replacement of lost or stolen provisional licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in said fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons provisional licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a provisional license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course included the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college, or private or public institution, or organization or handgun training school utilizing instructors certified by the institution;



(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any proof of current or former service in the United States armed forces, armed forces reserves or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant, or a copy of any document which shows successful completion of the course or class, is evidence of qualification under this section. Certificates, affidavits or other documents submitted to show completion of a course or class shall include instructor information and proof of instructor certification, including, if applicable, the instructor's NRA instructor certification number.

(e) All provisional license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under section two, article five of this chapter.

(f) The sheriff shall issue a provisional license unless the sheriff determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty-five days after the application is filed once all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$15 which the sheriff shall forward to the Superintendent of the West Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee turns twenty-one years of age, unless sooner revoked.

(h) Each provisional license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all provisional license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. Duplicate license cards issued shall be uniform across all fifty-five counties in size, appearance and information and must feature a photograph of the licensee. The provisional license shall be readily distinguishable from a license issued pursuant to section four of this article and shall state: "NOT NICS EXEMPT. This license confers the same rights and privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license issued pursuant to section four, article seven, chapter sixty-one of this code, except that this license does not satisfy the requirements of 18 U. S. C. §922(t)(3). A NICS check must be performed prior to purchase of a firearm from a federally licensed firearm dealer."

(i) The Superintendent of the West Virginia State Police, in coordination with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for provisional licenses and license cards showing that the license has been granted and shall perform any other act required to protect the state and to enforce of section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a provisional license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a provisional license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the

Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a provisional license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a provisional concealed weapon license moves from the address named in the application to another county within the state, the license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new county has determined that the person is no longer eligible for a provisional concealed weapon license under this article, and the sheriff shall issue a new provisional license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the provisional license is granted, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police, at any time so requested, a certified list of all provisional licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued provisional concealed weapon licenses.

(n) The sheriff shall deny any application or revoke any existing provisional license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon provisional license

does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon provisional license, is confidential: *Provided*, That this information may be disclosed to a law enforcement agency or officer: (i) To determine the validity of a provisional license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(q) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a provisional concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.

**§61-7-6. Exceptions as to prohibitions against carrying concealed handguns for persons at least eighteen years of age and fewer than twenty-one years of age; exemptions from licensing fees.**

(a) The licensure provisions set forth in section three of this article do not apply to any person at least eighteen years of age and fewer than twenty-one years of age who is:

(1) Any person:

(A) (1) Carrying a deadly weapon upon his or her own premises;

(B) (2) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

~~(C)~~(3) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

~~(2)~~(4) ~~Any person who is a~~ A member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

~~(3)~~(5) ~~Any~~ A law-enforcement officer or law-enforcement official or chief executive as defined in section one, article twenty-nine, chapter thirty of this code;

~~(4)~~(6) ~~Any~~ An employee of the West Virginia Division of Corrections duly appointed pursuant to ~~the provisions of~~ section eleven-c, article one, chapter twenty-five of this code while the employee is on duty;

~~(5)~~(7) ~~Any~~ A member of the ~~armed forces of the~~ United States ~~or the militia of this state while the member is on duty~~ armed forces, reserve or National Guard;

~~(6)~~(8) ~~Any~~ A resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in section six-a of this article;

~~(7)~~(9) ~~Any~~ A federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and

~~(8)~~(10) ~~Any~~ A parole officer appointed pursuant to section fourteen, article twelve, chapter sixty-two of this code in the performance of ~~their~~ his or her duties.

(b) ~~On and after July 1, 2013, the~~ The following judicial officers and prosecutors and staff ~~shall be exempted~~ are exempt from paying any application fees or licensure fees required under this article. However, ~~on and after that same date,~~ they shall be ~~required to~~ make application and satisfy all licensure and handgun safety and training requirements to obtain a license as set forth in section four of this article ~~before carrying a concealed handgun in this state:~~

(1) Any justice of the Supreme Court of Appeals of West Virginia;

(2) Any circuit judge;

(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;

(4) Any family court judge;

(5) Any magistrate;

(6) Any prosecuting attorney;

(7) Any assistant prosecuting attorney; or

(8) Any duly appointed investigator employed by a prosecuting attorney.

**§61-7-7. Persons prohibited from possessing firearms; classifications; right of nonprohibited persons over twenty-one years of age to carry concealed deadly weapons; offenses and penalties; reinstatement of rights to possess; offenses; penalties.**

(a) Except as provided in this section, no person shall possess a firearm, as such is defined in section two of this article, who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is habitually addicted to alcohol;

(3) Is an unlawful user of or habitually addicted to any controlled substance;

(4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of chapter twenty-seven of this code or in similar law of another jurisdiction: *Provided*, That once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession: *Provided, however*, That the mental hygiene commissioner or circuit judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

(A) Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

(B) Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C) (i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of section twenty-eight, article

two of this chapter or the provisions of subsection (b) or (c), section nine of said article or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

Any person who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in the county jail for not less than ninety days nor more than one year, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this state or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this state or any other jurisdiction of a felony controlled substance offense involving a Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in sections two hundred four, two hundred five and two hundred six, article two, chapter sixty-a of this code and who possesses a firearm as such is defined in section two of this article shall be guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than five years or fined not more than \$5,000, or both. The provisions of subsection ~~(e)~~ (f) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(c) Any person may carry a concealed deadly weapon without a license therefor who is:



(1) At least twenty-one years of age;

(2) A United States citizen or legal resident thereof;

(3) Not prohibited from possessing a firearm under the provisions of this section; and

(4) Not prohibited from possessing a firearm under the provisions of 18 U. S. C. §922(g) or (n).

(d) As a separate and additional offense to the offense provided for in subsection (a) of this section, and in addition to any other offenses outlined in this code, and except as provided by subsection (e) of this section, any person prohibited by subsection (a) of this section from possessing a firearm who carries a concealed deadly weapon is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than three years or fined not more than \$5,000, or both.

(e) As a separate and additional offense to the offense described in subsection (b) of this section, and in addition to any other offenses outlined in this code, any person prohibited by subsection (b) of this section from possessing a firearm who carries a concealed deadly weapon is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than ten years or fined not more than \$10,000, or both.

~~(e)~~(f) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: *Provided*, That a person prohibited from possessing a firearm by the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability to possess a firearm in accordance with the provisions of section five, article seven-a of this chapter.

~~(d)~~(g) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section.

**§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.**

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that subsections (b), (g) and (h) of this section are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section twenty-two, article three of the Constitution of the State of West Virginia.

(b) (1) It is unlawful for a person to possess a firearm or other deadly weapon on a school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public ~~or private~~ primary or secondary education building, structure, facility or grounds including a vocational education building, structure, facility or grounds where secondary vocational education programs are conducted or at a school-sponsored function, or in or on a private primary or secondary education building, structure or facility: Provided, That it shall not be unlawful to possess a firearm or other deadly weapon on or in a private primary or secondary education building, structure or facility when such institution has adopted written policies allowing for possession of firearms on or in the institution's buildings, structures or facilities.

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to section five, article twelve, chapter sixty-two or chapter forty-nine of this code in the performance of his or her duties;

~~(B)~~(C) A retired law-enforcement officer who:

(i) Is employed by a state, county or municipal law-enforcement agency;

(ii) Is covered for liability purposes by his or her employer;

(iii) Is authorized by a county board of education and the school principal to serve as security for a school;

(iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U. S. C. §926C(c); and

(v) Meets all of the requirements for handling and using a firearm established by his or her employer, and has qualified with his or her firearm to those requirements;

~~(C)~~(D) A person specifically authorized by the board of Education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(D)~~(E) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(E)~~(F) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(H)~~(G) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity; or

~~(G)~~(H) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of subsection (b) of this section shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the ~~Division of Public Safety~~ State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a

driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

(e) (1) If a person eighteen years of age or older is convicted of violating subsection (b) of this section, and if the person does not act to appeal the conviction within the time periods described in subdivision (2) of this subsection, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in subdivision (1) of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within twenty days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in subdivision (1) of this subsection, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the

person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f) (1) It is unlawful for a parent, guardian or custodian of a person less than eighteen years of age who knows that the person is in violation of subsection (b) of this section or has reasonable cause to believe that the person's violation of subsection (b) is imminent, to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g) (1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more

than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h) (1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

**§61-7-15a. Use or presentation of a firearm during commission of a felony; penalties.**

As a separate and distinct offense, and in addition to any and all other offenses provided for in this code, any person who, while engaged in the commission of a felony, uses or presents a firearm shall be guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not more than ten years.

**§61-7-17. Construction of article.**

Nothing in this article should be construed to abrogate or modify statutory provisions and common law decisions related to defense of self or others.

On motion of Senator Stollings, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4145) were next reported by the Clerk and considered simultaneously:

On page one, section three, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) Any person who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be ~~imprisoned~~ confined in ~~the county~~ jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in ~~the penitentiary~~ a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.;

On page two, section four, subsection (a), by striking out the words “subsection (h)” and inserting in lieu thereof the words “subsections (h) and (s)”;

On page eight, section four, after subsection (r), by inserting a new subsection, designated subsection (s), to read as follows:

(s) As an alternative to the license to carry a concealed deadly weapon contained in this section, there is hereby created a residency exception concealed carry permit. Except as restricted or prohibited by law, the residency exception concealed carry permit allows the holder of the permit to carry a concealed pistol or revolver on the lands or waters of this state. In order to obtain the residency exception concealed carry permit, a person must: (1) Present a valid West Virginia driver’s license or other official state photo identification card showing residency in the state and that the person is twenty-one years old or older; and (2) pay a one-time fee of \$5 to the sheriff. Upon presentation and payment, the sheriff shall issue a residency exception concealed carry permit that is valid for the life of the holder. The sheriff shall maintain a list of all residency exception concealed carry permits issued in the county.;

On page nineteen, section seven, by striking out all of subsection (c);

And,



By relettering the remaining subsections.

Following discussion,

The question being on the adoption of the amendments offered by Senator Stollings to the Judiciary committee amendment to the bill, the same was put and did not prevail.

On motion of Senator Romano, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4145) were next reported by the Clerk and considered simultaneously:

On page one, section three, subsection (a), after the words “years of age” by striking out the word “and” inserting in lieu thereof the words “or who is not a bona fide West Virginia resident as evidenced by a valid photo identification card issued by the state of West Virginia, a post-secondary institution or institution of higher education in West Virginia, and who is”;

On page two, section four, subsection (a), subdivision (2), by striking out the words “and resident of this state and of the county in which the application is made and has a valid driver’s license or other state-issued photo identification showing the residence”;

And,

On page nineteen, section seven, subsection (c), by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

(2) A bona fide West Virginia resident as evidenced by a valid photo identification card issued by the state of West Virginia, a post-secondary institution or institution of higher education in West Virginia.

Following discussion,

The question being on the adoption of Senator Romano’s amendments to the Judiciary committee amendment to the bill, the same was put and did not prevail.

On motion of Senator Trump, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4145) were next reported by the Clerk, considered simultaneously, and adopted:

On page nineteen, section seven, subsection (d), by striking out the words “deadly weapon” and inserting in lieu thereof the word “firearm”;

And,

On page nineteen, section seven, subsection (e), by striking out the words “deadly weapon” and inserting in lieu thereof the word “firearm”.

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

The bill (Eng. Com. Sub. for H. B. 4145), as amended, was then ordered to third reading.

**Eng. House Bill 4161**, Relating to levies on classifications of property by the Board of Public Works.

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

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

**Com. Sub. for Senate Bill 339**, Establishing Judicial Compensation Commission.

Having been read a second time in earlier proceedings today, and now coming up in deferred order with the amendment offered by Senators Trump and Snyder pending (*shown in the Senate Journal of today, pages 893 to 897, inclusive*) was again reported by the Clerk.

On motion of Senator Miller, the following amendment to the amendment offered by Senators Trump and Snyder to bill (Com. Sub. for S. B. 339) was reported by the Clerk:

On page one, section one, subsection (b), subdivision (2), after the word "Governor" by inserting a comma and the words "by and with the advice and consent of the Senate".

Following discussion,

The question being on the adoption of Senator Miller's amendment to the amendment offered by Senators Trump and Snyder to the bill, the same was put and did not prevail.

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

The bill (Com. Sub. for S. B. 339), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 420**, Increasing tax rate on cigarette and tobacco products.

**Com. Sub. for Senate Bill 485**, Establishing regional recreation authorities and areas.

**Com. Sub. for Senate Bill 508**, Relating to civil claims for private nuisance.

**Com. Sub. for Senate Bill 565**, Allowing well pad and road construction for oil and gas activities.

And,

**Com. Sub. for Senate Bill 591**, Relating to voter registration list maintenance and combined voter registration and driver licensing fund.

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 Snyder.

The Senate next proceeded to the thirteenth order of business.

At the request of Senator Stollings, the name of Senator Stollings was removed as a sponsor of **Senate Bill 508** (*Relating to civil claims for private nuisance*).

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Facemire and Kessler.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 22, 2016, at 11 a.m.

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## MONDAY, FEBRUARY 22, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend John Simmons, Associate Executive Minister of Missions and Administration for the West Virginia Baptist Convention, Parkersburg, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Herb Snyder, a senator from the sixteenth district.

Appalachian Children's Chorus, Charleston, West Virginia, then proceeded in the singing of "Mountain Lullaby", "Take Me Home, Country Roads" and "God Bless America", accompanied by Olga Young on the piano.

Pending the reading of the Journal of Saturday, February 20, 2016,

At the request of Senator Cline, 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.

On motion of Senator Carmichael, the Senate recessed for five minutes to permit Adam Craig to address the Senate on behalf of the Governor's School for the Arts and David Sokolov to address the Senate on behalf of the Governor's Honors Academy.

Upon expiration of the recess, the Senate reconvened and 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, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 14**, Limiting successor corporation asbestos-related liabilities.

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

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

On page four, section three, line twenty-five, by striking out the words "April 1, 2016" and inserting in lieu thereof the words "the effective date of this article".

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

Engrossed Committee Substitute for Senate Bill 14, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mullins—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. 14) passed with its title.

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

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended, 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 150**, Authorizing Department of Transportation promulgate legislative rules.

On motion of Senator Carmichael, 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:

That article 8, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF  
TRANSPORTATION TO PROMULGATE  
LEGISLATIVE RULES.**

**§64-8-1. Office of Administrative Hearings.**

The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four-a, article five-c, chapter seventeen-c of this code, modified by the Office of Administrative Hearings to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Office of Administrative Hearings (appeal procedures, 105 CSR 1), is authorized with the following amendments:

On page 16, subsection 18.1, by striking the last sentence.

On page 16, subsection 18.5, by striking the remainder of the paragraph after the words “subsection 3 of this section.”

**§64-8-2. Division of Highways.**

The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section five, article seventeen-b, chapter seventeen of this code, modified by the Division of Highways to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 30, 2015, relating to the Division of Highways (state transportation infrastructure fund program, 157 CSR 11), is authorized with the following amendments:

On page one, subsection 2.1, following the words “‘Board’ means the”, by striking out the words “board of directors of the fund” and inserting in lieu thereof the words “State Transportation Infrastructure Fund Advisory Board”;

On page three, subsection 3.1, line one, by striking out the words “A Board is hereby created” and inserting in lieu thereof the

words “The State Transportation Infrastructure Fund Advisory Board is hereby created”;

And,

On page three, following subsection 3.3, by striking out all of subsection four and inserting in lieu thereof the following:

**“§157-11-4. Powers and Duties of the Commissioner.**

4.1 The Commissioner, in consultation with the Board, shall adopt policies and procedures consistent with W.Va. Code §17-17B-1 *et seq.*, for the administration of the fund’s affairs and the implementation of the fund’s functions, including, but not limited to, the identification and selection of eligible borrowers, eligible costs, and eligible projects as well as the determination of the amount of initial assistance and the manner in which the fund shall be capitalized.

4.2 The Commissioner shall have the following powers:

4.2.a. Make loans to eligible borrowers to finance the eligible costs of eligible projects and to acquire, hold, and subordinate loan obligations in a manner as the Board determines advisable;

4.2.b. Provide eligible borrowers with other financial assistance necessary to defray eligible costs of an eligible project;

4.2.c. Enter into contracts, arrangements, and agreements with eligible borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted by W.Va. Code §17-17B-1 *et seq.*;

4.2.d. Enter into agreements with a government unit, private entity, department, agency, or instrumentality of the United States or of this State or another state for the purpose of planning and providing for the financing of eligible projects;

4.2.e. Establish policies and procedures for the making and administering of loans and other financial assistance and fiscal



controls and accounting procedures to ensure proper accounting and reporting of the fund, government units, eligible borrowers, and private entities;

4.2.f. Collect or authorize the trustee under any trust indenture securing any bonds to collect amounts due under any loan obligations owned by it, including taking the action required to obtain payment of any sums in default;

4.2.g. Consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any loan obligations owned by it;

4.2.h. Expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the fund;

4.2.i. Expend funds credited to the fund as the Board determines necessary for the costs of administering the operations of the fund;

4.2.j. Procure insurance against losses in connection with its property, assets, or activities including insurance against liability for its acts or the acts of its employees or agents or to establish cash reserves to enable it to act as a self-insurer against any and all such losses;

4.2.k. Collect fees and charges in connection with its loans or other financial assistance;

4.2.l. Apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of the fund;

4.2.m. Enter into contracts or agreements for the servicing and processing of financial agreements;

4.2.n. Enter into loan obligations and loans that may be secured or unsecured;

4.2.o. Accept notes and other forms of obligation to evidence any indebtedness as well as mortgages, liens, pledges, assignments or other security interests to secure such indebtedness;

4.2.p. Take all actions that are appropriate to protect security interests, ensure repayment of any indebtedness, and safeguard against losses of the fund, including, but not limited to, initiating foreclosures, default proceedings, and all other forms of redress, whether legal or equitable in nature;

4.2.q. Determine future capital needs of the fund. The future capital needs of the fund may be determined each year based on an actuarial valuation that reflects, among other things, anticipated revenues, project revenues, amounts in federal accounts and state accounts, fund costs, loan defaults and related risk exposure to the extent such valuation is consistent with the Actuarial Standards of Practice published by the Actuarial Standards Board.

4.2.r. Do all other things necessary or convenient to exercise powers granted or reasonably implied by W.Va. Code §17-17B-1 *et seq.*”

### **§64-8-3. Division of Public Transit.**

The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section three, article sixteen-e, chapter seventeen of this code, modified by the Division of Public Transit to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 30, 2015, relating to the Division of Public Transit (rail fixed guideway systems state safety oversight, 225 CSR 1), is authorized with the following amendment:

On page 6, subsection 7.4, by striking the words “Todd Dorcas” and the comma.

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

Engrossed Committee Substitute for Senate Bill 150, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mullins—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. 150) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—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. 150) 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 369**, Reducing legislative education reporting requirements.

On motion of Senator Carmichael, 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:

That §18-2-5g of the Code of West Virginia, 1931, as amended, be repealed; that §18-2E-3g of said code be repealed; that §18B-5-8 of said code be repealed; that §18-2E-5 of said code be amended and reenacted; that §18-2I-5 of said code be amended and reenacted; that §18-3-12 of said code be amended and reenacted; that §18-5-44 of said code be amended and reenacted; that §18-20-5 and §18-20-8 of said code be amended and reenacted; that §18A-2-3 of said code be amended and reenacted; that §18A-4-7a of said code be amended and reenacted; that §18A-5-1a of said code be amended and reenacted; that §18B-1-10 of said code be amended and reenacted; that §18B-1B-4 of said code be amended and reenacted; that §18B-1D-8 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1D-8a; that §18B-2B-6 of said code be amended and reenacted; that §18B-2C-3 of said code be amended and reenacted; that §18B-3D-2 of said code be amended and reenacted; that §18B-10-1 of said code be amended and reenacted; that §18B-13-5 of said code be amended and reenacted; that §18B-18-6 of said code be amended and reenacted; that §18C-3-4 of said code be amended and reenacted; that §18C-5-7 of said code be amended and reenacted; and that §18C-7-5 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

**§18-2E-5. Process for improving education; education standards; statewide assessment program; accountability measures; Office of Education Performance Audits; school accreditation and school system approval; intervention to correct low performance.**

(a) *Legislative findings, purpose and intent.* — The Legislature makes the following findings with respect to the process for improving education and its purpose and intent in the enactment of this section:

(1) The process for improving education includes four primary elements, these being:

(A) Standards which set forth the knowledge and skills that students should know and be able to perform as the result of a thorough and efficient education that prepares them for the twenty-first century, including measurable criteria to evaluate student performance and progress;

(B) Assessments of student performance and progress toward meeting the standards;

(C) A system of accountability for continuous improvement defined by high-quality standards for schools and school systems articulated by a rule promulgated by the state board and outlined in subsection (c) of this section that will build capacity in schools and districts to meet rigorous outcomes that assure student performance and progress toward obtaining the knowledge and skills intrinsic to a high-quality education rather than monitoring for compliance with specific laws and regulations; and

(D) A method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress;

(2) As the constitutional body charged with the general supervision of schools as provided by general law, the state board has the authority and the responsibility to establish the standards, assess the performance and progress of students against the

standards, hold schools and school systems accountable and assist schools and school systems to build capacity and improve efficiency so that the standards are met, including, when necessary, seeking additional resources in consultation with the Legislature and the Governor;

(3) As the constitutional body charged with providing for a thorough and efficient system of schools, the Legislature has the authority and the responsibility to establish and be engaged constructively in the determination of the knowledge and skills that students should know and be able to do as the result of a thorough and efficient education. This determination is made by using the process for improving education to determine when school improvement is needed by evaluating the results and the efficiency of the system of schools, by ensuring accountability and by providing for the necessary capacity and its efficient use;

(4) In consideration of these findings, the purpose of this section is to establish a process for improving education that includes the four primary elements as set forth in subdivision (1) of this subsection to provide assurances that the high-quality standards are, at a minimum, being met and that a thorough and efficient system of schools is being provided for all West Virginia public school students on an equal education opportunity basis; and

(5) The intent of the Legislature in enacting this section and section five-c of this article is to establish a process through which the Legislature, the Governor and the state board can work in the spirit of cooperation and collaboration intended in the process for improving education, to consult and examine the performance and progress of students, schools and school systems and, when necessary, to consider alternative measures to ensure that all students continue to receive the thorough and efficient education to which they are entitled. However, nothing in this section requires any specific level of funding by the Legislature.

(b) *Electronic county and school strategic improvement plans.*  
— The state board shall promulgate a rule consistent with the provisions of this section and in accordance with article three-b, chapter twenty-nine-a of this code establishing an electronic county

strategic improvement plan for each county board and an electronic school strategic improvement plan for each public school in this state. Each respective plan shall be for a period of no more than five years and shall include the mission and goals of the school or school system to improve student, school or school system performance and progress, as applicable. The strategic plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures. The plan shall be revised when required pursuant to this section to include each annual performance measure upon which the school or school system fails to meet the standard for performance and progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the department and other education agencies to improve student, school or school system performance and progress to meet the annual performance measure.

The department shall make available to all public schools through its website or the West Virginia Education Information System an electronic school strategic improvement plan boilerplate designed for use by all schools to develop an electronic school strategic improvement plan which incorporates all required aspects and satisfies all improvement plan requirements of the No Child Left Behind Act.

(c) *High-quality education standards and efficiency standards.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and periodically review and update high-quality education standards for student, school and school system performance and processes in the following areas:

- (1) Curriculum;
- (2) Workplace readiness skills;
- (3) Finance;
- (4) Transportation;

- (5) Special education;
- (6) Facilities;
- (7) Administrative practices;
- (8) Training of county board members and administrators;
- (9) Personnel qualifications;
- (10) Professional development and evaluation;
- (11) Student performance, progress and attendance;
- (12) Professional personnel, including principals and central office administrators, and service personnel attendance;
- (13) School and school system performance and progress;
- (14) A code of conduct for students and employees;
- (15) Indicators of efficiency; and
- (16) Any other areas determined by the state board.

(d) *Comprehensive statewide student assessment program.* — The state board shall establish a comprehensive statewide student assessment program to assess student performance and progress in grades three through twelve. The assessment program is subject to the following:

(1) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code establishing the comprehensive statewide student assessment program;

(2) Prior to the 2014-2015 school year, the state board shall align the comprehensive statewide student assessment for all grade levels in which the test is given with the college-readiness standards adopted pursuant to section thirty-nine, article two of this chapter or develop other aligned tests to be required at each grade



level so that progress toward college readiness in English/language arts and math can be measured;

(3) The state board may require that student proficiencies be measured through the ACT EXPLORE and the ACT PLAN assessments or other comparable assessments, which are approved by the state board and provided by future vendors;

(4) The state board may require that student proficiencies be measured through the West Virginia writing assessment at any grade levels determined by the state board to be appropriate; and

(5) The state board may provide, through the statewide assessment program, other optional testing or assessment instruments applicable to grade levels kindergarten through grade twelve which may be used by each school to promote student achievement. The state board annually shall publish and make available, electronically or otherwise, to school curriculum teams and teacher collaborative processes the optional testing and assessment instruments.

*(e) State annual performance measures for school and school system accreditation. —*

The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual performance measures for state accreditation of schools and school systems. The state board also may establish performance incentives for schools and school systems as part of the state accreditation system. On or before December 1, 2013, the state board shall report to the Governor and to the Legislative Oversight Commission on Education Accountability the proposed rule for establishing the measures and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the state board shall provide an annual report to the Governor and to the Legislative Oversight Commission on Education Accountability on the impact and effectiveness of the accreditation system. The rule for school and school system accreditation proposed by the board may include, but is not limited to, the following measures:

(1) Student proficiency in English and language arts, math, science and other subjects determined by the board;

(2) Graduation and attendance rate;

(3) Students taking and passing AP tests;

(4) Students completing a career and technical education class;

(5) Closing achievement gaps within subgroups of a school's student population; and

(6) Students scoring at or above average attainment on SAT or ACT tests.

(f) *Indicators of efficiency.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt by rule and periodically review and update indicators of efficiency for use by the appropriate divisions within the department to ensure efficient management and use of resources in the public schools in the following areas:

(1) Curriculum delivery including, but not limited to, the use of distance learning;

(2) Transportation;

(3) Facilities;

(4) Administrative practices;

(5) Personnel;

(6) Use of regional educational service agency programs and services, including programs and services that may be established by their assigned regional educational service agency or other regional services that may be initiated between and among participating county boards; and

(7) Any other indicators as determined by the state board.

(g) *Assessment and accountability of school and school system performance and processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall establish by rule a system of education performance audits which measures the quality of education and the preparation of students based on the annual measures of student, school and school system performance and progress. The system of education performance audits shall provide information to the state board, the Legislature and the Governor, upon which they may determine whether a thorough and efficient system of schools is being provided. The system of education performance audits shall include:

(1) The assessment of student, school and school system performance and progress based on the annual measures established pursuant to subsection (e) of this section;

(2) The evaluation of records, reports and other information collected by the Office of Education Performance Audits upon which the quality of education and compliance with statutes, policies and standards may be determined;

(3) The review of school and school system electronic strategic improvement plans; and

(4) The on-site review of the processes in place in schools and school systems to enable school and school system performance and progress and compliance with the standards.

(h) *Uses of school and school system assessment information.* — The state board shall use information from the system of education performance audits to assist it in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance and progress. Information from the system of education performance audits further shall be used by the state board for these purposes, including, but not limited to, the following:

(1) Determining school accreditation and school system approval status;

(2) Holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and

(3) Targeting additional resources when necessary to improve performance and progress.

The state board shall make accreditation information available to the Legislature, the Governor, the general public and to any individual who requests the information, subject to the provisions of any act or rule restricting the release of information.

(i) *Early detection and intervention programs.* — Based on the assessment of student, school and school system performance and progress, the state board shall establish early detection and intervention programs using the available resources of the Department of Education, the regional educational service agencies, the Center for Professional Development and the Principals Academy, or other resources as appropriate, to assist underachieving schools and school systems to improve performance before conditions become so grave as to warrant more substantive state intervention. Assistance shall include, but is not limited to, providing additional technical assistance and programmatic, professional staff development, providing monetary, staffing and other resources where appropriate.

(j) *Office of Education Performance Audits.* —

(1) To assist the state board in the operation of a system of education performance audits, the state board shall establish an Office of Education Performance Audits consistent with the provisions of this section. The Office of Education Performance Audits shall be operated under the direction of the state board independently of the functions and supervision of the State Department of Education and state superintendent. The Office of Education Performance Audits shall report directly to and be responsible to the state board in carrying out its duties under the provisions of this section.

(2) The office shall be headed by a director who shall be appointed by the state board and who serves at the will and pleasure of the state board. The annual salary of the director shall be set by the state board and may not exceed eighty percent of the salary of the State Superintendent of Schools.

(3) The state board shall organize and sufficiently staff the office to fulfill the duties assigned to it by law and by the state board. Employees of the State Department of Education who are transferred to the Office of Education Performance Audits shall retain their benefits and seniority status with the Department of Education.

(4) Under the direction of the state board, the Office of Education Performance Audits shall receive from the West Virginia Education Information System staff research and analysis data on the performance and progress of students, schools and school systems, and shall receive assistance, as determined by the state board, from staff at the State Department of Education, the regional education service agencies, the Center for Professional Development, the Principals Academy and the School Building Authority to carry out the duties assigned to the office.

(5) In addition to other duties which may be assigned to it by the state board or by statute, the Office of Education Performance Audits also shall:

(A) Assure that all statewide assessments of student performance used as annual performance measures are secure as required in section one-a of this article;

(B) Administer all accountability measures as assigned by the state board, including, but not limited to, the following:

(i) Processes for the accreditation of schools and the approval of school systems; and

(ii) Recommendations to the state board on appropriate action, including, but not limited to, accreditation and approval action;

(C) Determine, in conjunction with the assessment and accountability processes, what capacity may be needed by schools and school systems to meet the standards established by the state board and recommend to the state board plans to establish those needed capacities;

(D) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity of schools and school systems to meet the standards established by the state board, including the identification of trends and the need for continuing improvements in education, and report those deficiencies and trends to the state board;

(E) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the state board and make recommendations to the state board, the Center for Professional Development, the regional educational service agencies, the Higher Education Policy Commission and the county boards;

(F) Identify, in conjunction with the assessment and accountability processes, school systems and best practices that improve student, school and school system performance and communicate those to the state board for promoting the use of best practices. The state board shall provide information on best practices to county school systems; and

(G) Develop reporting formats, such as check lists, which shall be used by the appropriate administrative personnel in schools and school systems to document compliance with applicable laws, policies and process standards as considered appropriate and approved by the state board, which may include, but is not limited to, the following:

(i) The use of a policy for the evaluation of all school personnel that meets the requirements of sections twelve and twelve-a, article two, chapter eighteen-a of this code;

(ii) The participation of students in appropriate physical assessments as determined by the state board, which assessment may not be used as a part of the assessment and accountability system;

(iii) The appropriate licensure of school personnel; and

(iv) The appropriate provision of multicultural activities.

Information contained in the reporting formats is subject to examination during an on-site review to determine compliance with laws, policies and standards. Intentional and grossly negligent reporting of false information are grounds for dismissal of any employee.

(k) *On-site reviews.* —

(1) The system of education performance audits shall include on-site reviews of schools and school systems which shall be conducted only at the specific direction of the state board upon its determination that circumstances exist that warrant an on-site review. Any discussion by the state board of schools to be subject to an on-site review or dates for which on-site reviews will be conducted may be held in executive session and is not subject to the provisions of article nine-a, chapter six of this code relating to open governmental proceedings. An on-site review shall be conducted by the Office of Education Performance Audits of a school or school system for the purpose of making recommendations to the school and school system, as appropriate, and to the state board on such measures as it considers necessary. The investigation may include, but is not limited to, the following:

(A) Verifying data reported by the school or county board;

(B) Examining compliance with the laws and policies affecting student, school and school system performance and progress;

(C) Evaluating the effectiveness and implementation status of school and school system electronic strategic improvement plans;

(D) Investigating official complaints submitted to the state board that allege serious impairments in the quality of education in schools or school systems;

(E) Investigating official complaints submitted to the state board that allege that a school or county board is in violation of policies or laws under which schools and county boards operate; and

(F) Determining and reporting whether required reviews and inspections have been conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the Health Department, the School Building Authority and the responsible divisions within the department of education, and whether noted deficiencies have been or are in the process of being corrected.

(2) The Director of the Office of Education Performance Audits shall notify the county superintendent of schools five school days prior to commencing an on-site review of the county school system and shall notify both the county superintendent and the principal five school days before commencing an on-site review of an individual school: *Provided*, That the state board may direct the Office of Education Performance Audits to conduct an unannounced on-site review of a school or school system if the state board believes circumstances warrant an unannounced on-site review.

(3) The Office of Education Performance Audits shall conduct on-site reviews which are limited in scope to specific areas in which performance and progress are persistently below standard as determined by the state board unless specifically directed by the state board to conduct a review which covers additional areas.

(4) The Office of Education Performance Audits shall reimburse a county board for the costs of substitutes required to replace county board employees who serve on a review team.

(5) At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be



present for at least the portion of the conference pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and curriculum team of the school and the superintendent shall be provided the opportunity to be present. The purpose of the exit conference is to review the initial findings of the on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between the reviewers and the school or school system to promote a better understanding of the findings.

(6) The Office of Education Performance Audits shall report the findings of an on-site review to the county superintendent and the principals whose schools were reviewed within thirty days following the conclusion of the on-site review. The Office of Education Performance Audits shall report the findings of the on-site review to the state board within forty-five days after the conclusion of the on-site review. A school or county that believes one or more findings of a review are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of education in the school or county or address issues unrelated to the health, safety and welfare of students and the quality of education, may appeal to the state board for removal of the findings. The state board shall establish a process for it to receive, review and act upon the appeals. ~~The state board shall report to the Legislative Oversight Commission on Education Accountability during its July interim meetings, or as soon thereafter as practical, on each appeal during the preceding school year.~~

(7) The Legislature finds that the accountability and oversight of some activities and programmatic areas in the public schools are controlled through other mechanisms and agencies and that additional accountability and oversight may be unnecessary, counterproductive and impair necessary resources for teaching and learning. Therefore, the Office of Education Performance Audits may rely on other agencies and mechanisms in its review of schools and school systems.

(1) *School accreditation.* —

(1) The state board shall establish levels of accreditation to be assigned to schools. The establishment of levels of accreditation and the levels shall be subject to the following:

(A) The levels will be designed to demonstrate school performance in all the areas outlined in this section and also those established by the state board;

(B) The state board shall promulgate legislative rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to establish the performance and standards required for a school to be assigned a particular level of accreditation; and

(C) The state board will establish the levels of accreditation in such a manner as to minimize the number of systems of school recognition, both state and federal, that are employed to recognize and accredit schools.

(2) The state board annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school a level of accreditation as designated and determined by the state board.

(3) The state board, in its exercise of general supervision of the schools and school systems of West Virginia, may exercise any or all of the following powers and actions:

(A) To require a school to revise its electronic strategic plan;

(B) To define extraordinary circumstances under which the state board may intervene directly or indirectly in the operation of a school;

(C) To appoint monitors to work with the principal and staff of a school where extraordinary circumstances are found to exist and to appoint monitors to assist the school principal after intervention in the operation of a school is completed;

(D) To direct a county board to target resources to assist a school where extraordinary circumstances are found to exist;

(E) To intervene directly in the operation of a school and declare the position of principal vacant and assign a principal for the school who will serve at the will and pleasure of the state board. If the principal who was removed elects not to remain an employee of the county board, then the principal assigned by the state board shall be paid by the county board. If the principal who was removed elects to remain an employee of the county board, then the following procedure applies:

(i) The principal assigned by the state board shall be paid by the state board until the next school term, at which time the principal assigned by the state board shall be paid by the county board;

(ii) The principal who was removed is eligible for all positions in the county, including teaching positions, for which the principal is certified, by either being placed on the transfer list in accordance with section seven, article two, chapter eighteen-a of this code, or by being placed on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of this code; and

(iii) The principal who was removed shall be paid by the county board and may be assigned to administrative duties, without the county board being required to post that position until the end of the school term; and

(F) Other powers and actions the state board determines necessary to fulfill its duties of general supervision of the schools and school systems of West Virginia.

(4) The county board may take no action nor refuse any action if the effect would be to impair further the school in which the state board has intervened.

(m) *School system approval.* — The state board annually shall review the information submitted for each school system from the system of education performance audits and issue one of the following approval levels to each county board: Full approval, temporary approval, conditional approval or nonapproval.

(1) Full approval shall be given to a county board whose schools have all been given full, temporary or conditional accreditation status and which does not have any deficiencies which would endanger student health or safety or other extraordinary circumstances as defined by the state board. A fully approved school system in which other deficiencies are discovered shall remain on full accreditation status for the remainder of the approval period and shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

(2) Temporary approval shall be given to a county board whose education system is below the level required for full approval. Whenever a county board is given temporary approval status, the county board shall revise its electronic county strategic improvement plan in accordance with subsection (b) of this section to increase the performance and progress of the school system to a full approval status level. The revised plan shall be submitted to the state board for approval.

(3) Conditional approval shall be given to a county board whose education system is below the level required for full approval, but whose electronic county strategic improvement plan meets the following criteria:

(A) The plan has been revised in accordance with subsection (b) of this section;

(B) The plan has been approved by the state board; and

(C) The county board is meeting the objectives and time line specified in the revised plan.

(4) Nonapproval status shall be given to a county board which fails to submit and gain approval for its electronic county strategic improvement plan or revised electronic county strategic improvement plan within a reasonable time period as defined by the state board or which fails to meet the objectives and time line of its revised electronic county strategic improvement plan or fails to achieve full approval by the date specified in the revised plan.

(A) The state board shall establish and adopt additional standards to identify school systems in which the program may be nonapproved and the state board may issue nonapproval status whenever extraordinary circumstances exist as defined by the state board.

(B) Whenever a county board has more than a casual deficit, as defined in section one, article one of this chapter, the county board shall submit a plan to the state board specifying the county board's strategy for eliminating the casual deficit. The state board either shall approve or reject the plan. If the plan is rejected, the state board shall communicate to the county board the reason or reasons for the rejection of the plan. The county board may resubmit the plan any number of times. However, any county board that fails to submit a plan and gain approval for the plan from the state board before the end of the fiscal year after a deficit greater than a casual deficit occurred or any county board which, in the opinion of the state board, fails to comply with an approved plan may be designated as having nonapproval status.

(C) Whenever nonapproval status is given to a school system, the state board shall declare a state of emergency in the school system and shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correcting the emergency. When the state board approves the recommendations, they shall be communicated to the county board. If progress in correcting the emergency, as determined by the state board, is not made within six months from the time the county board receives the recommendations, the state board shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, the following:

(i) Limiting the authority of the county superintendent and county board as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and rules and any other areas designated by the state board by rule,

which may include delegating decision-making authority regarding these matters to the state superintendent;

(ii) Declaring that the office of the county superintendent is vacant;

(iii) Declaring that the positions of personnel who serve at the will and pleasure of the county superintendent as provided in section one, article two, chapter eighteen-a of this code, are vacant, subject to application and reemployment;

(iv) Delegating to the state superintendent both the authority to conduct hearings on personnel matters and school closure or consolidation matters and, subsequently, to render the resulting decisions and the authority to appoint a designee for the limited purpose of conducting hearings while reserving to the state superintendent the authority to render the resulting decisions;

(v) Functioning in lieu of the county board of education in a transfer, sale, purchase or other transaction regarding real property; and

(vi) Taking any direct action necessary to correct the emergency including, but not limited to, the following:

(I) Delegating to the state superintendent the authority to replace administrators and principals in low performing schools and to transfer them into alternate professional positions within the county at his or her discretion; and

(II) Delegating to the state superintendent the authority to fill positions of administrators and principals with individuals determined by the state superintendent to be the most qualified for the positions. Any authority related to intervention in the operation of a county board granted under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this code.

(n) Notwithstanding any other provision of this section, the state board may intervene immediately in the operation of the county school system with all the powers, duties and

responsibilities contained in subsection (m) of this section, if the state board finds the following:

(1) That the conditions precedent to intervention exist as provided in this section; and that delaying intervention for any period of time would not be in the best interests of the students of the county school system; or

(2) That the conditions precedent to intervention exist as provided in this section and that the state board had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.

(o) *Capacity.* — The process for improving education includes a process for targeting resources strategically to improve the teaching and learning process. Development of electronic school and school system strategic improvement plans, pursuant to subsection (b) of this section, is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school and school system performance. When deficiencies are detected through the assessment and accountability processes, the revision and approval of school and school system electronic strategic improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies. When the state board determines that schools and school systems do not have the capacity to correct deficiencies, the state board shall take one or more of the following actions:

(1) Work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the Governor;

(2) Recommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making determinations on recommendations, the

state board shall include, but is not limited to, the following methods:

(A) Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;

(B) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance and progress of students or the deficiencies of the school or school system and requiring the school or school system to work collaboratively with the West Virginia Department of Education State System of Support to correct the deficiencies;

(C) Determining the areas of strength that appear to have contributed to exceptional student, school and school system performance and progress and promoting their emulation throughout the system;

(D) Requesting technical assistance from the School Building Authority in assessing or designing comprehensive educational facilities plans;

(E) Recommending priority funding from the School Building Authority based on identified needs;

(F) Requesting special staff development programs from the Center for Professional Development, the Principals Academy, higher education, regional educational service agencies and county boards based on identified needs;

(G) Submitting requests to the Legislature for appropriations to meet the identified needs for improving education;

(H) Directing county boards to target their funds strategically toward alleviating deficiencies;

(I) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;



(J) Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

(K) Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

(p) *Building leadership capacity* — To help build the governance and leadership capacity of a county board during an intervention in the operation of its school system by the state board, and to help assure sustained success following return of control to the county board, the state board shall require the county board to establish goals and action plans, subject to approval of the state board, to improve performance sufficiently to end the intervention within a period of not more than five years. The state superintendent shall maintain oversight and provide assistance and feedback to the county board on development and implementation of the goals and action plans. At a minimum, the goals and action plans shall include:

(A) An analysis of the training and development activities needed by the county board and leadership of the school system and schools for effective governance and school improvement;

(B) Support for the training and development activities identified which may include those made available through the state superintendent, regional education service agencies, Center for Professional Development, West Virginia School Board Association, Office of Education Performance Audits, West Virginia Education Information System and other sources identified in the goals and action plans. Attendance at these activities included in the goals and action plans is mandatory as specified in the goals and action plans; and

(C) Active involvement by the county board in the improvement process, working in tandem with the county superintendent to gather, analyze and interpret data, write time-specific goals to correct deficiencies, prepare and implement action plans and allocate or request from the State Board of Education the resources, including board development training and coaching,

necessary to achieve approved goals and action plans and sustain system and school improvement.

At least once each year during the period of intervention, the Office of Education Performance Audits shall assess the readiness of the county board to accept the return of control of the system or school from the state board and sustain the improvements, and shall make a report and recommendations to the state board supported by documented evidence of the progress made on the goals and action plans. The state board may end the intervention or return any portion of control of the operations of the school system or school that was previously removed at its sole determination. If the state board determines at the fifth annual assessment that the county board is still not ready to accept return of control by the state board and sustain the improvements, the state board shall hold a public hearing in the affected county at which the attendance by all members of the county board is requested so that the reasons for continued intervention and the concerns of the citizens of the county may be heard. The state board may continue the intervention only after it holds the public hearing and may require revision of the goals and action plans.

Following the termination of an intervention in the operation of a school system and return of full control by the state board, the support for governance education and development shall continue as needed for up to three years. If at any time within this three years, the state board determines that intervention in the operation of the school system is again necessary, the state board shall again hold a public hearing in the affected county so that the reasons for the intervention and the concerns of the citizens of the county may be heard.

## **ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

### **§18-2I-5. Strategic Staff Development Fund.**

(a) There is created an account within the state board titled the Strategic Staff Development Fund. The allocation of balances which accrue in the General School Fund shall be transferred to the Strategic Staff Development Fund each year when the balances

become available. Any remaining funds transferred to the Strategic Staff Development Fund during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the transfer of funds from the General School Fund for the next fiscal year.

(b) The money in the Strategic Staff Development Fund shall be used by the state board to provide staff development in schools, counties or both that the state board determines need additional resources. ~~The state board is required to report to the Legislative Oversight Commission on Education Accountability before December 1, annually, on the effectiveness of the staff development resulting from expenditures in this fund.~~

### **ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.**

#### **§18-3-12. Special Community Development School Pilot Program.**

(a) The state superintendent shall establish a Special Community Development School Pilot Program to be implemented in a neighborhood of at least five public schools, which shall include at least one elementary and middle school, for the duration of five years. The neighborhood of public schools designated by the state superintendent for the pilot shall have significant enrollments of disadvantaged, minority and underachieving students. The designated neighborhood of public schools under the direction of the county board and county superintendent shall work in collaboration with higher education, community organizations, Center for Professional Development, local community leaders, affected classroom teachers, affected parents and the state board to develop and implement strategies that could be replicated in other public schools with significant enrollments of disadvantaged, minority and underachieving students to improve academic achievement. For purposes of this section “neighborhood” means an area of no more than seven square miles.

(b) ~~Beginning in January, 2014, on or before the first day of the regular session of the Legislature, and each year thereafter, the state superintendent, county superintendent for the county in which the~~

~~schools are located and lead community based organizations shall make a status report to the Legislative Oversight Commission on Education Accountability and to the state board. The report may include any recommendations based on the progress of the demonstration project that he or she considers either necessary for improving the operations of the demonstration project or prudent for improving student achievement in other public schools through replication of successful demonstration school programs.~~

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-44. Early childhood education programs.**

(a) For the purposes of this section, “early childhood education” means programs for children who have attained the age of four prior to September 1 of the school year in which the pupil enters the program created in this section.

(b) *Findings.* —

(1) Among other positive outcomes, early childhood education programs have been determined to:

(A) Improve overall readiness when children enter school;

(B) Decrease behavioral problems;

(C) Improve student attendance;

(D) Increase scores on achievement tests;

(E) Decrease the percentage of students repeating a grade; and

(F) Decrease the number of students placed in special education programs;

(2) Quality early childhood education programs improve school performance and low-quality early childhood education programs may have negative effects, especially for at-risk children;

(3) West Virginia has the lowest percentage of its adult population twenty-five years of age or older with a bachelor’s

degree and the education level of parents is a strong indicator of how their children will perform in school;

(4) During the 2006-2007 school year, West Virginia ranked thirty-ninth among the fifty states in the percentage of school children eligible for free and reduced lunches and this percentage is a strong indicator of how the children will perform in school;

(5) For the school year 2008-2009, thirteen thousand one hundred thirty-five students were enrolled in prekindergarten, a number equal to approximately sixty-three percent of the number of students enrolled in kindergarten;

(6) Excluding projected increases due to increases in enrollment in the early childhood education program, projections indicate that total student enrollment in West Virginia will decline by one percent, or by approximately two thousand seven hundred four students, by the school year 2012-2013;

(7) In part, because of the dynamics of the state aid formula, county boards will continue to enroll four-year old students to offset the declining enrollments;

(8) West Virginia has a comprehensive kindergarten program for five-year olds, but the program was established in a manner that resulted in unequal implementation among the counties which helped create deficit financial situations for several county boards;

(9) Expansion of current efforts to implement a comprehensive early childhood education program should avoid the problems encountered in kindergarten implementation;

(10) Because of the dynamics of the state aid formula, counties experiencing growth are at a disadvantage in implementing comprehensive early childhood education programs; and

(11) West Virginia citizens will benefit from the establishment of quality comprehensive early childhood education programs.

(c) Beginning no later than the school year 2012-2013, and continuing thereafter, county boards shall provide early childhood

education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the early childhood education program. Beginning no later than the school year 2016-2017, and continuing thereafter, early childhood education programs that are full day and five days per week shall be available to all children meeting the age requirement set forth in the subsection.

(d) The program shall meet the following criteria:

(1) It shall be voluntary, except, upon enrollment, the provisions of section one, article eight of this chapter apply to an enrolled student, subject to subdivision (3) of this subsection;

(2) All children meeting the age requirement set forth in this section shall have the opportunity to enroll in a program that is full day and five days per week. The program may be for fewer than five days per week and may be less than full day based on family need if a sufficient number of families request such programs and the county board finds that such programs are in the best interest of the requesting families and students: *Provided*, That the ability of families to request programs that are fewer than five days a week or less than a full day does not relieve the county of the obligation to provide all resident children with the opportunity to enroll in a full-day program; and

(3) A parent of a child enrolled in an early education program may withdraw a child from that program for good cause by notifying the district. Good cause includes, but is not limited to, enrollment of the child in another program or the immaturity of the child. A child withdrawn under this section is not subject to the attendance provisions of this chapter until that child again enrolls in a public school in this state.

(e) Enrollment of students in Head Start, in any other program approved by the state superintendent as provided in subsection (k) of this section may be counted toward satisfying the requirement of subsection (c) of this section.

(f) For the purposes of implementation financing, all counties are encouraged to make use of funds from existing sources, including:

(1) Federal funds provided under the Elementary and Secondary Education Act pursuant to 20 U. S. C. §6301, *et seq.*;

(2) Federal funds provided for Head Start pursuant to 42 U. S. C. §9831, *et seq.*;

(3) Federal funds for temporary assistance to needy families pursuant to 42 U. S. C. §601, *et seq.*;

(4) Funds provided by the School Building Authority pursuant to article nine-d of this chapter;

(5) In the case of counties with declining enrollments, funds from the state aid formula above the amount indicated for the number of students actually enrolled in any school year; and

(6) Any other public or private funds.

(g) Each county board shall develop a plan for implementing the program required by this section. The plan shall include the following elements:

(1) An analysis of the demographics of the county related to early childhood education program implementation;

(2) An analysis of facility and personnel needs;

(3) Financial requirements for implementation and potential sources of funding to assist implementation;

(4) Details of how the county board will cooperate and collaborate with other early childhood education programs including, but not limited to, Head Start, to maximize federal and other sources of revenue;

(5) Specific time lines for implementation; and

(6) Any other items the state board may require by policy.

(h) A county board shall submit its plan to the Secretary of the Department of Health and Human Resources. The secretary shall approve the plan if the following conditions are met:

(1) The county board has maximized the use of federal and other available funds for early childhood programs;

(2) The county board has provided for the maximum implementation of Head Start programs and other public and private programs approved by the state superintendent pursuant to the terms of subsection (k) of this section; and

(3) If the Secretary of the Department of Health and Human Resources finds that the county board has not met one or more of the requirements of this subsection, but that the county board has acted in good faith and the failure to comply was not the primary fault of the county board, then the secretary shall approve the plan. Any denial by the secretary may be appealed to the circuit court of the county in which the county board is located.

(i) The county board shall submit its plan for approval to the state board. The state board shall approve the plan if the county board has complied substantially with the requirements of subsection (g) of this section and has obtained the approval required in subsection (h) of this section.

(j) Every county board shall submit its plan for reapproval by the Secretary of the Department of Health and Human Resources and by the state board at least every two years after the initial approval of the plan and until full implementation of the early childhood education program in the county. As part of the submission, the county board shall provide a detailed statement of the progress made in implementing its plan. The standards and procedures provided for the original approval of the plan apply to any reapproval.

(k) A county board may not increase the total number of students enrolled in the county in an early childhood program until its program is approved by the Secretary of the Department of Health and Human Resources and the state board.



(l) The state board annually may grant a county board a waiver for total or partial implementation if the state board finds that all of the following conditions exist:

(1) The county board is unable to comply either because:

(A) It does not have sufficient facilities available; or

(B) It does not and has not had available funds sufficient to implement the program;

(2) The county has not experienced a decline in enrollment at least equal to the total number of students to be enrolled; and

(3) Other agencies of government have not made sufficient funds or facilities available to assist in implementation.

Any county board seeking a waiver shall apply with the supporting data to meet the criteria for which they are eligible on or before March 25 for the following school year. The state superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

(m) The provisions of subsections (b), (c) and (d), section eighteen of this article relating to kindergarten apply to early childhood education programs in the same manner in which they apply to kindergarten programs.

~~(n) Annually, the state board shall report to the Legislative Oversight Commission on Education Accountability on the progress of implementation of this section.~~

~~(n)~~ (n) Except as required by federal law or regulation, no county board may enroll students who will be less than four years of age prior to September 1 for the year they enter school.

~~(p)~~ (o) Neither the state board nor the state department may provide any funds to any county board for the purpose of implementing this section unless the county board has a plan approved pursuant to subsections (h), (i) and (j) of this section.

~~(e)~~ (p) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this section. The state board shall consult with the Secretary of the Department of Health and Human Resources in the preparation of the rule. The rule shall contain the following:

(1) Standards for curriculum;

(2) Standards for preparing students;

(3) Attendance requirements;

(4) Standards for personnel; and

(5) Any other terms necessary to implement the provisions of this section.

~~(f)~~ (q) The rule shall include the following elements relating to curriculum standards:

(1) A requirement that the curriculum be designed to address the developmental needs of four-year old children, consistent with prevailing research on how children learn;

(2) A requirement that the curriculum be designed to achieve long-range goals for the social, emotional, physical and academic development of young children;

(3) A method for including a broad range of content that is relevant, engaging and meaningful to young children;

(4) A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional strategies to respond to differences in prior experience, maturation rates and learning styles that young children bring to the classroom;

(5) A requirement that the curriculum be designed to build on what children already know in order to consolidate their learning and foster their acquisition of new concepts and skills;

(6) A requirement that the curriculum meet the recognized standards of the relevant subject matter disciplines;

(7) A requirement that the curriculum engage children actively in the learning process and provide them with opportunities to make meaningful choices;

(8) A requirement that the curriculum emphasize the development of thinking, reasoning, decisionmaking and problem-solving skills;

(9) A set of clear guidelines for communicating with parents and involving them in decisions about the instructional needs of their children; and

(10) A systematic plan for evaluating program success in meeting the needs of young children and for helping them to be ready to succeed in school.

~~(s) The secretary and the state superintendent shall submit a report to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance which addresses, at a minimum, the following issues:~~

~~(1) A summary of the approved county plans for providing the early childhood education programs pursuant to this section;~~

~~(2) An analysis of the total cost to the state and county boards of implementing the plans;~~

~~(3) A separate analysis of the impact of the plans on counties with increasing enrollment; and~~

~~(4) An analysis of the effect of the programs on the maximization of the use of federal funds for early childhood programs.~~

~~The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible manner, make any necessary program improvements based on reported information prior to implementation of the early childhood education programs.~~

(†) (r) After the school year 2012-2013, on or before July 1 of each year, each county board shall report the following information to the Secretary of the Department of Health and Human Resources and the state superintendent:

(1) Documentation indicating the extent to which county boards are maximizing resources by using the existing capacity of community-based programs, including, but not limited to, Head Start and child care; and

(2) For those county boards that are including eligible children attending approved, contracted community-based programs in their net enrollment for the purposes of calculating state aid pursuant to article nine-a of this chapter, documentation that the county board is equitably distributing funding for all children regardless of setting.

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-5. Powers and duties of state superintendent.**

(a) The State Superintendent of Schools shall organize, promote, administer and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing and maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher services.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, formula for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of

Education: *Provided*, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

~~(B) The state superintendent shall annually review the rules, policies and standards of the state and federal law for serving the needs of exceptional children enrolled in the public schools and shall report to the Legislative Oversight commission on education accountability by December 1, or as soon thereafter as requested by the commission, 2008, and in each year thereafter, the findings of the review along with an accounting of the services provided and the costs thereof for exceptional children enrolled in the public schools of this state during the latest available school year. An appropriation shall be made to the Department of Education to be distributed to county boards to support children with high acuity needs that exceed the capacity of county to provide with funds available. Each county board shall apply to the state superintendent for receipt of this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be distributed to county boards for this purpose before any of the state appropriation is distributed. The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions of this subdivision relating to distributing the funds to the county boards. The rule at least shall include a definition for “children with high acuity needs”.~~

(4) Receiving from county boards of education their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools and correctional facilities as provided in section thirteen-f,

article two of this chapter receive an education in accordance with state and federal laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the State Board of Education, to the Legislative Oversight Commission on Education Accountability no later than December 1, 1995.

(b) Nothing contained in this section shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services out of funds available from local revenue.

**§18-20-8. Interagency plan for exceptional children; advisory council.**

(a) The state departments of health, human services and education shall enter into a collaborative agreement for the purpose of developing a statewide plan of coordinating comprehensive, multidisciplinary interagency programs providing appropriate early intervention services to all developmentally delayed and at-risk children, ages birth through five years, and their families to be phased in by the school year ~~1990-91~~ 1990-99.

This comprehensive, coordinated statewide plan shall include, at a minimum:

- (1) Specification of the population to be served;
- (2) The development of regulations and procedural safeguards;
- (3) The development of procedures for administration, supervision and monitoring;

(4) The identification and coordination of all available resources; and

(5) The development of formal interagency agreements that define the financial responsibility of each agency and all additional components necessary to ensure meaningful cooperation and coordination.

(b) To assist in the development of such a plan, an advisory council consisting of twelve members shall be created. The departments of health, human services and education shall each appoint four members, and each shall include in such appointments one parent of an exceptional child under the age of six; one public or private provider of early intervention services for developmentally delayed and at-risk children; one individual involved in the education training of personnel who work with preschool handicapped; and one other person.

The functions of the council shall include the following:

(1) Meet at least quarterly;

(2) Solicit information and opinions from concerned agencies, groups and individuals; and

(3) Advise and assist the departments of health, human services and education in the development of the statewide plan herein required. ~~and~~

~~(4) Prepare and submit an annual report by December 1, of each year to the Governor, the joint committee on education, the Legislative commission on juvenile law, the Legislative Oversight commission on education accountability, and other agencies, as appropriate, which report shall recommend policies, procedures and legislation for effectively providing early intervention services and reports on the status of existing programs.~~

Following the submission of the advisory council's first annual report, the joint committee on education is authorized and empowered to disband the council or alter its functions as it deems advisable.

The members of the council may be reimbursed for actual and necessary expenses incurred in the performance of their official duties in accordance with state law from appropriations to the departments of health, human services and education or available federal funds.

## **CHAPTER 18A. SCHOOL PERSONNEL.**

### **ARTICLE 2. SCHOOL PERSONNEL.**

#### **§18A-2-3. Employment of substitute teachers; employment of retired teachers as substitutes in areas of critical need and shortage; and employment of prospective employable professional personnel.**

(a) The county superintendent, subject to approval of the county board, may employ and assign substitute teachers to any of the following duties:

(1) Fill the temporary absence of any teacher or an unexpired school term made vacant by resignation, death, suspension or dismissal;

(2) Fill a teaching position of a regular teacher on leave of absence; and

(3) Perform the instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing the absence is approved by the board of education in accordance with the law.

The substitute shall be a duly certified teacher.

(b) Notwithstanding any other provision of this code to the contrary, a substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one half of a grading period and whose assignment remains in effect two weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation



of lesson plans and monitoring student progress or has been approved to return to work by his or her physician. For the purposes of this section, teacher and substitute teacher, in the singular or plural, mean professional educator as defined in section one, article one of this chapter.

(c) (1) The Legislature hereby finds and declares that due to a shortage of qualified substitute teachers, a compelling state interest exists in expanding the use of retired teachers to provide service as substitute teachers in areas of critical need and shortage. The Legislature further finds that diverse circumstances exist among the counties for the expanded use of retired teachers as substitutes. For the purposes of this subsection, “area of critical need and shortage for substitute teachers” means an area of certification and training in which the number of available substitute teachers in the county who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers.

(2) A person receiving retirement benefits under article seven-a, chapter eighteen of this code or who is entitled to retirement benefits during the fiscal year in which that person retired may accept employment as a critical needs substitute teacher for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled if the following conditions are satisfied:

(A) The county board adopts a policy recommended by the superintendent to address areas of critical need and shortage for substitute teachers;

(B) The policy sets forth the areas of critical need and shortage for substitute teachers in the county in accordance with the definition of area of critical need and shortage for substitute teachers set forth in subdivision (1) of this subsection;

(C) The policy provides for the employment of retired teachers as critical needs substitute teachers during the school year on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection;

(D) The policy provides that a retired teacher may be employed as a substitute teacher in an area of critical need and shortage for substitute teachers on an expanded basis as provided in this subsection only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment;

(E) The policy is effective for one school year only and is subject to annual renewal by the county board;

(F) The state board approves the policy and the use of retired teachers as substitute teachers on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection; and

(G) Prior to employment of a retired teacher as a critical needs substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the superintendent of the affected county submits to the state board in a form approved by the Consolidated Public Retirement Board and the state board, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the critical need and shortage area position filled by each person, the date that the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement. Upon verification of compliance with this section and the eligibility of the critical needs substitute teacher for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

(3) Any person who retires and begins work as a critical needs substitute teacher within the same employment term shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree substitute in that employment term and ending with the month following the date the retiree ceases to perform service as a substitute.

(4) Retired teachers employed to perform expanded substitute service pursuant to this subsection are considered day-to-day, temporary, part-time employees. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and may not accrue seniority.

(5) A retired teacher is eligible to be employed as a critical needs substitute to fill a vacant position only if the retired teacher's retirement became effective at least twenty days before the beginning of the employment term during which he or she is employed as a substitute.

(6) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position.

(7) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the state board.

(8) Until this subsection is expired pursuant to subdivision (9) of this subsection, the state board, annually, shall report to the Joint Committee on Government and Finance prior to February 1 of each year. Additionally, a copy shall be provided to the Legislative Oversight Commission on Education Accountability. The report shall contain information indicating the effectiveness of the provisions of this subsection on reducing the critical need and shortage of substitute teachers including, but not limited to, the number of retired teachers, by critical need and shortage area position filled and by county, employed beyond the post-retirement employment limit established by the Consolidated Public Retirement Board, the date that each person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement.

(9) The provisions of this subsection shall expire on June 30, 2017.

(d) (1) Notwithstanding any other provision of this code to the contrary, each year a county superintendent may employ prospective employable professional personnel on a reserve list at the county level subject to the following conditions:

(A) The county board adopts a policy to address areas of critical need and shortage as identified by the state board. The policy shall include authorization to employ prospective employable professional personnel;

(B) The county board posts a notice of the areas of critical need and shortage in the county in a conspicuous place in each school for at least ten working days; and

(C) There are not any potentially qualified applicants available and willing to fill the position.

(2) Prospective employable professional personnel may only be employed from candidates at a job fair who have or will graduate from college in the current school year or whose employment contract with a county board has or will be terminated due to a reduction in force in the current fiscal year.

(3) Prospective employable professional personnel employed are limited to three full-time prospective employable professional personnel per one hundred professional personnel employed in a county or twenty-five full-time prospective employable professional personnel in a county, whichever is less.

(4) Prospective employable professional personnel shall be granted benefits at a cost to the county board and as a condition of the employment contract as approved by the county board.

(5) Regular employment status for prospective employable professional personnel may be obtained only in accordance with the provisions of section seven-a, article four of this chapter.

~~(e) The state board annually shall review the status of employing personnel under the provisions of subsection (d) of this section and annually shall report to the Legislative Oversight Commission on Education Accountability on or before November~~

~~1 of each year. The report shall include, but not be limited to, the following:~~

- ~~(A) The counties that participated in the program;~~
- ~~(B) The number of personnel hired;~~
- ~~(C) The teaching fields in which personnel were hired;~~
- ~~(D) The venue from which personnel were employed;~~
- ~~(E) The place of residency of the individual hired; and~~
- ~~(F) The state board's recommendations on the prospective employable professional personnel program.~~

#### **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

##### **§18A-4-7a. Employment, promotion and transfer of professional personnel; seniority.**

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: *Provided*, That the county superintendent shall be hired under separate criteria pursuant to section two, article four, chapter eighteen of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

- (1) Appropriate certification, licensure or both;
- (2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;
- (3) The amount of course work, degree level or both in the relevant field and degree level generally;
- (4) Academic achievement;

(5) In the case of a classroom teaching position or the position of principal, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to the performance of the duties of the job;

(7) Past performance evaluations conducted pursuant to section twelve, article two of this chapter and section two, article three-c of this chapter or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of section five, article five-a, chapter eighteen of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) In considering the filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant's qualifications: *Provided*, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.

(d) For a classroom teaching position, if the recommendations resulting from the operations of subdivisions (10) and (11), subsection (b) of this section are for the same applicant, and the

superintendent concurs with that recommendation, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to implement and interpret the provisions of this section, including provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in making recommendations pursuant to this section for periods beyond his or her individual contract.

(f) Recommendations made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be made based on a determination as to which of the applicants is the highest qualified for the position: *Provided*, That nothing in this subsection shall require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) Upon completion of one hundred thirty-three days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

(i) Guidance counselors and all other professional employees, as defined in section one, article one of this chapter, except

classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: *Provided*, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that that employee is employed in another professional area. For the purposes of accruing seniority under this paragraph, employment as principal, supervisor or central office administrator, as defined in section one, article one of this chapter, shall be considered one area of employment.

(j) Employment for a full employment term shall equal one year of seniority, but no employee may accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated. A random selection system established by the employees and approved by the board shall be used to determine the priority if two or more employees accumulate identical seniority: *Provided*, That when two or more principals have accumulated identical seniority, decisions on reductions in force shall be based on qualifications.

(k) Whenever a county board is required to reduce the number of professional personnel in its employment, the employee with the least amount of seniority shall be properly notified and released from employment pursuant to the provisions of section two, article two of this chapter. The provisions of this subsection are subject to the following:

(1) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release;

(2) Notwithstanding any provision of this code to the contrary, all employees subject to release shall be considered applicants for any vacancy in an established, existing or newly created position that, on or before February 15, is known to exist for the ensuing school year, and for which they are qualified, and, upon recommendation of the superintendent, the board shall appoint the



successful applicant from among them before posting such vacancies for application by other persons;

(3) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employee's seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

(4) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employee's seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and

(5) If, prior to August 1 of the year a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(1) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in section one, article one of this chapter shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. ~~The board shall submit a copy of its policy to the state~~

~~board within thirty days of adoption or any modification, and the state board shall compile a report and submit the report to the Legislative Oversight Commission on Education Accountability by December 31, 1993, and by that date in any succeeding year in which any county board submits a modification of its policy relating to lateral positions. In adopting the policy, the board shall give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; certification, licensure or both; and days in the period of employment.~~

(m) After the twentieth day prior to the beginning of the instructional term, no person employed and assigned to a professional position may transfer to another professional position in the county during that instructional term unless the person holding that position does not have valid certification. The provisions of this subsection are subject to the following:

(1) The person may apply for any posted, vacant positions with the successful applicant assuming the position at the beginning of the next instructional term;

(2) Professional personnel who have been on an approved leave of absence may fill these vacancies upon their return from the approved leave of absence;

(3) The county board, upon recommendation of the superintendent may fill a position before the next instructional term when it is determined to be in the best interest of the students. The county superintendent shall notify the state board of each transfer of a person employed in a professional position to another professional position after the twentieth day prior to the beginning of the instructional term;

(4) The provisions of this subsection do not apply to the filling of a position vacated because of resignation or retirement that became effective on or before the twentieth day prior to the beginning of the instructional term, but not posted until after that date; and

(5) The Legislature finds that it is not in the best interest of the students, particularly in the elementary grades, to have multiple teachers for any one grade level or course during the instructional term. It is the intent of the Legislature that the filling of positions through transfers of personnel from one professional position to another after the twentieth day prior to the beginning of the instructional term should be kept to a minimum.

(n) All professional personnel whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of seniority if no regular, full-time professional personnel, or those returning from leaves of absence with greater seniority, are qualified, apply for and accept the position.

(o) Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee, and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both.

(p) Openings in established, existing or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may post an opening for a classroom teacher one additional time after the first posting in order to attract more qualified

applicants only if fewer than three individuals apply during the first posting subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days;

(B) At least one notice shall be posted within twenty working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;

(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy shall be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board within thirty working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein shall prevent the county board of education from eliminating a position due to lack of need.

(q) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions

in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted: *Provided*, That the employee and the county board mutually agree to the reassignment.

(r) Reductions in classroom teaching positions in elementary schools shall be processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of seniority with the least senior classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least senior employee in the school is not in that grade level, the least senior classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least senior classroom teacher in the school without that position being posted: *Provided*, That the employee is certified, licensed or both and agrees to the reassignment.

(s) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

(t) The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.

(u) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

(v) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2013, and the provisions of this section immediately prior to those amendments remain in effect until July 1, 2013.

#### **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

##### **§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.**

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen, article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one, article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the

student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a student from school, or from transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances Act as described in chapter sixty-a of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the

county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(d) The actions of any student which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the student is enrolled. If the principal determines that the alleged actions of the student would be grounds for suspension, he or she shall conduct an informal hearing for the student immediately after the alleged actions have occurred. The hearing shall be held before the student is suspended unless the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the student shall be suspended immediately and a hearing held as soon as practicable after the suspension.

The student and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the student as to whether he or she admits or denies the charges. If the student does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the student for a maximum of ten school days, including the time prior to the hearing, if any, for which the student has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or



custodian(s) of the student by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

(e) Prior to a hearing before the county board, the county board shall cause a written notice which states the charges and the recommended disposition to be served upon the student and his or her parent(s), guardian(s) or custodian(s), as the case may be. The notice shall state clearly whether the board will attempt at hearing to establish the student as a dangerous student, as defined by section one, article one of this chapter. The notice also shall include any evidence upon which the board will rely in asserting its claim that the student is a dangerous student. The notice shall set forth a date and time at which the hearing shall be held, which date shall be within the ten-day period of suspension imposed by the principal.

(f) The county board shall hold the scheduled hearing to determine if the student should be reinstated or should ~~or~~, under the provisions of this section, must be expelled from school. If the county board determines that the student should or must be expelled from school, it also may determine whether the student is a dangerous student pursuant to subsection (g) of this section. At this, or any hearing before a county board conducted pursuant to this section, the student may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross examine witnesses supporting the charge against him or her. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter. The hearing may be postponed for good cause shown by the student but he or she shall remain under suspension until after the hearing. The state board may adopt other supplementary rules of procedure to be followed in these hearings. At the conclusion of the hearing the county board shall either: (1) Order the student reinstated immediately at the end of his or her initial suspension; (2) suspend the student for a further designated number of days; or (3) expel the student from the public schools of the county.

(g) A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the student, but he or she remains under suspension until after the hearing.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

(h) The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his or her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a county board conducted pursuant to the provisions of this section. Upon the written request of any other party, the superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on

behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination before a county board. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code.

Any hearing conducted pursuant to this subsection may be postponed: (1) For good cause shown by the student; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness. A student remains under suspension until after the hearing in any case where a postponement occurs.

~~The county boards are directed to report the number of students determined to be dangerous students to the state board. The state board will compile the county boards' statistics and shall report its findings to the Legislative Oversight Commission on Education Accountability.~~

(i) Students may be expelled pursuant to this section for a period not to exceed one school year, except that if a student is determined to have violated the provisions of subsection (a) of this section the student shall be expelled for a period of not less than twelve consecutive months, subject to the following:

(1) The county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the student if the circumstances of the student's case demonstrably warrant;

(2) Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which

the student was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

(A) The extent of the student's malicious intent;

(B) The outcome of the student's misconduct;

(C) The student's past behavior history;

(D) The likelihood of the student's repeated misconduct; and

(E) If applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court pursuant to section one-d of this section.

(j) In all hearings under this section, facts shall be found by a preponderance of the evidence.

(k) For purposes of this section, nothing herein may be construed to be in conflict with the federal provisions of the Individuals with Disabilities Education Act, 20 U. S. C. §1400, *et seq.*

(l) Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six, article two, chapter eighteen of this code.

(1) The principal of the school at which the student is enrolled shall create an electronic record within twenty-four hours of the imposition of the suspension or expulsion.

(2) Each record of a suspension or expulsion shall include the student's name and identification number, the reason for the suspension or expulsion and the beginning and ending dates of the suspension or expulsion.

(3) The state board shall collect and disseminate data so that any principal of a public school in West Virginia can review the

complete history of disciplinary actions taken by West Virginia public schools against any student enrolled or seeking to enroll at that principal's school. The purposes of this provision are to allow every principal to fulfill his or her duty under subsection (b), section fifteen-f, article five, chapter eighteen of this code to determine whether a student requesting to enroll at a public school in West Virginia is currently serving a suspension or expulsion from another public school in West Virginia and to allow principals to obtain general information about students' disciplinary histories.

(m) Principals may exercise any other authority and perform any other duties to discipline students consistent with state and federal law, including policies of the state board.

(n) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions.

(o) For the purpose of this section, "principal" means the principal, assistant principal, vice principal or the administrative head of the school or a professional personnel designee of the principal or the administrative head of the school.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 1. GOVERNANCE.**

#### **§18B-1-10. Potomac branch of West Virginia University.**

(a) Notwithstanding any other provision of this code to the contrary, by July 1, 2005, Potomac State College shall merge and consolidate with West Virginia University, and become a fully integrated division of the university. All administrative and academic units shall be consolidated with primary responsibility for direction and support assigned to West Virginia University. The advisory board previously appointed for Potomac State College shall be known as the board of visitors and shall provide guidance to the division in carrying out its mission.

(b) Operational costs for the Potomac campus may not exceed by more than ten percent the average cost per full-time equivalent student for freestanding community and technical colleges or the southern regional education board average expenditures for two-year institutions. West Virginia University shall reduce these costs to the mandated level within four years.

(c) Auxiliary enterprises shall be incorporated into the West Virginia University auxiliary enterprise system. The West Virginia University Board of Governors shall determine if operations at the Potomac campus can be operated on a self-sufficient basis when establishing rates for auxiliary services and products.

(d) Potomac State College has a strong reputation in agriculture and forestry instruction, preprofessional programs in business, computer science and education, and basic liberal arts instruction. These programs shall be further cultivated and emphasized as the sustaining mission of the Potomac campus over the next decade, except that the Higher Education Policy Commission may change the mission of the Potomac campus at any time the commission determines appropriate. In order to focus its resources on these programs, the campus shall contract through Eastern West Virginia Community and Technical College to provide work force development training, literacy education and technical education programs which are most efficiently offered within a flexible community and technical college curriculum. This collaborative relationship shall serve to strengthen both institutions and generate a model relationship between traditional and community and technical college education for institutions throughout the state.

~~(e) Beginning November 1, 2003, and annually thereafter, Potomac state college and eastern West Virginia community and technical college shall report to the Higher Education Policy Commission on plans, accomplishments and recommendations in implementing the cooperative relationship authorized in subsection (d) of this section. The commission shall report to the Legislative Oversight commission on education accountability on the cooperative activities, results and recommendations for changes by December 15, 2003, and annually thereafter.~~

**ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.**

**§18B-1B-4. Powers and duties of Higher Education Policy Commission.**

(a) The primary responsibility of the commission is to develop, establish and implement policy that will achieve the goals, objectives and priorities found in section one-a, article one and article one-d of this chapter. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards. To that end, the commission has the following powers and duties relating to the governing boards under its jurisdiction:

(1) Develop, oversee and advance the public policy agenda pursuant to article one-d of this chapter to address major challenges facing the state, including, but not limited to, the following:

(A) The goals, objectives and priorities established in this chapter including specifically those goals, objectives and priorities pertaining to the compacts created pursuant to section seven, article one-d of this chapter; and

(B) Development and implementation of the master plan described in section five, article one-d of this chapter for the purpose of accomplishing the mandates of this section;

(2) Develop, oversee and advance the promulgation and implementation of a financing rule for state institutions of higher education under its jurisdiction. The rule shall meet the following criteria:

(A) Provide for an adequate level of educational and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and eliminating deferred maintenance; and

(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but not limited to, those found in section one-a, article one and article one-d of this chapter;

(3) In collaboration with the council, create a policy leadership structure capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature and the Governor and specifically from the state Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding the governing boards and the higher education systems as a whole accountable for accomplishing their missions and implementing their compacts;

(4) Develop and adopt each compact for the governing boards under its jurisdiction;

(5) Review and adopt the annual updates of the institutional compacts;

(6) Serve as the accountability point to state policymakers:

(A) The Governor for implementation of the public policy agenda; and



(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(7) Jointly with the council, promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;

(8) Establish and implement a peer group for each institution as described in section three, article one-a of this chapter;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional progress in achieving state policy priorities and institutional missions pursuant to section seven, article one-d of this chapter;

~~(10) Report to the Legislature and to the Legislative Oversight Commission on Education Accountability annually during the January interim meeting period on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates. The report shall address at least the following:~~

~~(A) The performance of its system of higher education during the previous fiscal year, including, but not limited to, progress in meeting the goals, objectives and priorities set forth in section one-a, article one and article one d of this chapter and in the commission's master plan and institutional compacts;~~

~~(B) The commission's priorities for new operating and capital investments and the justification for the priority;~~

~~(C) Recommendations of the commission for statutory changes necessary or expedient to achieve state goals, objectives and priorities;~~

~~(11)~~(10) Establish a formal process for identifying capital investment needs and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process pursuant to article nineteen of this chapter;

~~(12)~~(11) Develop standards and evaluate governing board requests for capital project financing in accordance with article nineteen of this chapter;

~~(13)~~(12) Ensure that governing boards manage capital projects and facilities needs effectively, including review and approval or disapproval of capital projects, in accordance with article nineteen of this chapter;

~~(14)~~(13) Acquire legal services as considered necessary, including representation of the commission, its governing boards, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

~~(15)~~(14) Employ a Chancellor for Higher Education pursuant to section five of this article;

~~(16)~~(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with article four of this chapter;

~~(17)~~(16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors and other staff;

~~(18)~~(17) Advise and consent in the appointment of the presidents of the institutions of higher education under its jurisdiction pursuant to section six of this article. The role of the commission in approving an institutional president is to assure through personal interview that the person selected understands and is committed to achieving the goals, objectives and priorities set forth in the compact, in section one-a, article one and article one-d of this chapter;

~~(19)~~(18) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, as proposed by the governing boards. The governing boards must obtain approval from the commission of the total compensation

package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package;

~~(20)~~(19) Establish and implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

~~(21)~~(20) Approve and implement a uniform standard jointly with the council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the State Superintendent of Schools;

~~(22)~~(21) Jointly with the council, develop and implement an oversight plan to manage systemwide technology including, but not limited to, the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission and governing boards are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

~~(23)~~(22) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a bachelor's degree the maximum number of

credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

~~(24)~~(23) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

~~(25)~~(24) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

~~(26)~~(25) Establish and implement policies and programs, in cooperation with the council and the governing boards, through which a student who has gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that he or she has the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate's degree or a bachelor's degree at a state institution of higher education;

~~(27)~~(26) Seek out and attend regional, national and international meetings and forums on education and workforce development-related topics as, in the commission's discretion, are critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals, objectives and priorities pursuant to section one-a, article one and article one-d of this chapter;

~~(28)~~(27) Promulgate and implement a rule for higher education governing boards and institutions to follow when considering capital projects pursuant to article nineteen of this chapter;

~~(29)~~(28) Consider and submit to the appropriate agencies of the executive and legislative branches of state government an appropriation request that reflects recommended appropriations for the commission and the governing boards under its jurisdiction. The commission shall submit as part of its appropriation request the separate recommended appropriation request it received from the council, both for the council and for the governing boards under the council's jurisdiction. The commission annually shall submit the proposed allocations based on each institution's progress toward meeting the goals of its compact;

~~(30)~~(29) The commission may assess institutions under its jurisdiction, including Marshall University and West Virginia University, for the payment of expenses of the commission or for the funding of statewide higher education services, obligations or initiatives related to the goals set forth for the provision of public higher education in the state;

~~(31)~~(30) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to governing boards for qualifying noncapital expenditures incurred in providing services to students with physical, learning or severe sensory disabilities;

~~(32)~~(31) Make appointments to boards and commissions where this code requires appointments from the State College System Board of Directors or the University of West Virginia System Board of Trustees which were abolished effective June 30, 2000, except in those cases where the required appointment has a specific and direct connection to the provision of community and technical college education, the appointment shall be made by the council. Notwithstanding any provisions of this code to the contrary, the commission or the council may appoint one of its own members or any other citizen of the state as its designee. The commission and council shall appoint the total number of persons in the aggregate required to be appointed by these previous governing boards;

~~(33)~~(32) Pursuant to article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules necessary or expedient to fulfill the purposes of this chapter. The commission and the council shall promulgate a uniform joint legislative rule for the purposes of standardizing, as much as possible, the administration of personnel matters among the state institutions of higher education and implementing the provisions of articles seven, eight, nine and nine-a of this chapter;

~~(34)~~(33) Determine when a joint rule among the governing boards under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards under its jurisdiction, promulgate the joint rule;

~~(35)~~(34) Promulgate and implement a rule jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

~~(36)~~(35) By October 1, 2011, promulgate a rule pursuant to section one, article ten of this chapter, establishing tuition and fee policy for all governing boards under the jurisdiction of the commission, including Marshall University and West Virginia University. The rule shall include, but is not limited to, the following:

- (A) Comparisons with peer institutions;
- (B) Differences among institutional missions;
- (C) Strategies for promoting student access;
- (D) Consideration of charges to out-of-state students; and

(E) Such other policies as the commission and council consider appropriate;

~~(37)~~(36) Implement general disease awareness initiatives to educate parents and students, particularly dormitory residents, about meningococcal meningitis; the potentially life-threatening

dangers of contracting the infection; behaviors and activities that can increase risks; measures that can be taken to prevent contact or infection; and potential benefits of vaccination. The commission shall encourage governing boards that provide medical care to students to provide access to the vaccine for those who wish to receive it; and

~~(38)~~(37) Notwithstanding any other provision of this code to the contrary sell, lease, convey or otherwise dispose of all or part of any real property that it owns, in accordance with article nineteen of this chapter.

(b) In addition to the powers and duties listed in subsection (a) of this section, the commission has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda:

(1) Planning and policy leadership, including a distinct and visible role in setting the state's policy agenda and in serving as an agent of change;

(2) Policy analysis and research focused on issues affecting the system as a whole or a geographical region thereof;

(3) Development and implementation of institutional mission definitions, including use of incentive funds to influence institutional behavior in ways that are consistent with public priorities;

(4) Academic program review and approval for governing boards under its jurisdiction. The review and approval includes use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes.

(A) The commission's authority to review and approve academic programs for either Marshall University or West Virginia University is limited to programs that are proposed to be offered at a new location not presently served by that institution;

(B) The commission shall approve or disapprove proposed academic degree programs in those instances where approval is required as soon as practicable, but in any case not later than six months from the date the governing board makes an official request. The commission may not withhold approval unreasonably.

(5) Distribution of funds appropriated to the commission, including incentive and performance-based funds;

(6) Administration of state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of rules necessary to administer those programs;

(7) Serving as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(8) Developing, establishing and implementing information, assessment, accountability and personnel systems, including maintaining statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(9) Jointly with the council, promulgating and implementing rules for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state. The council has authority and responsibility for approval of all post-secondary courses or programs providing community and technical college education as defined in section two, article one of this chapter;

(10) Developing, implementing and overseeing statewide and regional projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funds from any source;

(11) Quality assurance that intersects with all other duties of the commission particularly in the areas of research, data collection and analysis, personnel administration, planning, policy analysis,



program review and approval, budgeting and information and accountability systems; and

(12) Developing budgets and allocating resources for governing boards under its jurisdiction:

(A) For all governing boards under its jurisdiction, except the governing boards of Marshall University and West Virginia University, the commission shall review institutional operating budgets, review and approve capital budgets, and distribute incentive and performance-based funds;

(B) For the governing boards of Marshall University and West Virginia University, the commission shall distribute incentive and performance-based funds and may review and comment upon the institutional operating budgets and capital budgets. The commission's comments, if any, shall be made part of the governing board's minute record.

(c) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties assigned to it by law, the commission has other powers and duties necessary or expedient to accomplish the purposes of this article.

(d) The commission may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years, if the commission determines that any of the following conditions exist:

(1) The governing board has failed for two consecutive years to develop or implement an institutional compact as required in article one-d of this chapter;

(2) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the governing board according to state law; or

(3) Other circumstances which, in the view of the commission, severely limit the capacity of the governing board to exercise its powers or carry out its duties and responsibilities.

The commission may not withdraw specific powers for a period exceeding two years. During the withdrawal period, the commission shall take all steps necessary to reestablish sound, stable and responsible institutional governance.

## **ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.**

### **§18B-1D-8. Institutional and system report cards.**

(a) The purpose of the institutional and statewide report cards is to make information available to parents, students, faculty, staff, state policymakers and the general public on the quality and performance of public higher education. The focus of the report cards is to determine annual progress of the commission, the council and institutions under their respective jurisdictions toward achieving state goals and objectives identified in this article and section one-a, article one of this chapter and system goals and ~~objective~~ objectives contained in the statewide master plans of the commission and council created pursuant to section five of this article.

(b) The information contained in the report cards shall be consistent and comparable between and among state institutions of higher education. If applicable, the information shall allow for easy comparison with higher education-related data collected and disseminated by the Southern Regional Education Board, the United States Department of Education and other education data-gathering and data-disseminating organizations upon which state policymakers frequently rely in setting policy.

(c) The rules required by subsection (c), section one of this article shall provide for the collection, analysis and dissemination of information on the performance of the state institutions of higher education, including health sciences education, in relation to the findings, goals and objectives set forth in this article and section one-a, article one of this chapter and those contained in the statewide master plans of the commission and council developed pursuant to section five of this article.

(1) The objective of this portion of the rule is to ensure that the Legislative Oversight Commission on Education Accountability and others identified in subsection (a) of this section are provided with full and accurate information while minimizing the institutional burden of recordkeeping and reporting.

(2) This portion of the rule shall identify various indicators of student and institutional performance that, at a minimum, must be reported annually, set forth general guidelines for the collection and reporting of data and provide for the preparation, printing and distribution of report cards under this section.

(d) The report cards shall be analysis-driven, rather than simply data-driven, and shall present information in a format that can inform education policymaking. They shall include an executive summary which outlines significant trends, identifies major areas of concern and discusses progress toward meeting state and system goals and objectives. They shall be brief and concise, reporting required information in nontechnical language. Any technical or supporting material to be included shall be contained in a separate appendix.

(e) The statewide report card shall include the data for each separately listed, applicable indicator identified in the rule promulgated pursuant to subsection (c) of this section and the aggregate of the data for all public institutions of higher education.

(f) The statewide report card shall be prepared using actual institutional, state, regional and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards and the state systems of higher education. Statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case the year shall be clearly noted.

(g) The president or chief executive officer of each state institution of higher education shall prepare and submit annually all requested data to the commission at the times established by the commission.

(h) The higher education central office staff, under the direction of the Vice Chancellor for Administration, shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide report card from information submitted by each governing board.

(i) The statewide report card shall be completed and disseminated with copies to the Legislative Oversight Commission on Education Accountability prior to January 1 of each year and the staff of the commission and the council shall prepare a report highlighting specifically the trends, progress toward meeting goals and objectives and major areas of concern for public higher education, including medical education, for presentation to the Legislative Oversight Commission on Education Accountability at the interim meetings in January, 2009, and annually thereafter.

~~(j) Notwithstanding any other provisions of this code to the contrary, the following statutorily mandated reports are not required to be prepared and submitted annually unless a member of the Legislature makes a specific request for a particular report:~~

~~(1) An annual report, pursuant to subsection (a), section forty-eight, article three, chapter five-a of this code, on vehicle fleets;~~

~~(2) An annual report, pursuant to subsection (c), section ten, article one of this chapter, on plans, accomplishments and recommendations in implementing a cooperative relationship between Potomac State College and Eastern West Virginia Community and Technical College;~~

~~(3) An annual report, pursuant to paragraphs (A) and (B), subdivision (10), subsection (a), section four, article one-b of this chapter, concerning higher education performance and enrollment data;~~

~~(4) An annual report, pursuant to paragraph (A), subdivision (11), subsection (b), section six, article two-b of this chapter, concerning community and technical college performance;~~

~~(5) An annual report, pursuant to subsection (b), section seven, article five of this chapter, on all sales of obsolete, unusable or surplus commodities;~~

~~(6) An annual report, pursuant to section eight, article five of this chapter, on purchases from West Virginia businesses;~~

~~(7) An annual report, pursuant to subsection (j), section one, article ten of this chapter, on the amount of auxiliary fees collected to replace state funds subsidizing auxiliary services;~~

~~(8) An annual report, pursuant to subsection (e), section five, article thirteen of this chapter, on technical assistance provided to qualified businesses within approved research parks, research zones or technology centers;~~

~~(9) An annual report, pursuant to subsection (e), section six, article eighteen of this chapter, on the status of the Eminent Scholars Endowment Trust Fund; and~~

~~(10) An annual report, pursuant to subsection (e), section one, article three, chapter eighteen e of this code, relevant to the health education loan program.~~

~~(k)~~ (j) For a reasonable fee, the Vice Chancellor for Administration shall make copies of the report cards, including any appendices of supporting material, available to any individual requesting them.

**§18B-1D-8a. Modification to reporting requirements to the Legislative Oversight Commission on Education Accountability.**

(a) Notwithstanding any other provisions of this code to the contrary, the following statutorily mandated reports are not required to be prepared and submitted annually to the Legislature but this information and data previously contained therein shall be combined with other reports in a manner that reduces the cost and increases the efficacy of those reports. This includes:

(1) All personnel, classification, compensation and human resources reports set out in section four, article one-b of this chapter, section six, article two-b of this chapter and article nine-a of this chapter;

(2) All capital appropriation requests, priorities and campus and state capital development plans set out in section four, article one-b of this chapter, section six, article two-b of this chapter and article nineteen of this chapter;

(3) All academic related matters and reports including those detailing institutional reauthorization at section seven, article four of this chapter; training of institutional Boards of Governors set out in section nine, article one-d of this chapter and section one, article ten of this chapter dealing with institutional compliance with tuition and fee increases;

(4) All financial aid reports including PROMISE, HEAPS, the Higher Education Grant Program, the Nursing Scholarship Program, the Underwood-Smith Teacher Scholarship Program and others set out in chapter eighteen-c of this code.

(b) In order to create more efficiency, reporting deadlines of statutorily or rule mandated reports may be altered, as needed by the Commission without a statutory or rule-making change: *Provided*, That the reports are always provided within any given calendar year.

## **ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION.**

### **§18B-2B-6. Powers and duties of the council.**

(a) The council is the sole agency responsible for administration of vocational-technical-occupational education and community and technical college education in the state. The council has jurisdiction and authority over the community and technical colleges and the statewide network of independently

accredited community and technical colleges as a whole, including community and technical college education programs as defined in section two, article one of this chapter.

(b) The council shall propose rules pursuant to section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code to implement the provisions of this section and applicable provisions of article one-d of this chapter:

(1) To implement the provisions of article one-d of this chapter relevant to community and technical colleges, the council may propose rules jointly with the commission or separately and may choose to address all components of the accountability system in a single rule or may propose additional rules to cover specific components;

(2) The rules pertaining to financing policy and benchmarks and indicators required by this section shall be filed with the Legislative Oversight Commission on Education Accountability by October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless such rules are rescinded, revised, altered or amended; and

(3) The Legislature finds that an emergency exists and, therefore, the council shall propose an emergency rule or rules to implement the provisions of this section relating to the financing policy and benchmarks and indicators in accordance with section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code by October 1, 2008. The emergency rule or rules may not be implemented without prior approval of the Legislative Oversight Commission on Education Accountability.

(c) The council has the following powers and duties relating to the authority established in subsection (a) of this section:

(1) Develop, oversee and advance the public policy agenda for community and technical college education for the purpose of accomplishing the mandates of this section, including, but not limited to, the following:

(A) Achieving the goals and objectives established in articles one and one-d of this chapter;

(B) Addressing the goals and objectives contained in the institutional compacts created pursuant to section seven, article one-d of this chapter; and

(C) Developing and implementing the master plan described in section five, article one-d of this chapter;

(2) Propose a legislative rule pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code to develop and implement a financing policy for community and technical college education in West Virginia. The rule shall meet the following criteria:

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance;

(C) Establish a plan for strategic funding to strengthen capacity for support of community and technical college education; and

(D) Establish a plan that measures progress and provides performance-based funding to institutions which make significant progress in the following specific areas:

(i) Achieving the objectives and priorities established in article one-d of this chapter;

(ii) Serving targeted populations, especially working age adults twenty-five years of age and over;

(iii) Providing access to high-cost, high-demand technical programs in every region of the state;

(iv) Increasing the percentage of functionally literate adults in every region of the state; and



(v) Providing high-quality community and technical college education services to residents of every region of the state.

(3) Create a policy leadership structure relating to community and technical college education capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the council shall seek input from the Legislature and the Governor and specifically from the State Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards of the institutions under the council's jurisdiction carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding each community and technical college and the statewide network of independently accredited community and technical colleges as a whole accountable for accomplishing their missions and achieving the goals and objectives established in articles one, one-d, and three-c of this chapter;

(4) Develop for inclusion in the statewide public agenda, a plan for raising education attainment, increasing adult literacy, promoting workforce and economic development and ensuring access to advanced education for the citizens of West Virginia;

(5) Provide statewide leadership, coordination, support, and technical assistance to the community and technical colleges and to provide a focal point for visible and effective advocacy for their work and for the public policy agendas approved by the commission and council;

(6) Review and adopt annually all institutional compacts for the community and technical colleges pursuant to the provisions of section seven, article one-d of this chapter;

(7) Fulfill the mandates of the accountability system established in article one-d of this chapter and report on progress in meeting established goals, objectives, and priorities to the elected leadership of the state;

(8) Propose a legislative rule pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code to establish benchmarks and indicators in accordance with the provisions of this subsection;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional progress:

(A) In meeting state goals, objectives, and priorities established in articles one and one-d of this chapter;

(B) In carrying out institutional missions; and

(C) In meeting the essential conditions established in article three-c of this chapter;

~~(10) Collect and analyze data relating to the performance of community and technical colleges in every region of West Virginia and report periodically or as directed to the Legislative Oversight Commission on Education Accountability on the progress in meeting the goals and objectives established in articles one and one-d of this chapter.~~

~~Additionally, the council shall report annually during the January interim meetings on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates.~~

~~The annual report shall address at least the following:~~

~~(A) The performance of the community and technical college network during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the network as a whole in meeting the goals and objectives established in articles one and one-d of this chapter;~~

~~(B) The priorities established for capital investment needs pursuant to subdivision (11) of this subsection and the justification for such priority; and~~

~~(C) Recommendations of the council for statutory changes necessary or expedient to achieve established state goals and objectives.~~

~~(11)~~(10) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. Notwithstanding the language in subdivision eleven, subsection a, section four, article one-b of this chapter, the commission is not a part of the process for identifying needs for capital investments for the statewide network of independently accredited community and technical colleges;

~~(12)~~(11) Draw upon the expertise available within the Governor's Workforce Investment Office and the West Virginia Development Office as a resource in the area of workforce development and training;

~~(13)~~(12) Acquire legal services that are considered necessary, including representation of the council, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the council may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

~~(14)~~(13) Employ a chancellor for community and technical college education pursuant to section three of this article;

~~(15)~~(14) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the council consistent with the provisions of section two, article four of this chapter;

~~(16)~~(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the council who are employed solely by the council;

~~(17)~~(16) Provide suitable offices in Charleston for the chancellor and other staff: *Provided*, That the offices may be located outside of Charleston at a technology and research center: *Provided, however*, That the current employees of WVNET shall not be moved from Monongalia County without legislative approval;

~~(18)~~(17) Approve the total compensation package from all sources for presidents of community and technical colleges, as proposed by the governing boards. The governing boards must obtain approval from the council of the total compensation package both when presidents are employed initially and subsequently when any change is made in the amount of the total compensation package;

~~(19)~~(18) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

~~(20)~~(19) Establish and implement policies and programs, jointly with the community and technical colleges, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet-based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

~~(21)~~(20) Seek out and attend regional and national meetings and forums on education and workforce development-related

topics, as council members consider critical for the performance of their duties. The council shall keep abreast of national and regional community and technical college education trends and policies to aid members in developing the policies for this state that meet the education goals and objectives established in articles one and one-d of this chapter;

~~(22)~~(21) Assess community and technical colleges for the payment of expenses of the council or for the funding of statewide services, obligations or initiatives related specifically to the provision of community and technical college education;

~~(23)~~(22) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to community and technical colleges for qualifying noncapital expenditures incurred in the provision of services to students with physical, learning or severe sensory disabilities;

~~(24)~~(23) Assume the prior authority of the commission in examining and approving tuition and fee increase proposals submitted by community and technical college governing boards as provided in section one, article ten of this chapter;

~~(25)~~(24) Develop and submit to the commission, a single budget for community and technical college education that reflects recommended appropriations for community and technical colleges and that meets the following conditions:

(A) Incorporates the provisions of the financing rule mandated by this section to measure and provide performance funding to institutions which achieve or make significant progress toward achieving established state objectives and priorities;

(B) Considers the progress of each institution toward meeting the essential conditions set forth in section three, article three-c of this chapter, including independent accreditation; and

(C) Considers the progress of each institution toward meeting the goals, objectives, and priorities established in article one-d of this chapter and its approved institutional compact.

~~(26)~~(25) Administer and distribute the independently accredited community and technical college development account;

~~(27)~~(26) Establish a plan of strategic funding to strengthen capacity for support and assure delivery of high quality community and technical college education in all regions of the state;

~~(28)~~(27) Foster coordination among all state-level, regional and local entities providing post-secondary vocational education or workforce development and coordinate all public institutions and entities that have a community and technical college mission;

~~(29)~~(28) Assume the principal responsibility for oversight of those community and technical colleges seeking independent accreditation and for holding governing boards accountable for meeting the essential conditions pursuant to article three-c of this chapter;

~~(30)~~(29) Advise and consent in the appointment of the presidents of the community and technical colleges pursuant to section six, article one-b of this chapter. The role of the council in approving a president is to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives established in the institutional compact and in articles one, one-d and three-c of this chapter;

~~(31)~~(30) Provide a single, statewide link for current and prospective employers whose needs extend beyond one locality;

~~(32)~~(31) Provide a mechanism capable of serving two or more institutions to facilitate joint problem-solving in areas including, but not limited to the following:

(A) Defining faculty roles and personnel policies;

(B) Delivering high-cost technical education programs across the state;

(C) Providing one-stop service for workforce training to be delivered by multiple institutions; and

(D) Providing opportunities for resource-sharing and collaborative ventures;

~~(33)~~(32) Provide support and technical assistance to develop, coordinate, and deliver effective and efficient community and technical college education programs and services in all regions of the state;

~~(34)~~(33) Assist the community and technical colleges in establishing and promoting links with business, industry and labor in the geographic areas for which each community and technical college is responsible;

~~(35)~~(34) Develop alliances among the community and technical colleges for resource sharing, joint development of courses and courseware, and sharing of expertise and staff development;

~~(36)~~(35) Serve aggressively as an advocate for development of a seamless curriculum;

~~(37)~~(36) Cooperate with all providers of education services in the state to remove barriers relating to a seamless system of public and higher education and to transfer and ~~articulation~~ articulate between and among community and technical colleges, state colleges and universities and public education, preschool through grade twelve;

~~(38)~~(37) Encourage the most efficient use of available resources;

~~(39)~~(38) Coordinate with the commission in informing public school students, their parents and teachers of the academic preparation that students need in order to be prepared adequately to succeed in their selected fields of study and career plans, including presentation of academic career fairs;

~~(40)~~(39) Jointly with the commission, approve and implement a uniform standard, as developed by the chancellors, to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests

and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which the governing boards shall communicate to the State Board of Education and the State Superintendent of Schools;

~~(41)~~(40) Develop and implement strategies and curriculum for providing developmental education which shall be applied by any state institution of higher education providing developmental education;

~~(42)~~(41) Develop a statewide system of community and technical college programs and services in every region of West Virginia for competency-based certification of knowledge and skills, including a statewide competency-based associate degree program;

~~(43)~~(42) Review and approve all institutional master plans for the community and technical colleges pursuant to section four, article two-a of this chapter;

~~(44)~~(43) Propose rules for promulgation pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code that are necessary or expedient for the effective and efficient performance of community and technical colleges in the state;

~~(45)~~(44) In its sole discretion, transfer any rule under its jurisdiction, other than a legislative rule, to the jurisdiction of the governing boards who may rescind, revise, alter or amend any rule transferred pursuant to rules adopted by the council and provide technical assistance to the institutions under its jurisdiction to aid them in promulgating rules;

~~(46)~~(45) Develop for inclusion in the higher education report card, as defined in section eight, article one-d of this chapter, a separate section on community and technical colleges. This section shall include, but is not limited to, evaluation of the institutions based upon the benchmarks and indicators developed in subdivision (9) of this subsection;



~~(47)~~(46) Facilitate continuation of the Advantage Valley Community College Network under the leadership and direction of Marshall Community and Technical College;

~~(48)~~(47) Initiate and facilitate creation of other regional networks of affiliated community and technical colleges that the council finds to be appropriate and in the best interests of the citizens to be served;

~~(49)~~(48) Develop with the State Board of Education plans for secondary and post-secondary vocational-technical-occupational and adult basic education, including, but not limited to the following:

(A) Policies to strengthen vocational-technical-occupational and adult basic education; and

(B) Programs and methods to assist in the improvement, modernization and expanded delivery of vocational-technical-occupational and adult basic education programs;

~~(50)~~(49) Distribute federal vocational education funding provided under the Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing financial assistance among secondary and post-secondary vocational-technical-occupational and adult basic education programs to help meet the public policy agenda.

In distributing funds the council shall use the following guidelines:

(A) The State Board of Education shall continue to be the fiscal agent for federal vocational education funding;

(B) The percentage split between the State Board of Education and the council shall be determined by rule promulgated by the council under the provisions of article three-a, chapter twenty-nine-a of this code. The council shall first obtain the approval of the State Board of Education before proposing a rule;

~~(51)~~(50) Collaborate, cooperate and interact with all secondary and post-secondary vocational-technical-occupational and adult basic education programs in the state, including the programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of seamless curriculum and the elimination of duplicative programs;

~~(52)~~(51) Coordinate the delivery of vocational-technical-occupational and adult basic education in a manner designed to make the most effective use of available public funds to increase accessibility for students;

~~(53)~~(52) Analyze and report to the State Board of Education on the distribution of spending for vocational-technical-occupational and adult basic education in the state and on the availability of vocational-technical-occupational and adult basic education activities and services within the state;

~~(54)~~(53) Promote the delivery of vocational-technical-occupational education, adult basic education and community and technical college education programs in the state which emphasize the involvement of business, industry and labor organizations;

~~(55)~~(54) Promote public participation in the provision of vocational-technical-occupational education, adult basic education and community and technical education at the local level, emphasizing programs which involve the participation of local employers and labor organizations;

~~(56)~~(55) Promote equal access to quality vocational-technical-occupational education, adult basic education and community and technical college education programs to handicapped and disadvantaged individuals, adults in need of training and retraining, single parents, homemakers, participants in programs designed to eliminate sexual bias and stereotyping and criminal offenders serving in correctional institutions;

~~(57)~~(56) Meet annually between the months of October and December with the Advisory Committee of Community and

Technical College Presidents created pursuant to section eight of this article to discuss those matters relating to community and technical college education in which advisory committee members or the council may have an interest;

~~(58)~~(57) Accept and expend any gift, grant, contribution, bequest, endowment or other money for the purposes of this article;

~~(59)~~(58) Assume the powers set out in section nine of this article. The rules previously promulgated by the State College System Board of Directors pursuant to that section and transferred to the commission are hereby transferred to the council and shall continue in effect until rescinded, revised, altered or amended by the council;

~~(60)~~(59) Pursuant to the provisions of subsection (b) of this section and article three-a, chapter twenty-nine-a of this code, promulgate a uniform joint legislative rule with the commission for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

~~(61)~~(60) Determine when a joint rule among the governing boards of the community and technical colleges is necessary or required by law and, in those instances and in consultation with the governing boards, promulgate the joint rule;

~~(62)~~(61) Promulgate a joint rule with the commission establishing tuition and fee policy for all institutions of higher education. The rule shall include, but is not limited to, the following:

- (A) Comparisons with peer institutions;
- (B) Differences among institutional missions;
- (C) Strategies for promoting student access;
- (D) Consideration of charges to out-of-state students; and

(E) Any other policies the commission and council consider appropriate;

~~(63)~~(62) In cooperation with the West Virginia Division of Highways, study a method for increasing the signage signifying community and technical college locations along the state interstate highways, and report to the Legislative Oversight Commission on Education Accountability regarding any recommendations and required costs; and

~~(64)~~(63) Implement a policy jointly with the commission whereby any course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement.

(d) In addition to the powers and duties listed in subsections (a), (b) and (c) of this section, the council has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda for community and technical colleges:

(1) Planning and policy leadership including a distinct and visible role in setting the state's policy agenda for the delivery of community and technical college education and in serving as an agent of change;

(2) Policy analysis and research focused on issues affecting the community and technical college network as a whole or a geographical region thereof;

(3) Development and implementation of each community and technical college mission definition including use of incentive and performance funds to influence institutional behavior in ways that are consistent with achieving established state goals, objectives, and priorities;

(4) Academic program review and approval for the institutions under its jurisdiction, including the use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes;

(5) Development of budget and allocation of resources for institutions delivering community and technical college education, including reviewing and approving institutional operating and capital budgets and distributing incentive and performance-based funding;

(6) Acting as the agent to receive and disburse public funds related to community and technical college education when a governmental entity requires designation of a statewide higher education agency for this purpose;

(7) Development, establishment and implementation of information, assessment and internal accountability systems, including maintenance of statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators for community and technical colleges;

(8) Jointly with the commission, development, establishment and implementation of policies for licensing and oversight of both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs;

(9) Development, implementation and oversight of statewide and regionwide projects and initiatives related specifically to providing community and technical college education such as those using funds from federal categorical programs or those using incentive and performance-based funding from any source; and

(10) Quality assurance that intersects with all other duties of the council particularly in the areas of planning, policy analysis, program review and approval, budgeting and information and accountability systems.

(e) The council may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years if the council makes a determination that any of the following conditions exist:

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in section seven, article one-d of this chapter;

(2) The council has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the board of governors according to state law; or

(3) Other circumstances which, in the view of the council, severely limit the capacity of the board of governors to carry out its duties and responsibilities.

The period of withdrawal of specific powers may not exceed two years during which time the council is authorized to take steps necessary to reestablish the conditions for restoration of sound, stable and responsible institutional governance.

(f) In addition to the powers and duties provided for in subsections (a), (b), (c) and (d) of this section and any others assigned to it by law, the council has those powers and duties necessary or expedient to accomplish the purposes of this article; and

(g) When the council and commission, each, is required to consent, cooperate, collaborate or provide input into the actions of the other the following conditions apply:

(1) The body acting first shall convey its decision in the matter to the other body with a request for concurrence in the action;

(2) The commission or the council, as the receiving body, shall place the proposal on its agenda and shall take final action within sixty days of the date when the request for concurrence is received; and

(3) If the receiving body fails to take final action within sixty days, the original proposal stands and is binding on both the commission and the council.

**ARTICLE 2C. WEST VIRGINIA COMMUNITY AND  
TECHNICAL COLLEGE.**

**§18B-2C-3. Authority and duty of council to determine  
progress of community and technical colleges;  
conditions; authority to create West Virginia  
Community and Technical College.**

(a) The council annually shall review and analyze all the state community and technical colleges, and any branches, centers, regional centers or other delivery sites with a community and technical college mission, to determine their progress toward meeting the goals, objectives, priorities, and essential conditions established in articles one, one-d and three-c of this chapter.

(b) The analysis required in subsection (a) of this section shall be based, in whole or in part, upon the findings made pursuant to the rule establishing benchmarks and indicators promulgated by the council pursuant to section six, article two-b of this chapter.

(c) Based upon their analysis in subsections (a) and (b) of this section, the council shall make a determination whether any one or more of the following conditions exists:

(1) A community and technical college required to do so has not achieved or is not making sufficient, satisfactory progress toward achieving the essential conditions, including independent accreditation;

(2) One or more of the public community and technical colleges, branches, centers, regional centers and other delivery sites with a community and technical college mission requires financial assistance or other support to meet the goals and essential conditions set forth in this chapter;

(3) It is in the best interests of the people of the state or a region within the state to have a single, accredited institution which can provide an umbrella of statewide accreditation;

(4) One or more of the state community and technical colleges, branches, centers, regional centers or other delivery sites with a

community and technical college mission requests from the council the type of assistance which can best be delivered through implementation of the provisions of section four of this article. Institutional requests that may be considered by the council include, but are not limited to, assistance in seeking and/or attaining independent accreditation, in meeting the goals, priorities and essential conditions established in articles one, one-d and three-c of this chapter, or in establishing and implementing regional networks;

(5) One or more state community and technical colleges, branches, centers, regional centers or other delivery sites with a community and technical college mission has not achieved, or is not making sufficient, satisfactory progress toward achieving, the goals, objectives and essential conditions established in articles one, one-d and three-c of this chapter; and

(6) The council determines that it is in the best interests of the people of the state or a region of the state to create a statewide, independently accredited community and technical college.

(d) The council may not make a determination subject to the provisions of this section that a condition does not exist based upon a finding that the higher education entity lacks sufficient funds to make sufficient, satisfactory progress.

~~(e) By December 1, annually, the council shall prepare and file with the Legislative Oversight Commission on Education Accountability a written report on the findings and determinations required by this section, together with a detailed history of any actions taken by the council under the authority of this article.~~

### **ARTICLE 3D. WORKFORCE DEVELOPMENT INITIATIVE.**

#### **§18B-3D-2. Workforce Development Initiative Program continued; purpose; program administration; rule required.**

(a) The Workforce Development Initiative Program is continued under the supervision of the council. The purpose of the



program is to administer and oversee grants to community and technical colleges to implement the provisions of this article in accordance with legislative intent.

(b) It is the responsibility of the council to administer the state fund for community and technical college and workforce development, including setting criteria for grant applications, receiving applications for grants, making determinations on distribution of funds and evaluating the performance of workforce development initiatives.

(c) The chancellor, under the direction of the council, shall review and approve the expenditure of all grant funds, including development of application criteria, the review and selection of applicants for funding and the annual review and justification of applicants for grant renewal.

(1) To aid in decisionmaking, the Chancellor appoints an advisory committee consisting of the Executive Director of the West Virginia Development Office or designee; the Secretary of Education and the Arts or designee; the Assistant State Superintendent for Technical and Adult Education; the Chair of the West Virginia Council for Community and Technical College Education; the Chair of the West Virginia Workforce Investment Council; the Executive Director of Workforce West Virginia; two members representing business and industry; and one member representing labor. The advisory committee shall review all applications for workforce development initiative grants and make recommendations for distributing grant funds to the council. The advisory committee also shall make recommendations on methods to share among the community and technical colleges any curricula developed as a result of a workforce development initiative grant.

(2) When determining which grant proposals will be funded, the council shall give special consideration to proposals by community and technical colleges that involve businesses with fewer than fifty employees.

(3) The council shall weigh each proposal to avoid awarding grants which will have the ultimate effect of providing unfair

advantage to employers new to the state who will be in direct competition with established local businesses.

(d) The council may allocate a reasonable amount, not to exceed five percent up to a maximum of \$50,000 of the funds available for grants on an annual basis, for general program administration.

~~(e) The council shall report to the Legislative Oversight Commission on Education Accountability and the Legislative Oversight Commission on Workforce Investment for Economic Development on the status of the Workforce Development Initiative Program annually by December 1.~~

~~(f)~~(e) Moneys appropriated or otherwise available for the Workforce Development Initiative Program shall be allocated by line item to an appropriate account. Any moneys remaining in the fund at the close of a fiscal year are carried forward for use in the next fiscal year.

~~(g)~~(f) Nothing in this article requires a specific level of appropriation by the Legislature.

## **ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF HIGHER EDUCATION.**

### **§18B-10-1. Enrollment, tuition and other fees at education institutions; refund of fees.**

(a) Each governing board shall fix tuition and other fees for each academic term for the different classes or categories of students enrolling at the state institution of higher education under its jurisdiction and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

- (1) Tuition and required educational and general fees;
- (2) Auxiliary and auxiliary capital fees; and
- (3) Required educational and general capital fees.

(b) A governing board may establish a single special revenue account for each of the following classifications of fees:

(1) All tuition and required educational and general fees collected;

(2) All auxiliary and auxiliary capital fees collected; and

(3) All required educational and general capital fees collected to support existing systemwide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.

(4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from the accounts, a governing board may expend funds from each special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.

(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition and fees may be used to finance a ~~students'~~ student's attorney to perform legal services for students in civil matters at the institutions. The legal services are limited to those types of cases, programs or services approved by the president of the institution where the legal services are to be performed.

(d) By October 1, 2011, the commission and council each shall propose a rule for legislative approval in accordance with article three-a, chapter twenty-nine-a of this code to govern the fixing, collection and expenditure of tuition and other fees by the governing boards under their respective jurisdictions.

(e) The schedule of all tuition and fees, and any changes in the schedule, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of the schedule and changes.

(f) The governing boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term.

(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

(2) Fees for students enrolled in summer terms or other nontraditional time periods shall be prorated based upon the number of credit hours for which the student enrolls in accordance with this subsection.

(g) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:

(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term. All fees shall be paid prior to awarding course credit at the end of the academic term.

(2) The governing boards also shall authorize the acceptance of credit cards or other payment methods which may be generally available to students for the payment of fees. The governing boards may charge the students for the reasonable and customary charges incurred in accepting credit cards and other methods of payment.

(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis whether the finances of a student are affected adversely.

(4) The commission and council jointly shall propose a rule in accordance with article three-a, chapter twenty-nine-a of this code defining conditions under which a governing board may offer tuition and fee deferred payment plans itself or through third parties.

(5) A governing board may charge interest or fees for any deferred or installment payment plans.

(h) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

(i) Governing boards shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rules proposed by the commission and council pursuant to this section. The tuition rules shall address the following areas:

(1) Providing a basis for establishing nonresident tuition and fees;

(2) Allowing governing boards to charge different tuition and fees for different programs;

(3) Authorizing a governing board to propose to the commission, council or both, as appropriate, a mandatory auxiliary fee under the following conditions:

(A) The fee shall be approved by the commission, council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

(B) Increases may not exceed previous state subsidies by more than ten percent;

(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services

shall cease five years from the date the mandatory auxiliary fee is implemented;

~~(E) The commission or council or both, as appropriate, shall certify to the Legislature annually by October 1 the amount of fees collected for each of the five years;~~

(4) Establishing methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for students in all community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

(j) A penalty may not be imposed by the commission or council upon any governing board based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The governing boards shall report annually to the commission or council on the numbers of nonresidents and any other enrollment information the commission or council may request.

(k) Tuition and fee increases of the governing boards, including the governing boards of Marshall University and West Virginia University, are subject to rules adopted by the commission and council pursuant to this section and in accordance with article three-a, chapter twenty-nine-a of this code. The commission or council, as appropriate, shall examine individually each request from a governing board for an increase and make its determinations as follows:

(1) A tuition and fee increase greater than five percent for resident students proposed by a governing board requires the approval of the commission or council, as appropriate.

(2) A fee used solely for the purpose of complying with the athletic provisions of 20 U. S. C. §1681, *et seq.*, known as Title IX of the Education Amendment of 1972, is exempt from the

limitations on fee increases set forth in this subsection for three years from the effective date of the section.

(3) In determining whether to approve or deny a governing board's request for a tuition and/or fee increase for resident students greater than the increases granted pursuant to subdivision (1) of this subsection, the commission or council shall determine the progress the governing board has made toward meeting the conditions outlined in this subsection and shall make this determination the predominate factor in its decision. The commission or council shall consider the degree to which each governing board has met the following conditions:

(A) Maximizes resources available through nonresident tuition and fee charges to the satisfaction of the commission or council;

(B) Consistently achieves the benchmarks established in the compact pursuant to article one-d of this chapter;

(C) Continuously pursues the statewide goals for post-secondary education and the statewide compact established in this chapter;

(D) Demonstrates to the satisfaction of the commission or council that an increase will be used to maintain high-quality programs at the institution;

(E) Demonstrates to the satisfaction of the commission or council that the governing board is making adequate progress toward achieving the goals for education established by the southern regional education board;

(F) Demonstrates to the satisfaction of the commission or council that the governing board has considered the average per capita income of West Virginia families and their ability to pay for any increases; and

(G) Demonstrates to the satisfaction of the commission or council that base appropriation increases have not kept pace with recognized nation-wide inflationary benchmarks;

(4) This section does not require equal increases among governing boards nor does it require any level of increase by a governing board.

(5) The commission and council shall report to the Legislative Oversight Commission on Education Accountability regarding the basis for approving or denying each request as determined using the criteria established in this subsection.

### **ARTICLE 13. HIGHER EDUCATION – INDUSTRY PARTNERSHIPS.**

#### **§18B-13-5. Use of state property and equipment; faculty.**

(a) The governing boards are authorized to provide for the low cost and economical use and sharing of state property and equipment, including computers, research labs and other scientific and necessary equipment to assist any qualified business within an approved research park or zone or technology center. The commission shall approve a schedule of nominal or reduced-cost reimbursements to the state for such use.

(b) The governing boards shall develop and provide for a program of release time, sabbaticals or other forms of faculty involvement or participation with any qualifying business.

(c) The Legislature finds that cooperation, communication and coordination are integral components of higher education's involvement in economic development. In order to proceed in a manner that is cost effective and time efficient, it is the duty of the commission to review and coordinate such aspects of the programs administered by the governing boards. The review and coordination may not operate to affect adversely sources of funding or any statutory characterization of any program as an independent entity. ~~The Commission shall report annually to the Legislature and the Governor. The report shall contain the following information:~~

~~(1) The number of seminars and workshops conducted;~~

~~(2) The subject matter addressed in each seminar and workshop;~~



~~(3) The number of feasibility studies conducted and the subject matter contained in each study;~~

~~(4) An accounting of the cost of all travel expenses, seminars, workshops and feasibility studies; and~~

~~(5) The extent to which the authority provided for in subsection (b) of this section has been exercised, stating specifically the names of the institutions and faculty members involved in the program.~~

## **ARTICLE 18. EMINENT SCHOLARS ENDOWMENT TRUST FUND ACT.**

### **§18B-18-6. Duties of Higher Education Policy Commission.**

The Higher Education Policy Commission shall:

(a) Establish documentation standards and review procedures to determine the eligibility of donor gifts to participate in the eminent scholars program when the gift is initially received or whenever the terms are significantly changed;

(b) Require that each participating institution report on total gifts received, investment earnings realized and anticipated expenditures in its annual operating budget request;

(c) Annually develop and submit a consolidated budget request for the eminent scholars program to the Governor for the fiscal year beginning on July 1, 2003. The budget request shall include a request for an appropriation by the Legislature to each institutional account each fiscal year in an amount equal to the investment earnings in the previous fiscal year which are intended for use in the fiscal year to supplement the salaries of eminent scholars;

(d) Allocate any funds appropriated by the Legislature among the participating institutions in equal installments at the beginning of each quarter; ~~and~~.

~~(e) Submit to the Legislature no later than December 1, of each year an annual report on the status of the programs, the qualifications and accomplishments of the eminent scholars, the~~

~~value of endowment holdings, the investment earnings realized and salary supplements paid.~~

**CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS  
AND STATE AID.**

**ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN  
PROGRAM.**

**§18C-3-4. Nursing Scholarship Program; Center for Nursing  
Fund; administration; scholarship awards;  
service requirements.**

(a) There is continued in the State Treasury a special revenue account known as the "Center for Nursing Fund" to be administered by the commission to implement the provisions of this section and article seven-b, chapter thirty of this code. Any moneys in the account on the effective date of this section are transferred to the commission's administrative authority. Balances remaining in the fund at the end of the fiscal year do not expire or revert to the general revenue. All costs associated with the administration of this section and article seven-b, chapter thirty of this code shall be paid from the Center for Nursing Fund under the direction of the Vice Chancellor for Administration. Administrative costs are to be minimized and the maximum amount feasible is to be used to fund awards for students in nursing programs.

(b) The account is funded from the following sources:

(1) A supplemental licensure fee, not to exceed \$10 per year, to be paid by all nurses licensed by the Board of Examiners for Registered Professional Nurses, pursuant to section eight-a, article seven, chapter thirty of this code, and the Board of Examiners for Licensed Practical Nurses, pursuant to section seven-a, article seven-a, chapter thirty of this code;

(2) Repayments, including interest as set by the Vice Chancellor for Administration, collected from recipients who fail to practice or teach in West Virginia under the terms of the scholarship agreement; and

(3) Any other funds from any source as may be added to the account.

(c) In consultation with the board of directors of the West Virginia Center for Nursing, established pursuant to article seven-b, chapter thirty of this code, the commission shall administer a scholarship, designated the Nursing Scholarship Program, designed to benefit nurses who practice in hospitals and other health care institutions or teach in state nursing programs.

(1) Awards are available for students enrolled in accredited nursing programs in West Virginia. A recipient shall execute an agreement to fulfill a service requirement or repay the amount of any award received.

(2) Awards are made as follows, subject to the rule required by this section:

(A) An award for any student may not exceed the full cost of education for program completion.

(B) An award of up to \$3,000 is available for a student in a licensed practical nurse education program. A recipient is required to practice nursing in West Virginia for one year following program completion.

(C) An award of up to \$7,500 is available for a student who has completed one-half of a registered nurse education program. A recipient is required to teach or practice nursing in West Virginia for two years following program completion.

(D) An award of up to \$15,000 is available to a student in a nursing master's degree program or a doctoral nursing or education program. A recipient is required to teach in West Virginia for two years following program completion.

(E) An award of up to \$1,000 per year is available for a student obtaining a licensed practical nurse teaching certificate. A recipient is required to teach in West Virginia for one year per award received.

(d) An award recipient shall satisfy one of the following conditions:

(1) Fulfill the service requirement pursuant to this section and the legislative rule; or

(2) Repay the commission for the amount awarded, together with accrued interest as stipulated in the service agreement.

(e) The commission shall promulgate a rule for legislative approval pursuant to article three-a, chapter twenty-nine-a of this code to implement and administer this section. The rule shall provide for the following:

(1) Eligibility and selection criteria for program participation;

(2) Terms of a service agreement which a recipient shall execute as a condition of receiving an award;

(3) Repayment provisions for a recipient who fails to fulfill the service requirement;

(4) Forgiveness options for death or disability of a recipient;

(5) An appeal process for students denied participation or ordered to repay awards; and

(6) Additional provisions as necessary to implement this section.

~~(f) The commission shall report annually by December 1, to the Legislative Oversight Commission on Health and Human Resources Accountability and the Legislative Oversight Commission on Education Accountability on the number of award recipients and all other matters relevant to the provisions of this section.~~

## **ARTICLE 5. HIGHER EDUCATION GRANT PROGRAM.**

### **§18C-5-7. Higher education adult part-time student grant program.**

(a) There is established the higher education adult part-time student grant program, referred to in this section as the HEAPS grant program. The grant program established and authorized by this section is administered by the vice chancellor for administration. Moneys appropriated or otherwise available for the grant program shall be allocated by line item to an appropriate account. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year.

(b) As used in this section, the following terms have the meanings ascribed to them:

(1) “Approved distance education” means a course of study offered via electronic access that has been approved for inclusion in the applicant’s program of study by the eligible institution of higher education at which the applicant is enrolled or has been accepted for enrollment;

(2) “Part-time” means enrollment for not less than three nor more than eleven semester or term hours: *Provided*, That in the case of enrollment in postsecondary certificate, industry recognized credential and other skill development programs in demand occupations in this state, “part-time” means enrollment on such basis as is established for the program in which enrolled;

(3) “Satisfactory academic progress” means maintaining a cumulative grade point average of at least 2.0 on a 4.0 grading scale with a goal of obtaining a certificate, associate degree or bachelor’s degree. In the case of postsecondary certificate, industry recognized credential and other skill development programs, satisfactory academic progress means continuous advancement toward completion of the program on the normal schedule established for the program in which enrolled;

(4) “Eligible institution” means:

(A) Any community college; community and technical college; adult technical preparatory education program or training;

(B) Any state college or university, as those terms are defined in section two, article one, chapter eighteen-b of this code;

(C) Any approved institution of higher education as that term is defined in section two of this article; and

(D) Any approved distance education, including world wide web based courses;

(5) “Eligible program or programs” or “eligible course or courses” means, in addition to programs and courses offered by eligible institutions as defined in subdivision (4) of this subsection:

(A) Programs and courses offered by any nationally accredited degree granting institution of higher learning permitted pursuant to section five, article three, chapter eighteen-b of this code and approved by the Joint Commission for Vocational-Technical-Occupational Education; and

(B) Any postsecondary certificate, industry recognized credential and other skill development programs of study as defined in this section in a demand occupation in this state;

(6) “State resident” means a student who has lived in West Virginia continuously for a minimum of twelve months immediately preceding the date of application for a HEAPS grant or renewal of a grant;

(7) “Postsecondary certificate program” means an organized program of study, approved by the Joint Commission for Vocational-Technical-Occupational Education, with defined competencies or skill sets that may be offered for credit or noncredit and which culminates in the awarding of a certificate: *Provided*, That postsecondary certificate programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the Joint Commission for Vocational-Technical-Occupational Education;

(8) “Demand occupation” means any occupation having documented verification from employers that job opportunities in that occupation are currently available or are projected to be available within a year within the state or regions of the state. The Joint Commission for Vocational-Technical-Occupational

Education shall prepare and update annually a list of occupations that they determine meet the requirements of this definition;

(9) “Industry-recognized credential program” means an organized program that meets nationally recognized standards in a particular industry, is approved by the Joint Commission for Vocational-Technical-Occupational Education and which culminates in the awarding of a certification or other credential commonly recognized in that industry: *Provided*, That industry recognized credential programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the Joint Commission for Vocational-Technical-Occupational Education; and

(10) “Skill development program” means a structured sequence or set of courses, approved by the Joint Commission for Vocational-Technical-Occupational Education, with defined competencies that are designed to meet the specific skill requirements of an occupation and which culminates in the awarding of a certificate of completion that specifically lists the competencies or skills mastered: *Provided*, That skill development programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the joint commission.

(c) A person is eligible for consideration for a HEAPS grant if the person:

(1) Demonstrates that he or she has applied for, accepted, or both, other student financial assistance in compliance with federal financial aid rules, including the federal Pell grant;

(2) Demonstrates financial need for funds, as defined by legislative rule;

(3) Is a state resident and may not be considered a resident of any other state;

(4) Is a United States citizen or permanent resident thereof;

(5) Is not incarcerated in a correctional facility;

(6) Is not in default on a higher education loan; and

(7) Is enrolled in a program of study at less than the graduate level on a part-time basis in an eligible institution or program of study and is making satisfactory academic progress at the time of application: *Provided*, That the requirement that the student be making satisfactory academic progress may not preclude a HEAPS grant award to a student who has been accepted for enrollment in an eligible institution or program of study but has not yet been enrolled.

(d) Each HEAPS grant award is eligible for renewal until the course of study is completed, but not to exceed an additional nine years beyond the first year of the award.

(e) The Higher Education Policy Commission shall propose a legislative rule pursuant to article three-a, chapter twenty-nine-a of this code to implement the provisions of this section which shall be filed with the Legislative Oversight Commission on Education Accountability by September 1, 2003. The Legislature hereby declares that an emergency situation exists and, therefore, the policy commission may establish, by emergency rule, under the procedures of article three-a, chapter twenty-nine-a of this code, a rule to implement the provisions of this section, after approval by the Legislative Oversight Commission on Education Accountability.

(f) The legislative rule shall provide at least the following:

(1) That consideration of financial need, as required by subdivision (3), subsection (c) of this section, include the following factors:

(A) Whether the applicant has dependents as defined by federal law;

(B) Whether the applicant has any personal hardship as determined at the discretion of the vice chancellor for administration; and



(C) Whether the applicant will receive any other source of student financial aid during the award period.

(2) That an appropriate allocation process be provided for distribution of funds directly to the eligible institutions or programs based on the part-time enrollment figures of the prior year;

(3) That not less than twenty-five percent of the funds appropriated in any one fiscal year be used to make grants to students enrolled in postsecondary certificate, industry recognized credential and other skill development programs of study: *Provided*, That after giving written notice to the Legislative Oversight Commission on Education Accountability, the vice chancellor for administration may allocate less than twenty-five percent of the funds for such grants;

(4) That ten percent of the funds appropriated in any one fiscal year shall be granted to state community and technical colleges by the council for community and technical college education in accordance with a process specified in the rule for noncredit and customized training programs which further the economic development goals of the state, help meet the training and skill upgrade needs of employers in the state, and for which funds are not available from other sources;

(5) That any funds not expended by an eligible institution or program at the end of each fiscal year shall be returned to the vice chancellor for administration for distribution under the provisions of this section;

(6) That grants under this section shall be available for approved distance education throughout the calendar year, subject only to the availability of funds; and

(7) That the amount of each HEAPS grant award be determined using the following guidelines:

(A) The amount of any HEAPS grant awarded to a student per semester, term hour or program for those students who are enrolled in eligible institutions or programs operated under the jurisdiction

of an agency of the state or a political subdivision thereof shall be based upon the following:

(i) Actual cost of tuition and fees;

(ii) The portion of the costs determined to be appropriate by the commission; and

(iii) In addition to factors (i) and (ii) above, in determining the amount of the award, the vice chancellor may consider the demand for the program pursuant to subdivision (8), subsection (b) of this section; and

(B) The amount of any HEAPS grant awarded to a student who is enrolled in any other eligible institution, program or course shall be no greater than the average amount for comparable programs or courses as determined pursuant to the provisions of paragraph (A) above.

~~(g) The vice chancellor for administration shall report annually, by December 1, on the status of the HEAPS grant program to the Legislative Oversight commission on education accountability.~~

~~(h)(g)~~ The HEAPS grant program is subject to any provision of this article not inconsistent with the provisions of this section.

**ARTICLE 7. WEST VIRGINIA PROVIDING REAL OPPORTUNITIES FOR MAXIMIZING IN-STATE STUDENT EXCELLENCE SCHOLARSHIP PROGRAM.**

**§18C-7-5. Powers and duties of the West Virginia Higher Education Policy Commission regarding the PROMISE Scholarship.**

(a) *Powers of commission.* — In addition to the powers granted by any other provision of this code, the commission has the powers necessary or convenient to carry out the purposes and provisions of this article including, but not limited to, the following express powers:

(1) To promulgate legislative rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to effectuate the purposes of this article;

(2) To invest any of the funds of the West Virginia PROMISE Scholarship Fund established in section seven of this article with the West Virginia Investment Management Board in accordance with the provisions of article six, chapter twelve of this code. Any investments made pursuant to this article shall be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in conducting an enterprise of a like character and with like aims. Fiduciaries shall diversify plan investments to the extent permitted by law to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so;

(3) To execute contracts and other necessary instruments;

(4) To impose reasonable requirements for residency for students applying for the PROMISE scholarship. Except as provided in section four, article one of this chapter, a student shall have met the following requirements to be eligible:

(A) Completed at least one half of the credits required for high school graduation in a public or private high school in this state; or

(B) Received instruction in the home or other approved place pursuant to subsection (c), section one, article eight, chapter eighteen of this code for the two years immediately preceding application;

(C) This subsection does not establish residency requirements for matriculation or fee payment purposes at state institutions of higher education;

(5) To contract for necessary goods and services, to employ necessary personnel and to engage the services of private persons for administrative and technical assistance in carrying out the responsibilities of the scholarship program. Any services provided or secured to implement or administer the provisions of this section

remain under the direction and authority of the Vice Chancellor for Administration;

(6) To solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition, grants, loans and other aid from any source and to participate in any federal, state or local governmental programs in carrying out the purposes of this article;

(7) To define the terms and conditions under which scholarships are awarded with the minimum requirements being set forth in section six of this article; and

(8) To establish other policies, procedures and criteria necessary to implement and administer the provisions of this article.

(b) *Duties of commission.* — In addition to any duty required by any other provision of this code, the commission has the following responsibilities:

(1) To operate the program in a fiscally responsible manner and within the limits of available funds;

(2) To operate the program as a merit-based program;

(3) To adjust academic eligibility requirements should projections indicate that available funds will not be sufficient to cover future costs; and

(4) To maintain contact with graduates who have received PROMISE scholarships and to provide a written statement of intent to recipients who are selected to receive a PROMISE scholarship notifying them that acceptance of the scholarship entails a responsibility to supply the following:

(A) Information requested by the commission to determine the number and percentage of recipients who shall:

(i) Continue to live in West Virginia after graduation;

(ii) Obtain employment in West Virginia after graduation; and

(iii) Enroll in post-graduate education programs;

(B) For PROMISE scholars who enroll in post-graduate education programs, the name of the state in which each post-graduate institution is located; and

(C) Any other relevant information the commission reasonably requests to implement the provisions of this subdivision.

~~(5) To analyze and use the data collected pursuant to subdivision (4) of this subsection to:~~

~~(A) Report the findings annually to the Legislative Oversight Commission on Education Accountability; and~~

~~(B) Make annual recommendations to the Legislative Oversight Commission on Education Accountability regarding any actions the commission considers necessary or expedient to encourage PROMISE recipients to live and work in the state after graduation.;~~

And,

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

**Eng. Com. Sub. for Senate Bill 369**—A Bill to repeal §18-2-5g of the Code of West Virginia, 1931, as amended; to repeal §18-2E-3g of said code; to repeal §18B-5-8 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-5 of said code; to amend and reenact §18-3-12 of said code; to amend and reenact §18-5-44 of said code; to amend and reenact §18-20-5 and §18-20-8 of said code; to amend and reenact §18A-2-3 of said code; to amend and reenact §18A-4-7a of said code; to amend and reenact §18A-5-1a of said code; to amend and reenact §18B-1-10 of said code; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-1D-8 of said code; to amend said code by adding thereto a new section, designated §18B-1D-8a; to amend and reenact §18B-2B-6 of said code; to amend and reenact §18B-2C-3 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-10-1 of said code; to amend and reenact

§18B-13-5 of said code; to amend and reenact §18B-18-6 of said code; to amend and reenact §18C-3-4 of said code; to amend and reenact §18C-5-7 of said code; and to amend and reenact §18C-7-5 of said code, all relating to legislative education reporting requirements; repealing obsolete section providing for establishment of a special five-year demonstration professional development school project for improving academic achievement including requirement for status reports to commission; repealing requirement for review, evaluation and report to commission on reports required to be written by principals and teachers; repealing section requiring Higher Education Policy Commission to report to commission on in-state and out-of-state contracts and purchases; removing requirement for Office of Education Performance Audits to report to commission on each appeal of on-site review findings; removing requirement for report to the commission on the effectiveness of staff development resulting from expenditures from Strategic Staff Development Fund; removing requirement for status report to commission relating to Special Community Development School Pilot Program; removing requirement for report to commission on progress of implementation of early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the program; removing requirement for report to the commission and the Joint Committee on Government and Finance that addresses, at a minimum, certain early childhood education program issues; removing requirement for State Superintendent of Schools to review the rules, policies and standards of the state and federal law for serving the needs of certain exceptional children and removing requirement for report to commission on the findings of the review along with an accounting of the services provided and the costs thereof; removing requirement for annual report to commission, the Joint Committee on Education, the Legislative Commission on Juvenile Law, and other agencies, as appropriate, which recommends policies, procedures and legislation for effectively providing early intervention services and reports on the status of existing programs; removing requirement for State Board of Education to review the status of employing prospective employable professional personnel and the requirement for an annual report to the commission which must include certain

minimum prospective employable professional personnel-related items; removing requirement that county board of education submit a copy of its policy defining which policies are lateral positions to the state board within thirty days of any adoption or modification and the requirement that the state board compile a report and submit the report to the commission; removing the requirement that county boards report the number of students determined to be dangerous students to the state board and the requirement that the state board compile the statistics and report its findings to the commission; removing the reporting requirements on the cooperative relationship between Potomac State College and Eastern West Virginia Community and Technical College; removing the requirement that the Higher Education Policy Commission report on its performance, capital investment priorities, and recommendations for statutory changes; removing numerous reports from list of reports that are not required to be made annually to the Legislature and requiring remaining reports on list to be combined with other reports, including certain personnel, classification, compensation and human resources reports, all capital appropriation requests, priorities and campus and state capital development plans, all academic related matters and reports, and all financial aid reports; permitting the Commission to modify deadlines for statutory or rule mandated reports without a statutory or rule-making change as long as provided within calendar year; removing requirement that Council collect and analyze data, report on community and technical college performance in every region, and report on progress toward meeting goals and objectives; removing annual requirement that Council report on its performance, capital investment priorities and recommendations for statutory changes; removing annual requirement that Council report on progress toward meeting statutory goals and whether statewide independently accredited community and technical college should be created; removing requirement for status report on workforce development initiatives; removing requirement for annual report on auxiliary fees; removing requirement that Higher Education Policy Commission report on technical assistance and associated costs provided to qualified businesses within the higher education and industry partnership; removing requirement for annual status report on the

Eminent Scholars Endowment Trust Fund; removing requirement of an annual report on number of nursing scholarship recipients; removing requirement to report on status of Higher Education Adult Part-Time Student Grant Program; and removing requirement for annual recommendation to encourage PROMISE recipients to live and work in West Virginia after graduation.

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

Engrossed Committee Substitute for Senate Bill 369, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mullins—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. 369) 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 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 2852**—A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7,



§29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating the regulation of fireworks generally; creating unlawful acts; authorizing sale of consumer fireworks; defining consumer fireworks; establishing regulatory framework for sale of fireworks; defining terms; requiring certificate; establishing fees; requiring permits; dedicating certain fees to Veterans Facilities Support Fund and Fire Protection Fund; establishing rule-making authority; creating criminal penalties related to the sale, manufacturing, importing or storage of fireworks; defining terms; authorizing exemptions; requiring reporting; and establishing internal effective dates for certain provisions.

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 4040**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-16I-1, §33-16I-2 and §33-16I-3, all relating to regulating step therapy protocols in health benefit plans which provide prescription drug benefits.

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 4053**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Environmental Protection; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative

rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of annual nitrogen oxide emissions, 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 the control of air pollution from combustion of solid waste, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the 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 control of annual sulfur dioxide emissions, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to surface mining reclamation, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to administrative proceedings and civil penalty assessment, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank fee assessments, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank administrative proceedings and civil penalty assessment, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tanks, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards, and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to horizontal well development.

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 4060**—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Fire Commission to promulgate a legislative rule relating to the fire code; authorizing the Fire Commission to promulgate a legislative rule relating to the state building code; and authorizing the Fire Commission to promulgate a legislative rule relating to the standards for the certification of continuing education of municipal, county and other public sector building code officials, inspectors and plans examiners.

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 4080**—A Bill to amend and reenact article 11, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Veterans' Assistance to promulgate a legislative rule relating to VA headstones or markers; and relating to authorizing the Department of Veterans' Assistance to promulgate a legislative rule relating to the state home for veterans.

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 4521**—A Bill to amend and reenact §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West

Virginia, 1931, as amended, all relating to modifying the requirements that allow a child witness to testify by live, one-way, closed circuit television; defining terms; expanding the allowance of such closed circuit testimony to other alleged criminal offenses; authorizing use for persons with certain intellectual disabilities; clarifying the use and requirements of one-way closed-circuit television; setting forth findings to be made by the circuit court prior to ordering testimony through live, one-way, closed circuit television; granting the court discretion to appoint a psychiatrist, licensed psychologist or licensed social worker to provide an expert opinion regarding the factors and findings to be made by the Court in deciding whether to order testimony through live, one-way, closed circuit television; requiring court-appointed expert witness to provide written report within established deadline; providing for the effect of failure to comply with filing deadline; revising the procedures required for taking testimony of child witness by live, one-way, closed-circuit television; setting forth the procedures for testimony by live, one-way, closed-circuit television; establishing a location for witness testimony and individuals allowed in the witness room; setting requirements for display in the courtroom; requirements; providing who may question the child witness and the procedures therefor; providing for requirement of electronic means for defendant to confer with counsel during the taking of the testimony; providing for instruction to jury regarding use of live, one-way, closed-circuit television; authorizing the defendant to waive jury instruction regarding use of live, one-way, closed-circuit television; prohibiting counsel from making comments in the presence of the jury; authorizing the court to establish measures for the physical safety of the child witness and for the confidentiality of sensitive information; authorizing the court to allow accommodations for child witness testimony in court rather than by live, one-way, closed-circuit television; authorizing the allowance of a toy, blanket or similar item to be in possession of child witness while testifying; authorizing the allowance of a designated support person and seating of such support person in the courtroom; and providing requirements for allowance of a designated support person by motion.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 94**, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program.

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 476**, Relating to driving restrictions in school zones.

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

**Senate Bill 531**, Providing for court-appointed special advocate in each judicial circuit.

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.*

The bill, 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

**Senate Concurrent Resolution 10**, Urging Congress call convention to amend constitution of United States.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, 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 33**, Requesting WV Infrastructure and Jobs Development Council study and report on consolidation regarding public water and sewer utilities.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 33** (originating in the Committee on Government Organization)—Requesting the West Virginia Infrastructure and Jobs Development Council to study and report on the issue of consolidation, regarding public water and sewer utilities.

Whereas, The Legislature is concerned that over five hundred municipal and public service district water and sewer utilities are providing service to customers. The capital cost associated with the repair or replacement of existing infrastructure that serves current customers and the construction of upgrades to existing facilities or new facilities to serve new customers is far greater than available public funding sources and the ability of the utilities to raise money from existing rate-payers; and

Whereas, In its 1994 regular session, the Legislature created the West Virginia Infrastructure and Jobs Development Council (IJDC) in article fifteen-a, chapter thirty-one of the Code of West Virginia, 1931, as amended. Among other things, section four of the 1994 legislation requires the IJDC to develop guidelines for evaluating requests by project sponsors for funding assistance that include “the degree to which the project or infrastructure project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan developed pursuant to section six of the legislation.” Section six of the 1994 legislation contains subsection (c) which states that “the council shall study the viability of the consolidation of public service districts throughout the state” and report their findings and conclusions on or before January 16, 1995, to the Governor, Speaker of the House and President of the Senate; and

Whereas, Section six (b) of the 1994 act requires an assessment of water and sewer infrastructure to be filed by IJDC every three years which includes, among other things, an assessment to identify

“obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendations as the council considers appropriate regarding the obstacles, issues or problems identified.” In reviewing proposed projects, the IJDC consolidation committee, upon the request of another IJDC committee or the council itself, will review the project and determine the potential for consolidation; and

Whereas, The Legislature believes that potential economies of scale and efficiencies in providing public water and sewer service could be realized through consolidation, regional planning and cooperation between municipal and county governments; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the West Virginia Infrastructure and Jobs Development Council study and report on the issue of consolidation, regarding public water and sewer utilities; and, be it

*Further Resolved,* That the Legislature hereby requests that the IJDC refer every proposed public water and sewer project to its consolidation committee to consider the issues related to potential consolidation or other measures that could result in efficiencies and more productive use of public moneys for new treatment facilities or replacement of facilities, or major expansion of service, or any proposed within close proximity to other existing treatment, collection, and/or distribution facilities; and, be it

*Further Resolved,* That the IJDC submit a report to the Legislature at the beginning of its 2017 regular session that identifies the potential for consolidation; the IJDC’s treatment of that issue through its funding decisions; the problems that exist with the issue, including barriers that may impede cooperation between municipalities and public service districts in obtaining the desired result of providing quality water and sewer service to the residents of West Virginia at the lowest possible cost.



With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Blair, 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 3019**, Requiring official business and records of the state and its political subdivisions be conducted in English.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Maynard, Gaunch, Karnes and Takubo:**

**Senate Bill 663**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8d, relating to authorizing the Commissioner of Highways to permit the Division of Highways to participate in construction or maintenance of publically funded highway jobs.

Referred to the Committee on Finance.

**By Senators Stollings, Ashley, Williams and Plymale:**

**Senate Bill 664**—A Bill to amend and reenact §30-20A-1, §30-20A-2, §30-20A-3, §30-20A-4, §30-20A-5, §30-20A-6 and §30-20A-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated §30-20A-8, §30-20A-9, §30-20A-10, §30-20A-11, §30-20A-12, §30-20A-13, §30-20A-14, §30-20A-15 and §30-20A-16, all relating to licensing the practice of athletic training; and providing criminal penalties.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

**By Senator Kessler:**

**Senate Bill 665**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-4-11, relating to the sale of vehicles whose title is branded as total loss, salvage or similar brand; requiring a record of all sales of such vehicles to be kept; requiring the Department of Transportation to contract for the development of a statewide database of such vehicle sales; authorizing the department to adopt rules to facilitate implementation of the database; requiring reports of the sale or purchase of such vehicles to be reported to the database; and creating a civil infraction fine for failure to report.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 666**—A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-2-13a, all relating to local indoor smoking prohibitions; exempting certain veterans' organizations and video lottery licenses from local indoor smoking prohibition; requiring veterans organization facilities and video lottery licenses allowing smoking to have nonsmoking areas; requiring posted notices smoking is allowed; requiring ventilation of smoking areas in video lottery facilities; and establishing a procedure for certain establishments to apply for exemption from local indoor smoking prohibition.

Referred to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 667**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-13, relating to the right to farm; and protecting agricultural operations from nuisance litigation if the facility has been in operation for more than one year.

Referred to the Committee on the Judiciary.

**By Senators Miller, Kessler and Stollings:**

**Senate Bill 668**—A Bill to amend and reenact §11-19-2 of the Code of West Virginia, 1931, as amended, relating to increasing the excise tax on bottled soft drinks, syrups and dry mixtures; and dedicating the additional proceeds to the maintenance and operation of the Joan C. Edwards School of Medicine of Marshall University and the West Virginia School of Osteopathic Medicine beginning in the year 2016.

Referred to the Committee on Finance.

**By Senators Boley, Plymale and Blair:**

**Senate Bill 669**—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to the demonstration of proficiency in civics as a condition of receiving a high school diploma or General Educational Development diplomas.

Referred to the Committee on Education.

**By Senators Carmichael and Ferns:**

**Senate Bill 670**—A Bill to amend and reenact §3-10-1, §3-10-3 and §3-10-4 of the Code of West Virginia, 1931, as amended, all relating to filling of vacancies in elected offices; requiring the Governor to call a special election in the event of a vacancy in the office of United States Senator except in certain circumstances; requiring the Governor to fill a vacancy in the United States Senate by appointment; and allowing the appointee to serve until a successor is elected and certified to fill the unexpired term.

Referred to the Committee on the Judiciary.

**By Senators Carmichael and Blair:**

**Senate Bill 671**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-1-5, relating to creating a digital learning pilot project; establishing a purpose; establishing goals; establishing objectives; establishing key components of the pilot project; establishing qualifications; and establishing a deadline.

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

**By Senators Hall and Trump:**

**Senate Bill 672**—A Bill to amend and reenact §11-21-32 and §11-21-77 of the Code of West Virginia, 1931, as amended, all relating to clarifying that a lottery prize is a West Virginia source income for a nonresident; and providing that lottery winnings are not compensation for personal services performed within the state by nonresidents.

Referred to the Committee on Finance.

**By Senator Boso:**

**Senate Bill 673**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-4a, relating to providing a safe harbor valuation for the measure of tax upon limestone and sandstone quarried or mined for purposes of the West Virginia Severance and Business Privilege Tax.

Referred to the Committee on Finance.

**By Senator Kessler:**

**Senate Bill 674**—A Bill to amend and reenact §11-16-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3A-21 of said code; and to amend and reenact §60-8-4 of said code, all relating to taxes on alcohol; providing an increase to the barrel tax on nonintoxicating beer; providing an increase on the tax on purchases of liquor; and providing an increase to the wine liter tax.

Referred to the Committee on Finance.

**By Senator Snyder:**

**Senate Bill 675**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-4a, relating to providing a safe harbor valuation for the measure of tax upon limestone and sandstone quarried or mined for purposes of the West Virginia Severance and Business Privilege Tax.

Referred to the Committee on Finance.

**By Senator Sypolt:**

**Senate Bill 676**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to the comprehensive statewide student assessment.

Referred to the Committee on Education.

**By Senators Takubo, Ashley, Gaunch, Maynard, Walters and Plymale:**

**Senate Bill 677**—A Bill to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended, relating to tuition rates set by the Higher Education Policy Commission; allowing increase in tuition for undergraduate and graduate students taking more than fifteen and twelve hours, respectively, a semester; and allowing the fixing of different tuition and fees for online course delivery.

Referred to the Committee on Education.

**By Senator Walters:**

**Senate Bill 678**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2E-3, relating to ownership and use of certain conduit that provides service by a telephone public utility; requiring the telephone company to permit a customer to own and use the conduit for other purposes; and providing for rule-making authority.

Referred to the Committee on Government Organization.

**By Senators Maynard, Karnes and Cline:**

**Senate Bill 679**—A Bill to amend and reenact §11-1C-11b of the Code of West Virginia, 1931, as amended, relating generally to the valuation of managed timberland and timberland that is not managed timberland for ad valorem property tax purposes; establishing a specific methodology for such valuations; providing remedies to persons aggrieved by the valuations and for compliance inspections, notice of revocation and appeals; and effective date.

Referred to the Committee on Finance.

**By Senator Unger:**

**Senate Bill 680**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6 and §30-41-7, all relating to providing for the establishment, appointment and membership of the Board of Music Therapy; requiring licensure of music therapists by the Board of Music Therapy; providing for definitions; providing for licensure application and qualifications; providing for license renewal; providing for waiver of examination; providing for disciplinary actions; and providing for related matters.

Referred to the Committee on Government Organization.

**By Senators Maynard, Ashley, Boley, Leonhardt and Cline:**

**Senate Bill 681**—A Bill to amend and reenact §18-2E-7 of the Code of West Virginia, 1931, as amended, relating to providing teachers' lesson plans to be readily and easily available on the internet to all students and parents.

Referred to the Committee on Education.

**By Senators Maynard, Ashley, Boley, Gaunch, Karnes, Leonhardt, Miller, Romano, Takubo, Woelfel, Williams, Plymale, Stollings, Cline and Ferns:**

**Senate Bill 682**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §24-9-1 and §24-9-2, all relating to authorizing telephone public

utilities providing cellular services to implement a system of centrally located cellular telephone hot spots in communities where cellular phone signals are weak or not currently available; and requiring the Public Service Commission to propose rules to implement the administration of this system.

Referred to the Committee on Government Organization.

**By Senators Maynard, Ashley, Boley, Carmichael, Gaunch, Miller, Romano, Woelfel, Plymale, Stollings, Blair, Cline and Laird:**

**Senate Bill 683**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-5-23, relating to allowing old and abandoned railroad beds that trail along rivers, lakes or creeks to be used for biking, hiking or off-road vehicle use.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Boley, Carmichael, Karnes, Leonhardt, Miller, Romano, Takubo, Woelfel, Stollings, Cline and Laird:**

**Senate Bill 684**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-5-5a, relating to authorizing the Director of the Division of Natural Resources to lease unused or abandoned coal railway routes where intact railroad track exists to qualified persons or individuals to operate tourist excursions; providing for legislative findings and declarations; and requiring the director to propose legislative rules in order to implement the purpose of allowing train excursions on unused or abandoned coal railway routes.

Referred to the Committee on Finance.

**By Senators Maynard, Gaunch, Karnes and Blair:**

**Senate Bill 685**—A Bill to amend and reenact §17C-15-44 of the Code of West Virginia, 1931, as amended, relating to allowing individuals at least twenty-one years of age to operate or ride a motorcycle without a helmet under specified conditions; and authorizing rules.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Carmichael, Gaunch, Karnes, Takubo, Walters and Blair:**

**Senate Bill 686**—A Bill to amend and reenact §17C-6-8 of the Code of West Virginia, 1931, as amended, relating to racing on highways or streets; and allowing races on county or municipal roads when the race is sanctioned by the local governing authority and the road is closed to other traffic.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Walters, Stollings and Cline:**

**Senate Bill 687**—A Bill to amend and reenact §22-3-10 of the Code of West Virginia, 1931, as amended, relating to allowing mine reclamation plans to include usage of the reclaimed land for purposes of the construction and installation of military bases or satellite offices under the authority of the United States Department of Defense or the United States Department of Homeland Security.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Ashley, Boley, Carmichael, Karnes, Miller, Romano, Takubo and Woelfel:**

**Senate Bill 688**—A Bill to amend and reenact §22C-4-24 and §22C-4-25 of the Code of West Virginia, 1931, as amended, all relating to county and regional solid waste facility siting plans; including consideration of the waste reduction benefits of recycling and composting facilities as part of facility siting plans; recognizing benefits from composting certain wastes into useful agricultural products; providing for inclusion in siting plans of composting facilities that are owned or operated by municipalities and other local governments; and specifying that net economic impact of composting facilities be included in siting plan determinations.

Referred to the Committee on Government Organization.



**By Senators Maynard, Cline, Kirkendoll, Mullins, Plymale, Romano, Stollings and Woelfel:**

**Senate Bill 689**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-17A-8, relating to providing for special obligation notes to finance construction of completion of Interstate 73 and Interstate 74 through West Virginia; and providing for the repayment of the bonds by unmanned toll booth collections.

Referred to the Committee on Finance.

**By Senators Mullins and Cline:**

**Senate Bill 690**—A Bill to amend and reenact §3-5-1 and §3-5-7 of the Code of West Virginia, 1931, as amended, all relating to making the second Friday in February on even numbered years the primary election day in West Virginia beginning in 2018; and changing the dates for filing announcements of the candidates.

Referred to the Committee on the Judiciary.

**By Senator Boso:**

**Senate Bill 691**—A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended, relating to modifying certain air pollution standards; changing certain mandatory requirements to permissive ones; changing a meter-based standard to a mass-based standard; and providing that the standards of performance for existing coal-fired electric generating units does not preclude coal-fired generating units from co-firing with other fuels.

Referred to the Committee on the Judiciary.

**By Senators Mullins, Walters, Stollings, Cline and Ferns:**

**Senate Bill 692**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5 and §18-5E-6, all relating to school shared use agreements.

Referred to the Committee on Education; and then to the Committee on Finance.

**By Senators Mullins, Plymale and Cline:**

**Senate Bill 693**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-17A-8, relating to providing for special obligation notes to finance construction of completion of the Coalfields Expressway through West Virginia; providing for the repayment of the bonds by automated toll booth collections; directing the Commissioner of Highways to propose legislative rules designed to implement placement of automated toll booths; and authorizing the commissioner to enter into agreements, with the Governor's consent, with the United States Department of Transportation to erect automated toll booths along interstate highways.

Referred to the Committee on Finance.

**By Senator Gauch:**

**Senate Bill 694**—A Bill to amend and reenact §33-46-2 and §33-46-18 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §33-46-21, §33-46-22, §33-46-23 and §33-46-24, all relating to regulation of pharmacy benefits managers; defining terms; providing that pharmacy benefits managers conducting audits for public health programs are not exempt from pharmacy audit restrictions; imposing restrictions upon audits conducted by pharmacy benefits managers; providing internal review process applicable to disputed findings of pharmacy benefits manager upon audit; requiring pharmacy benefits managers to provide notice to purchasers, pharmacists and pharmacies of information relating to maximum allowable costs; and requiring pharmacy benefits managers to provide a process relating to the appropriate use of maximum allowable cost pricing.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senator Boso:**

**Senate Bill 695**—A Bill to repeal §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-7, §21-5A-8, §21-5A-9 and §21-5A-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §21-5A-10 of said code, relating to

discontinuing the requirements pertaining to the payment of wages established by state law currently required to be paid to all workers employed by or on behalf of any public authority engaged in the construction of public improvements to take effect after April 1, 2016.

Referred to the Committee on Government Organization.

**By Senator Karnes:**

**Senate Bill 696**—A Bill to amend and reenact §20-7-8 of the Code of West Virginia, 1931, as amended, relating to disposition of seized firearms.

Referred to the Committee on the Judiciary.

**By Senators Snyder, Romano, Kessler and Williams:**

**Senate Bill 697**—A Bill to amend and reenact §3-8-1a, §3-8-2, §3-8-5, §3-8-5a, §3-8-5b, §3-8-7, §3-8-8, §3-8-9 and §3-8-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §3-8-5c and §3-8-8a, all relating generally to the regulation and control of elections; modifying and adding definitions; modifying what committees qualify for a federal reporting exemption; modifying reporting requirements for independent expenditures; clarifying scope of reporting obligations by committee treasurers; requiring certain contributions be reported to State Election Commission within forty-eight hours of their receipt; requiring financial statements for candidates for State Senate, House of Delegates, circuit judge and family court judge to be filed electronically with the Secretary of State; permitting certain financial statements to be filed by mail, in person or by facsimile or other electronic means; establishing a processing fee for financial statements not filed electronically; requiring Secretary of State to maintain an online searchable database; setting contribution limits to state party executive committee, or subsidiary thereof, or state party legislative caucus committee; prohibiting contributions by foreign nationals; directing Secretary of State to publish an online list of late filing violators; prohibiting contributions to candidates or candidate committees by corporations or membership organizations; clarifying and modifying disclosure requirements

for covered organizations; identifying additional lawful election expenses; identifying additional lawful expenditures for excess campaign funds; creating criminal offenses and setting penalties; and setting requirements for disclosures on certain communications.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

**By Senators Boso, Boley and Walters:**

**Senate Bill 698**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, relating to permitting natural gas companies to enter upon real property in certain instances for limited purposes; setting forth those instances and purposes; making legislative findings; establishing a procedure to enter upon the property; requiring the company to pay for damages; excluding certain activities; exempting the company and its agents from trespass penalties if certain conditions are met; and providing that certain other rights are not impaired.

Referred to the Committee on the Judiciary.

**By Senator Karnes:**

**Senate Bill 699**—A Bill to amend and reenact §64-5-2 of the Code of West Virginia, 1931, as amended, relating to reauthorizing, with amendment, the legislative rule contained in title sixty-four, series seventeen of the Code of State Rules relating to food establishments (64 CSR 17); and allowing certain foods to be produced in a private home kitchen for sale at a farmers market, consignment farmers market, on-farm stand, roadside stand and online market under specified conditions.

Referred to the Committee on Health and Human Resources.

Senators Maynard, Gaunch and Karnes offered the following resolution:

**Senate Concurrent Resolution 43**—Requesting the Joint Committee on Government and Finance study if it would be economically beneficial to create a commission to map, name and

promote all existing unpaved trails open to the public in West Virginia so that the information would be available to be used to promote tourism in West Virginia.

Whereas, There are many trails in West Virginia that are open to the public for which little information is easily available to the public; and

Whereas, If complete and detailed information about West Virginia's trail system was readily available to the public and individuals from other states and countries, the potential would exist for attracting additional tourism dollars into West Virginia's economy; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study if it would be economically beneficial to create a commission to map, name and promote all existing unpaved trails open to the public in West Virginia so that the information would be available to be used to promote tourism in West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, 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 Carmichael, Kessler, Williams, Prezioso, Stollings, Blair, Boso and Laird offered the following resolution:

**Senate Resolution 43**—Designating February 22, 2016, as West Virginia Arts Day.

Whereas, The great State of West Virginia is celebrating the 50th Anniversary of the National Endowment for the Arts and its impact on the rich culture and diverse arts of our state; and

Whereas, The partnership between the National Endowment for the Arts and the West Virginia Division of Culture and History has meant that all 55 counties have benefitted from arts programming through federal and state funding; and

Whereas, The arts are the embodiment of all things beautiful and entertaining in the world—the enduring record of human achievement; and

Whereas, The arts enhance every aspect of life in West Virginia—growing our creative economy, enriching our civic life, enhancing tourism and exerting a profound positive influence on the education of our children; and

Whereas, Support for the arts advances, fosters and promotes the traditional and contemporary creativity of our residents through music, theater, literature, dance and fine arts; and

Whereas, Arts education research shows that the arts help to foster discipline, creativity, imagination, self expression and problem-solving skills while also helping to develop a heightened appreciation of beauty and cross-cultural understanding; and

Whereas, The arts play a unique and intrinsically valuable role in the lives of our families, our communities and our state; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 22, 2016, as West Virginia Arts Day; and, be it

*Further Resolved,* That the Senate calls upon all citizens to celebrate and promote arts and culture in the Mountain State; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Commissioner of the West Virginia Division of Culture and History.

At the request of Senator Carmichael, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Unger, Trump, Kessler, Williams, Prezioso, Sypolt, Plymale, Stollings and Laird offered the following resolution:

**Senate Resolution 44**—Recognizing the West Virginia State Historic Preservation Office for 50 years of preserving and protecting the state’s legacy of historic resources for today and the future.

Whereas, The United States Congress passed, and President Lyndon B. Johnson signed, on October 15, 1966, the National Historic Preservation Act; and

Whereas, With heritage so rich, the West Virginia State Historic Preservation Office was formed. For 50 years its efforts have led the state and its residents in recognizing our historic resources and investing in their rehabilitation and protection; and

Whereas, More than 900 individual resources and 157 historic districts represent West Virginia’s historic resources as listed in the National Register of Historic Places; and

Whereas, West Virginia State Historic Preservation Office programs help to infuse the state’s economy with federal and state historic preservation rehabilitation tax credits that have resulted in more than \$133 million in construction projects and more than \$26 million in tax credits; and

Whereas, Through \$3.5 million in state matching grants, historic buildings, archaeological sites, structures and other historic resources have been successfully rehabilitated, stabilized and repaired; and

Whereas, Four million dollars in federally funded survey and planning grants have helped citizens promote and protect West Virginia's historic resources; and

Whereas, Through the Certified Local Government program, 54 historic landmark commissions have participated in local community projects that identify, preserve and protect historic resources; and

Whereas, The West Virginia State Historic Preservation Office has consulted with federal and state agencies on approximately 54,000 infrastructure and development projects to help avoid adverse impacts to historic resources and helped preserve our history; and

Whereas, The West Virginia State Historic Preservation Office has reached thousands of West Virginians with an educational program that includes the annual historic preservation calendar, workshops and training programs, youth programs and other public activities; and

Whereas, The West Virginia State Historic Preservation Office GIS website links documentation to individual locations and districts encompassing approximately 61,589 resources in West Virginia, providing an invaluable resource; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia State Historic Preservation Office for 50 years of preserving and protecting the state's legacy of historic resources for today and the future; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia State Historic Preservation Office.



At the request of Senator Carmichael, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and proceeded to the seventh order of business.

**Senate Concurrent Resolution 40**, Encouraging Congress pass Toxic Exposure Research Act of 2016.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Health and Human Resources.

**Senate Concurrent Resolution 41**, US Army SGT Philip Ray Casto 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 42**, US Navy LCDR Helen Elizabeth Peck Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 339**, Establishing Judicial Compensation 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—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. 339) 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 339**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §51-12-1, §51-12-2 and §51-12-3, all relating to establishing a judicial compensation commission; setting responsibilities for commission; establishing membership of commission; setting terms of service for appointed members; setting eligibility requirements for certain commission members; providing that members of commission are ineligible for appointment to state judicial position while serving on commission; providing for reimbursement of expenses incurred in carrying out responsibilities of commission; providing for filling of vacancies on commission; giving commission authority to make salary recommendations for certain judicial officers to the Legislature; providing for location of commission meetings; setting meeting notice requirements; directing election of a chairperson; setting quorum requirements; permitting commission to request staff assistance from Joint Committee on Government and Finance and administrative office of Supreme Court of Appeals; requiring meetings be conducted pursuant to open meetings laws; directing commission to study compensation structure for certain judicial officers for purposes of preparing a report; setting forth required factors to be considered in making recommendations regarding compensation; providing for filling of commission vacancies; establishing certain dates for commission action; providing for filing of commission reports and recommendations with certain

offices; requiring a bill enacting commission's salary recommendations be introduced by the presiding officers of the Senate and House of Delegates no later than the twentieth day of the legislative session following receipt of report; requiring a bill enacting commission's salary recommendations be reintroduced by the presiding officers of the Senate and House of Delegates in each subsequent legislative session if not enacted; providing that commission be adjourned for three years following submission of report; and making technical corrections.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill 478**, Authorizing licensees who sell growlers to offer samples.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—32.

The nays were: Woelfel—1.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 478) 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 478**—A Bill to amend and reenact §11-16-6b of the Code of West Virginia, 1931, as amended, relating to authorizing licensee's authorized to sell growlers of

nonintoxicating beer to offer complimentary samples to patrons from their licensed premises; permitting licensees to offer complimentary samples of nonintoxicating beer or nonintoxicating craft beer to patrons; limiting size of samples; limiting number of samples; requiring licensee to verify patron's age using proper identification prior to sampling; and requiring licensee to verify prior to sampling that patron is not visibly intoxicated.

*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 481**, Authorizing distillery operators to offer liquor for purchase and consumption on premises.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—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. 481) 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 500**, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—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. 500) 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 505**, Exempting certain uses of field gas from 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 505) 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 520**, Allowing PEIA ability to recover benefits or claims obtained through 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—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. 520) 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 581**, Eliminating sunset provision terminating pilot domestic violence court 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—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. 581) 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 4145**, Relating to carry or use of a handgun or deadly weapon.

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 House Bill 4145 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Karnes, Kessler, Kirkendoll, Leonhardt, Maynard, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—24.

The nays were: Ashley, Beach, Facemire, Hall, Laird, Miller, Palumbo, Romano and Snyder—9.

Absent: Mullins—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. 4145) 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 House Bill 4145**—A Bill to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code; and to amend said code by adding thereto three new sections,

designated §61-7-4a and §61-7-15a and §61-7-17, all relating to the carrying of firearms and deadly weapons generally; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization apply only to persons under twenty-one years of age and prohibited persons; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; requiring training courses in handling and firing a handgun to include the actual live firing of ammunition; requiring certificates of completion of a training course which are submitted with license applications include the instructor's name, signature and NRA or state instructor identification number; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs' Bureau of Professional Standards, prepare uniform applications for licenses and license cards; establishing a provisional license to carry concealed deadly weapons for persons at least eighteen years of age and less than twenty-one years of age; establishing provisional license application requirements and procedures; providing for exceptions as to prohibitions against carrying handguns concealed for persons at least eighteen years of age and fewer than twenty-one years of age; providing for any United States citizen or legal resident thereof at least twenty-one years of age and not otherwise prohibited from possessing a firearm may carry a concealed deadly weapon without a license; creating felony offenses for any persons prohibited from possessing firearms who carry concealed firearms and providing for criminal penalties; providing that it shall not be unlawful to possess a firearm in or on a private primary or secondary education building, structure or facility when such institution has adopted written policies allowing for possession of firearms; exempting probation officers from prohibition against possessing firearms on premises of educational facilities; requiring a school principal to report certain violations to the State Police; creating felony offense for persons using or presenting a firearm while engaged in the commission of a felony and providing for criminal penalties; and providing for construction of article.



*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 Boso, and by unanimous consent, the remarks by Senators Trump, Snyder, Palumbo, Leonhardt, Romano, Beach, Blair and Karnes regarding the passage of Engrossed Committee Substitute for House Bill 4145 were ordered printed in the Appendix to the Journal.

**Eng. House Bill 4161**, Relating to levies on classifications of property by the Board of Public Works.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4161) 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 420**, Increasing tax rate on cigarette and tobacco products.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Prezioso, the following amendment to the bill was reported by the Clerk and adopted:

On page two, section three, line twenty-five, by striking out “2016” and inserting in lieu thereof “2017”.

The bill (Com. Sub. for S. B. 420), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 485**, Establishing regional recreation authorities and areas.

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 508**, Relating to civil claims for private nuisance.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Kessler, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page two, section thirty, line fifteen, after the word “thereto,” by striking out the word “unless” and inserting in lieu thereof the word “when”;

And,

On page two, section thirty, line sixteen, after the words “nuisance is” by striking out the words “in violation of” and inserting in lieu thereof the words “expressly authorized or required by”.

Following discussion,

The question being on the adoption of Senator Kessler’s amendments to the bill, and on this question, Senator Kessler demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Snyder, Stollings, Unger, Walters, Woelfel and Yost—13.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Palumbo, Plymale, Prezioso, Sypolt, Takubo, Trump, Williams and Cole (Mr. President)—20.

Absent: Mullins—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Kessler's amendments to the bill rejected.

The bill (Com. Sub. for S. B. 508) was then ordered to engrossment and third reading.

Thereafter, at the request of Senator Unger, and by unanimous consent, the remarks by Senators Kessler, Trump, Romano, Facemire and Carmichael regarding the adoption of Senator Kessler's amendments to Engrossed Committee Substitute for Senate Bill 508 were ordered printed in the Appendix to the Journal.

**Com. Sub. for Senate Bill 565**, Allowing well pad and road construction for oil and gas activities.

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 591**, Relating to voter registration list maintenance and combined voter registration and driver licensing fund.

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.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 252**, Amending Wiretapping and Electronic Surveillance Act to exclude from protection oral communications.

**Com. Sub. for Senate Bill 274**, Relating to increasing civil jurisdictional amount in magistrate courts.

**Com. Sub. for Senate Bill 291**, Law enforcement use of unmanned aircraft systems.

**Com. Sub. for Senate Bill 376**, Expanding authority of Secretary of State and State Police.

**Senate Bill 416**, Allowing terminally ill patients access to investigational products.

**Senate Bill 438**, Requiring DHHR be present at judicial proceedings.

**Com. Sub. for Senate Bill 474**, Exempting DEP construction and reclamation contracts from review and approval.

**Com. Sub. for Senate Bill 575**, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services.

**Com. Sub. for Senate Bill 592**, Relating to pipeline safety.

And,

**Com. Sub. for Senate Bill 621**, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Prezioso.

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Prezioso were ordered extended in the Journal as follows:

SENATOR PREZIOSO: Thank you, Mr. President, ladies and gentlemen of the Senate.

You know, I've been honored over the years in my tenure in the House of Delegates and the West Virginia State Senate to serve with so many talented individuals throughout the state.

You know, I, I certainly admire all your talent, your knowledge and your dedication not only to your community, to your state and to the nation. I admire each and every one of you I've served with and I've developed great relationships with almost everybody in this corner of the state. Although at times we have taken different paths to achieve our goals, I think our targets are the same: To make West Virginia great, to make West Virginia safe and make West Virginia healthy.

Tomorrow one of our colleagues and one of our best friends will travel to the nation's capital to receive a prestigious award. The American Medical Association's Dr. Nathan Davis Award for Outstanding Government Service. This award is given as one of the most prestigious honors extended to elected officials for, for outstanding endeavors that advance public health.

Through the award, though the award, named for the founder of the AMA, the American Medical Association strives to encourage and to stipulate public recognition for significant accomplishments attained by men and women who are giving of themselves to advance the well-being of all.

The AMA presents these awards in seven categories of public service, including local, state and federal government. Each year the caliber of the nominees is a testament to the incredible initiatives being advanced by government and elected officials throughout this nation.

Two thousand sixteen awards will be presented at a recognition dinner in Washington, D. C. tomorrow. The Senator from Boone is one of the recipients of this year's Nathan Davis Award.

The doctor from Madison is the third West Virginian to receive this award. Other physician leaders previously recognized with this

award includes Surgeon Generals Dr. C. Everett Koop and Dr. David Satcher.

The Senator from Boone earned both a bachelor's and a master's degree from West Virginia University, is a graduate of, graduate of Marshall University School of Medicine and completed the residency in internal medicine at the Bowman [Gray] School of Medicine at Wake Forest University. Board certified in internal medicine, he has been in private practice at, at Madison Medical Group and on the staff at Boone Memorial Hospital since 1985. He has been elected as a Fellow to the American College of Physicians and is a Professor of Medicine for West Virginia University School of Medicine. Also, he serves on visiting committees at WVU School of Medicine and the WVU School of Public Health. On a national level he is Cochair of the Council of State Governments Health Policy Committee.

Please stand with me and recognize our colleague, our friend, the Senator from Boone, the doctor from Madison, Dr. Ron Stollings.

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Remarks were made by Senators Walters and Miller.

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senator Miller were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Mullins.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 23, 2016, at 11 a.m.

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## TUESDAY, FEBRUARY 23, 2016

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Pastor Brad Joseph, Mountain Heights Church, South Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Corey Palumbo, a senator from the seventeenth district.

Pending the reading of the Journal of Monday, February 22, 2016,

At the request of Senator Trump, 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 a communication from the Court of Claims, submitting its Crime Victims Compensation Fund report as required by §14-2A-21 of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Division of Juvenile Services, submitting its annual report, in accordance with §49-5-13e of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

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 July 1, 2016, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 146**, Establishing instruction standards for early childhood education.

On motion of Senator Carmichael, 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:

That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-44. Early childhood education programs.**

(a) For the purposes of this section, an “early childhood education program” means ~~programs~~ a program created under this section for children who have attained the age of four prior to September 1 of the school year in which ~~the pupil enters~~ the children enter the program. ~~created in this section~~

(b) *Findings.* –

(1) Among other positive outcomes, early childhood education programs have been determined to:

- (A) Improve overall readiness when children enter school;
- (B) Decrease behavioral problems;
- (C) Improve student attendance;
- (D) Increase scores on achievement tests;
- (E) Decrease the percentage of students repeating a grade; and



(F) Decrease the number of students placed in special education programs;

(2) Quality early childhood education programs improve school performance and low-quality early childhood education programs may have negative effects, especially for at-risk children;

(3) West Virginia has the lowest percentage of its adult population twenty-five years of age or older with a bachelor's degree and the education level of parents is a strong indicator of how their children will perform in school;

(4) During the 2006-2007 school year, West Virginia ranked thirty-ninth among the fifty states in the percentage of school children eligible for free and reduced lunches and this percentage is a strong indicator of how the children will perform in school;

(5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a number equal to approximately sixty-three percent of the number of students enrolled in kindergarten;

(6) Excluding projected increases due to increases in enrollment in the early childhood education program, projections indicate that total student enrollment in West Virginia will decline by one percent, or by approximately 2,704 students, by the school year 2012-2013;

(7) In part, because of the dynamics of the state aid formula, county boards will continue to enroll four-year-old students to offset the declining enrollments;

(8) West Virginia has a comprehensive kindergarten program for five-year-olds, but the program was established in a manner that resulted in unequal implementation among the counties, which helped create deficit financial situations for several county boards;

(9) Expansion of current efforts to implement a comprehensive early childhood education program should avoid the problems encountered in kindergarten implementation;

(10) Because of the dynamics of the state aid formula, counties experiencing growth are at a disadvantage in implementing comprehensive early childhood education programs; and

(11) West Virginia citizens will benefit from the establishment of quality comprehensive early childhood education programs.

(c) Beginning no later than the school year 2012-2013, and continuing thereafter, county boards shall provide early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the ~~pupil enters~~ children enter the early childhood education program. Beginning no later than the school year 2016-2017, and continuing thereafter, these early childhood education programs ~~that are full day and five days per week shall be available to all children meeting the age requirement set forth in the subsection~~ shall provide at least forty-eight thousand minutes annually and no less than fifteen hundred minutes of instruction per week.

(d) The program shall meet the following criteria:

(1) It shall be voluntary, except that, upon enrollment, the provisions of section ~~one~~ one-a, article eight of this chapter apply to an enrolled student, subject to subdivision ~~(3)~~ (4) of this subsection;

(2) It shall be open to all children meeting the age requirement set forth in this section; shall have the opportunity to enroll in a program that is full day and five days per week. The program may be for fewer than five days per week and may be less than full day based on family need if a sufficient number of families request such programs and the county board finds that such programs are in the best interest of the requesting families and students: Provided, That the ability of families to request programs that are fewer than five days a week or less than a full day does not relieve the county of the obligation to provide all resident children with the opportunity to enroll in a full day program; and

(3) It shall provide no less than fifteen hundred minutes of instruction per week, in a full day program with at least forty-eight thousand minutes of instruction annually; and

~~(3) (4) It shall permit a parent of a an enrolled child enrolled in an early education program may to withdraw a the child from that program for good cause by notifying the district in writing. Good cause includes, but is not limited to, enrollment of the child in another program or the immaturity of the child. A child withdrawn under this section is not subject to the attendance provisions of this chapter until that child again enrolls in a public school in this state.~~

(e) Enrollment of students in Head Start, or in any other program approved by the state superintendent as provided in ~~subsection (k)~~ of this section, may be counted toward satisfying the requirement of subsection (c) of this section.

(f) For the purposes of implementation financing, all counties are encouraged to make use of funds from existing sources, including:

(1) Federal funds provided under the Elementary and Secondary Education Act pursuant to 20 U. S. C. §6301, *et seq.*;

(2) Federal funds provided for Head Start pursuant to 42 U. S. C. §9831, *et seq.*;

(3) Federal funds for temporary assistance to needy families pursuant to 42 U. S. C. §601, *et seq.*;

(4) Funds provided by the School Building Authority pursuant to article nine-d of this chapter;

(5) In the case of counties with declining enrollments, funds from the state aid formula above the amount indicated for the number of students actually enrolled in any school year; and

(6) Any other public or private funds.

(g) Each county board shall develop a plan for implementing the program required by this section. The plan shall include the following elements:

(1) An analysis of the demographics of the county related to early childhood education program implementation;

(2) An analysis of facility and personnel needs;

(3) Financial requirements for implementation and potential sources of funding to assist implementation;

(4) Details of how the county board will cooperate and collaborate with other early childhood education programs including, but not limited to, Head Start, to maximize federal and other sources of revenue;

(5) Specific time lines for implementation; and

(6) Any other items the state board may require by policy.

(h) A county board shall submit its plan to the Secretary of the Department of Health and Human Resources. The secretary shall approve the plan if the following conditions are met:

(1) The county board has maximized the use of federal and other available funds for early childhood programs; and

(2) The county board has provided for the maximum implementation of Head Start programs and other public and private programs approved by the state superintendent pursuant to the terms of ~~subsection (k) of this section; and~~ or

(3) ~~If the The Secretary of the Department of Health and Human Resources~~ secretary finds that, if the county board has not met one or more of the requirements of this subsection, ~~but that~~ the county board has acted in good faith and the failure to comply was not the primary fault of the county board. ~~then the secretary shall approve the plan.~~ Any denial by the secretary may be appealed to the circuit court of the county in which the county board is located.

(i) The county board shall submit its plan for approval to the state board. The state board shall approve the plan if the county board has complied substantially with the requirements of subsection (g) of this section and has obtained the approval required in subsection (h) of this section.

(j) Every county board shall submit its plan for reapproval by the Secretary of the Department of Health and Human Resources and by the state board at least every two years after the initial approval of the plan and until full implementation of the early childhood education program in the county. As part of the submission, the county board shall provide a detailed statement of the progress made in implementing its plan. The standards and procedures provided for the original approval of the plan apply to any reapproval.

(k) A county board may not increase the total number of students enrolled in the county in an early childhood program until its program is approved by the Secretary of the Department of Health and Human Resources and the state board.

(l) The state board annually may grant a county board a waiver for total or partial implementation if the state board finds that all of the following conditions exist:

(1) The county board is unable to comply either because:

(A) It does not have sufficient facilities available; or

(B) It does not and has not had available funds sufficient to implement the program;

(2) The county has not experienced a decline in enrollment at least equal to the total number of students to be enrolled; and

(3) Other agencies of government have not made sufficient funds or facilities available to assist in implementation.

Any county board seeking a waiver shall apply with the supporting data to meet the criteria for which they are eligible on or before March 25 for the following school year. The state

superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

(m) The provisions of subsections (b), (c) and (d), section eighteen of this article relating to kindergarten apply to early childhood education programs in the same manner in which they apply to kindergarten programs.

(n) Annually, the state board shall report to the Legislative Oversight Commission on Education Accountability on the progress of implementation of this section.

(o) Except as required by federal law or regulation, no county board may enroll students who will be less than four years of age prior to September 1 for the year they enter school.

(p) Neither the state board nor the state department may provide any funds to any county board for the purpose of implementing this section unless the county board has a plan approved pursuant to subsections (h), (i) and (j) of this section.

(q) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this section. The state board shall consult with the Secretary of the Department of Health and Human Resources in the preparation of the rule. The rule shall contain the following:

(1) Standards for curriculum;

(2) Standards for preparing students;

(3) Attendance requirements;

(4) Standards for personnel; and

(5) Any other terms necessary to implement the provisions of this section.

(r) The rule shall include the following elements relating to curriculum standards:

(1) A requirement that the curriculum be designed to address the developmental needs of four-year-old children consistent with prevailing research on how children learn;

(2) A requirement that the curriculum be designed to achieve long-range goals for the social, emotional, physical and academic development of young children;

(3) A method for including a broad range of content that is relevant, engaging and meaningful to young children;

(4) A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional strategies to respond to differences in prior experience, maturation rates and learning styles that young children bring to the classroom;

(5) A requirement that the curriculum be designed to build on what children already know in order to consolidate their learning and foster their acquisition of new concepts and skills;

(6) A requirement that the curriculum meet the recognized standards of the relevant subject matter disciplines;

(7) A requirement that the curriculum engage children actively in the learning process and provide them with opportunities to make meaningful choices;

(8) A requirement that the curriculum emphasize the development of thinking, reasoning, decision-making and problem-solving skills;

(9) A set of clear guidelines for communicating with parents and involving them in decisions about the instructional needs of their children; and

(10) A systematic plan for evaluating program success in meeting the needs of young children and for helping them to be ready to succeed in school.

(s) The secretary and the state superintendent shall submit a report to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance which addresses, at a minimum, the following issues:

(1) A summary of the approved county plans for providing the early childhood education programs pursuant to this section;

(2) An analysis of the total cost to the state and county boards of implementing the plans;

(3) A separate analysis of the impact of the plans on counties with increasing enrollment; and

(4) An analysis of the effect of the programs on the maximization of the use of federal funds for early childhood programs.

The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible manner and make any necessary program improvements based on reported information prior to implementation of the early childhood education programs.

(t) After the school year 2012-2013, on or before July 1 of each year, each county board shall report the following information to the Secretary of the Department of Health and Human Resources and the state superintendent:

(1) Documentation indicating the extent to which county boards are maximizing resources by using the existing capacity of community-based programs, including, but not limited to, Head Start and child care; and

(2) For those county boards that are including eligible children attending approved, contracted community-based programs in their net enrollment for the purposes of calculating state aid pursuant to article nine-a of this chapter, documentation that the county board is equitably distributing funding for all children regardless of setting.



On motion of Senator Sypolt, the following amendments to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 146) were reported by the Clerk, considered simultaneously, and adopted:

On page six, section forty-four, by striking out all of subsection (n);

On page eight, section forty-four, by striking out all of subsection (s);

And by relettering the remaining subsections;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 146**—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to early childhood education programs; replacing days per week requirement for early childhood education programs with instructional minutes per week and instructional minutes per year requirements; modifying authority of parent to withdraw child from early childhood education program; and removing certain early childhood education program-related reporting requirements.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 146, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 146) passed with its Senate amended title.

Senator Carmichael moved that the bill take effect July 1, 2016.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 146) takes effect July 1, 2016.

*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 passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill 2605**—A Bill to amend and reenact §55-2-15 of the Code of West Virginia, 1931, as amended, relating generally to limitations on civil actions accruing to persons under legal disability; and removing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor.

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. House Bill 4152**—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, 2016, to the Department of Environmental Protection, Division of Environmental Protection – Protect Our Water Fund, fund 3017, fiscal year 2016, organization 0313, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

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 4155**—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, 2016, to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund, fund 5185, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

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 4157**—A Bill supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2016, organization 0803, for the fiscal year ending June 30, 2016.

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 4160**—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, 2016, to the Department of Revenue, Tax Division – Wine Tax Administration Fund, fund 7087, fiscal year 2016, organization 0702, and the Department of Revenue, Tax Division – Local Sales Tax and Excise Tax Administration Fund, fund 7099, fiscal year 2016, organization 0702, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016.

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 4197**—A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, as amended, relating to the testing for HIV or hepatitis of certain persons; authorizing the Commissioner of the Bureau of Health to require HIV or hepatitis testing of certain persons who may have been exposed to HIV or hepatitis while providing certain services; and authorizing the Commissioner of the Bureau of Health or his or her designees to determine the appropriate therapy, counseling and psychological support for the exposed person.

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 4265**—A Bill to amend and reenact §7-3-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-17 of said code; to amend and reenact §8-27-16 of said code; to amend and reenact §10-2A-16 of said code;

and to amend and reenact §17-17-22 and §17-17-34 of said code; all relating to direct payments of principal and interest on certain bonds owned by the United States or any governmental agency or department of the United States.

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, to take effect from passage, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4310**—A Bill to repeal §18B-1E-1, §18B-1E-2, §18B-1E-3 and §18B-1E-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-1C-1 and §18B-1C-2 of said code, all relating to the West Virginia University Institute of Technology; finding that there is a need to maintain the valuable educational services provided by the West Virginia University Institute of Technology; finding that there are continued enrollment and facilities issues facing the West Virginia University Institute of Technology in Montgomery, West Virginia; finding that the West Virginia University Institute of Technology, West Virginia University, Marshall University, Concord University, Bluefield State College, and other public and private partners should collaborate; requiring collaboration and encouraging agreements with local governments near Montgomery; clarifying provisions relating to the West Virginia University Institute of Technology Board of Visitors; eliminating the requirement that the headquarters of the West Virginia Institute of Technology remain in Montgomery, West Virginia; providing for a program review and approval process; requiring meetings between West Virginia University, West Virginia Institute of Technology, Concord University, and Bluefield State College; eliminating outdated provisions; and repealing provisions relating to the West Virginia University Institute of Technology Revitalization Project.

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 4316**—A Bill to amend and reenact §18A-4-2a of the Code of West Virginia, 1931, as amended, relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification; and requiring the submission of satisfactory evidence to the West Virginia Department of Education for reimbursement.

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 4319**—A Bill to amend and reenact §59-1-2a of the Code of West Virginia, 1931, as amended, relating to defining the term “veteran” as that term pertains to veteran-owned businesses.

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 4322**—A Bill to amend and reenact §18B-3D-1 and §18B-3D-4 of the Code of West Virginia, 1931, as amended, all relating to the Workforce Development Initiative Program; revising the purposes for which certain funding is provided under program; removing condition upon which certain equipment may be sold, disposed of or used; and eliminating exception to dollar-for-dollar grant funding match from private sector partners.

Referred to the Committee on Education.

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 4340**—A Bill to amend and reenact §30-1-5, of the Code of West Virginia, 1931, as amended; and to amend said code by adding there to a new article, designated §30-1D-1, all relating generally to boards of examination for licensure; amending licensing requirements for an act which may be called Lynette’s Law; requiring information regarding completed disciplinary actions in which discipline was ordered, to be posted on a website with public access; and requiring certain boards regulating professions to require national criminal background checks on applicants being licensed for the first time in West Virginia.

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 from passage, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4366**—A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

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 4445**—A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new section, designated §18-2A-10, relating to the adoption of instructional resources for use in the public schools; providing for transition to new provisions for instructional resources adoption; defining instructional resources; requiring state board policy on required criteria included in instructional resources and requiring resources adopted to substantially cover; requiring pricing statement to be filed with state superintendent by person, firm or

corporation desiring to sell instructional resources; prohibiting adoption or use unless of person firm or corporation not complying; disqualification of person, firm or corporation for failure to honor terms of filing; supplementary resources exempted; provisions for furnishing necessary instructional resources to students; requiring county board policy on instructional resources adoption and specifying minim provisions; and prohibiting board of education member or employee from acting as sales agents for person, firm or corporation filing statement with superintendent.

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 4540**—A Bill to amend and reenact §22-15A-22 of the Code of West Virginia, 1931, as amended, relating to removing prohibition of disposal of certain electronics in landfills; and permitting county or regional solid waste authorities to prohibit disposal of covered electronics in landfills where they have determined that a cost effective recycling alternative for handling covered electronic devices exists.

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 4604**—A Bill to amend and reenact §6B-2-4 of the Code of West Virginia, 1931, as amended, relating to violations of the Ethics Act; establishing a deadline of one year for the Ethics Commission to investigate and make a probable cause determination on a complaint; allowing extension past one year if consented by both respondent and complainant or unless good cause is made in writing by the Ethics Commission to both the respondent and complainant; changing the burden of proof needed to show a violation of the Ethics Act to a clear and convincing evidence standard; and extending the statute of



limitations for filing complaints alleging violations of the Ethics Act from two years to five years.

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 4605**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-10f, relating to the disclosure of interested parties to a government contract; defining terms; prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; requiring submission of supplemental disclosure within thirty days of completion or termination of the contract; providing exceptions to the disclosure requirement for certain contracts; requiring the Ethics Commission create disclosure form; specifying contents to be included in the disclosure form; requiring state agencies to submit completed forms to the Ethics Commission; requiring the Ethics Commission to make disclosures publicly available; and requiring the Ethics Commission to post disclosures on the commission website when technologically able.

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 4618**—A Bill to repeal §6B-2-5c of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §6B-2B-1, §6B-2B-2, §6B-2B-3, §6B-2B-4, §6B-2B-5, §6B-2B-6 and §6B-2B-7, all relating to limitations on use of a public official's name or likeness; prohibiting public officials, their agents or anyone on public payroll from placing the public official's name or likeness on trinkets; prohibiting public officials, their agents or anyone on public payroll from using public funds, public employees, or public resources to

distribute, disseminate, publish, or display the public official's name or likeness for the purpose of advertising to the public; prohibiting public officials, their agents or anyone on public payroll from placing the public official's name or likeness on publicly-owned vehicles; prohibiting a public official's name or likeness from being placed on any educational material that is paid for with public funds; placing restrictions on a public official's name or likeness on a public agency's website and social media; prohibiting use of public resources to display or distribute trinkets, educational material or advertising with a public official's name or likeness; providing exceptions; providing for alternative uses for prohibited material after the effective date; and providing an opportunity to obtain an exemption from the Ethics Commission.

Referred to the Committee on the Judiciary.

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

**Senate Bill 106**, Waiver of warranty on sale of used manufactured home under certain circumstances.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 106** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers of warranties with respect to goods which are the subject of, or are intended to become the subject of, a consumer transaction; permitting exclusion, modification or limitation of warranty upon sale of manufactured home under certain circumstances; permitting consumer to waive a warranty as to a particular defect or malfunction which dealer has disclosed; and setting requirements for waiver to be effective.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Karnes, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 399**, Establishing personal and corporate income tax credits for farmers donating edible agricultural products.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 399** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6 and §11-13DD-7, all relating to creation of farm-to-food bank tax credit; defining terms; providing method for calculation of value of tax credit; limiting tax credit; providing for certification by Department of Agriculture; allowing carryover of unused tax credits for four years; providing for rulemaking; and establishing effective date of tax credit.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. 399), under the original double committee reference, was then referred to the Committee on Finance.

Senator Gaunch, 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 525**, Relating to WV Insurance Guaranty Association Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 525** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §33-26-2, §33-26-3, §33-26-4, §33-26-5, §33-26-8, §33-26-9, §33-26-10, §33-26-11, §33-26-12, §33-26-13, §33-26-14 and §33-26-18 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Insurance Guaranty Association Act; modifying scope and construction of act; adding and amending definitions; clarifying and adding powers, duties and rights of association; modifying provisions concerning effect of paid claims, exhaustion of coverage, prevention of insolvencies and stay of proceedings; changing due date of annual financial report; limiting covered claims; expanding association's right to recover and be reimbursed; providing for confidentiality of financial information; and exempting certain reports and recommendations from Freedom of Information Act.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

Senator Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 538**, Relating to salaries of appointed officers fixed by Governor.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mike Hall,  
*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 593**, Clarifying disqualification from unemployment benefits.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 593** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to disqualification for unemployment benefits; providing that an individual shall be disqualified for benefits for any week, or portion of a week, in which he or she left or lost his or her job as a result of a strike; clarifying that a lockout shall not be deemed to be a strike; providing that a lockout shall not form the basis of any disqualification from benefits; providing that operation of a facility by employees of the company shall not be deemed reason to grant employees on strike unemployment benefits; and establishing that operation of a facility by workers hired to replace the employees on strike would make striking workers eligible for benefits.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, 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 613**, Defining total capital for purposes of calculating state-chartered bank's lending limit.

And,

**Eng. Com. Sub. for House Bill 2511**, Health Care Sharing Ministries Freedom to Share Act.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

C. Edward Gaunch,  
*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 616**, Defining professional firefighter for purposes of workers' compensation disability and death benefits.

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 S. Trump IV,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Gaunch, 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 4146**, Providing insurance cover abuse-deterrent opioid analgesic drugs.

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,

C. Edward Gaunch,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Health and Human Resources, with an amendment from the Committee on Banking and Insurance pending.

The Senate proceeded to the sixth order of business.

Senators Unger, Snyder, Stollings, Plymale, Williams, Prezioso, Trump, Blair and Miller offered the following resolution:

**Senate Resolution 45**—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 in order 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 2016 membership of Leadership Jefferson consists of Aly Ainsworth, Valley Equine Associates, PLLC; Jana Bressler, Fast Cash Pawn; Paul Carter, Simplified Business Solutions, Inc.; Shawn Coley, New Destiny Ministry Center; Ron Fletcher, Jefferson County Sheriff's Office; Lyn Goodwin, Jefferson County Development; Matt Harvey, Taylor & Harvey Attorneys at Law; Damien Hinck, Hollywood Casino; Jamie Hottle, Teacher of the Year; Amber Householder, American Public University System; Tyler Mayhew, Bowles Rice LLP; Amber Ritchie, Allstate Insurance: Ritchie & Associates LLC; Seth Rivard, City of Charles Town; Katherine Ryan, Ryan Consulting Services LLC; Cammie Shrewsbury, City National Bank; Jene Smith, Jefferson Medical Center; Kirstie Svehla, Bank of Charles Town; Tony Troxel, Harpers Ferry National Park; Courtney White, Hampton Inn & Suites; Whitney Wilson, United Bank; and Becki Zaglifa, Jefferson County Parks & Recreation; 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.

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.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Cole (Mr. President), Maynard, Stollings, Plymale and Miller offered the following resolution:

**Senate Resolution 46**—Designating February 23, 2016, as Mercer County Day.

Whereas, Mercer County was established in 1837 from parts of Giles and Tazewell counties (Virginia) and named in honor of General Hugh Mercer of Revolutionary War fame; and

Whereas, Mercer County makes vital contributions to the economy of West Virginia, particularly in the areas of coal production; lumber manufacturing; tourism; hay and grain; and dairy, livestock and poultry; and

Whereas, Nestled in southern West Virginia, in the heart of Appalachia, Mercer County is filled with a rich history of coal mining and the unique culture that emerged; and

Whereas, The story of Mercer County can be told through the Coal Heritage Trail Interpretive Center; Eastern Regional Coal Archives; Historic Bramwell; Historic Crab Orchard Museum & Pioneer Park; Mercer County Agricultural Museum; Mercer County War Museum; Pocahontas Exhibition Mine & Museum; and Princeton Railroad Museum; and

Whereas, Mercer County is home to a vibrant and diverse arts community and was designated by the State of West Virginia as a Certified Arts Community; and

Whereas, Mercer County is home to two higher education institutions in Concord University and Bluefield State College; and

Whereas, Mercer County is home to two professional baseball team affiliates, the Bluefield Blue Jays and the Princeton Rays, both of whom compete in the Appalachian League; and

Whereas, Mercer County was home to Bob Denver, of Gilligan's Island fame; Ken Kendrick, owner of Major League Baseball's Arizona Diamondbacks; and Rod Thorn, a West Virginia University and National Basketball Association legend; and

Whereas, On Mercer County Day, we pay tribute to the citizens of Mercer County as we recognize their economic, cultural, historic and future contributions to the State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 23, 2016, as Mercer County Day; and, be it

*Further Resolved,* That the Senate recognizes the vital and important contributions from the citizens of Mercer County to the great State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Mercer County.

At the request of Senator Maynard, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Stollings, Plymale, Unger, Williams and Prezioso offered the following resolution:

**Senate Resolution 47**—Designating March 7-13, 2016, as Multiple Sclerosis Awareness Week.

Whereas, Multiple sclerosis (MS) is a neurological disease of the central nervous system, affecting 2.3 million people worldwide, and each hour someone is newly diagnosed; and

Whereas, The National Multiple Sclerosis Society – Virginia-West Virginia Chapter reports that in our state more than 12,000 people have been diagnosed with MS, and that the disease generally strikes people in the prime of life, between ages 20 through 50, and causes unpredictable effects in which the progression, severity and specific symptoms cannot be foreseen, and the cause and cure for this often debilitating disease remain unknown; and

Whereas, The National Multiple Sclerosis Society has been committed for more than 69 years to a world free of MS, heightening public knowledge about and insight into the disease; and

Whereas, Since 1946, the National Multiple Sclerosis Society has been a driving force of MS research, relentlessly pursuing prevention, treatment and a cure and has invested more than \$868 million in groundbreaking research; and

Whereas, Funds raised through the National Multiple Sclerosis Society fueled the efforts of nearly 380 research projects globally in 2014 totaling \$51.5 million. Research was conducted at the best medical centers, universities and other institutions throughout the United States and abroad. MS research has never been more hopeful than it is today; and

Whereas, Discovering the cause, finding a cure and preventing future generations from being diagnosed with MS is an important task that all Americans and West Virginians should support; and

Whereas, The Senate of West Virginia recognizes the importance of finding the cause and cure of MS, a chronic and often devastating disease, and expresses its appreciation and admiration for the dedication that the National Multiple Sclerosis Society – Virginia-West Virginia Chapter has shown toward a future free of MS; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates March 7-13, 2016, as Multiple Sclerosis Awareness Week; and, be it

*Further Resolved,* That the Senate encourages all West Virginia citizens to take part in the observance of Multiple Sclerosis Awareness Week and to learn more about multiple sclerosis and what they can do to support individuals with MS and their families; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Virginia-West Virginia Chapter of the National Multiple Sclerosis Society.

At the request of Senator Stollings, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Gaunch, Stollings, Plymale, Laird, Unger and Miller offered the following resolution:

**Senate Resolution 48**—Recognizing Sylvia Shafer for her tireless efforts in advocating for the humane treatment of animals.

Whereas, Sylvia Shafer has dedicated 35 years of volunteerism to West Virginia's animals and lobbying for humane legislation; and

Whereas, Sylvia Shafer served as the Director of the Kanawha/Charleston Animal Shelter for twelve years and as a board member of the Kanawha/Charleston Humane Association until 2014; and

Whereas, Due to the efforts of Sylvia Shafer, national listings consistently recognize West Virginia in the top five states for the most humane laws throughout the United States; and

Whereas, Sylvia Shafer is largely responsible for the current animal cruelty section of West Virginia's state code; securing the mandatory spay/neutering of adopted shelter pets; cross-reporting for domestic and animal abuse; the commercial breeders' law; banning gas chambers; the prohibition of research labs removing animals from the shelters for experimental lab and testing purposes; and establishing the state's Spay/Neuter Assistance Fund; and

Whereas, It is fitting that the Senate honor Sylvia Shafer on Spay/Neuter Day at the Capitol; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Sylvia Shafer for her tireless efforts in advocating for the humane treatment of animals; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Sylvia Shafer.

At the request of Senator Gaunch, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Walters, Gaunch, Palumbo, Takubo, Stollings, Plymale, Unger and Prezioso offered the following resolution:

**Senate Resolution 49**—Designating February 23, 2016, as West Virginia State University Day.

Whereas, West Virginia State University was founded as the West Virginia Colored Institute by the West Virginia Legislature 125 years ago on March 17, 1891; and

Whereas, In 1927, under the leadership of President John W. Davis, through the expansion of academic programs and the construction of new buildings, the institution was accredited by the North Central Association and holds 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, 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 College rapidly transitioned to an integrated institution. The university now serves a predominantly white, nontraditional-aged, commuter population; and

Whereas, In 2004, the West Virginia Legislature approved the transition to university status; and

Whereas, West Virginia State University now offers seventy-five academic program options leading to twenty-three baccalaureate and five master's degrees; and

Whereas, West Virginia State University is actively working with other state institutions of higher education to create additional pathways for degree-seeking students; and

Whereas, As one of only two land-grant institutions in the state, West Virginia State University's Extension Service serves thirty-eight counties. These services aid approximately 15,000 people throughout the year; and

Whereas, As a regional research institution, West Virginia State University contributes significantly to state economic development efforts in the areas of biotechnology, plant, microbial and animal research; and

Whereas, With every dollar the state invests in West Virginia State University, the university generates nearly \$16 spent in the West Virginia economy, resulting in an estimated economic output of \$254 million per year; and

Whereas, Since its founding 125 years ago, West Virginia State University has always proven to be a community of students, faculty and staff devoted to helping people find their passion and gain the education needed to launch successful careers; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 23, 2016, 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. Brian O. Hemphill, President of West Virginia State University.

At the request of Senator Walters, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened 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 88**—Extending the Committee of Conference relating to consideration of **Com. Sub. for H. B. 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

*Resolved by the Legislature of West Virginia:*

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three day for the express purpose of consideration of matters of disagreement between the two houses as to Com. Sub. for H. B. 2800.

At the request of Senator Carmichael, 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 seventh order of business.

**Senate Concurrent Resolution 10**, Urging Congress call convention to amend constitution of United States.

On unfinished business, coming up in regular order, was reported by the Clerk.

Following extended discussion,



The question being on the adoption of the resolution, the same was put.

The result of the voice vote being inconclusive, Senator Kessler demanded a division of the vote.

A standing vote being taken, there were eighteen “yeas” and fourteen “nays”.

Whereupon, the President declared the resolution (S. C. R. 10) adopted.

*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 Carmichael, and by unanimous consent, the remarks by Senators Trump, Kirkendoll, Beach, Kessler, Ferns, Romano, Miller, Leonhardt and Karnes regarding the adoption of Senate Concurrent Resolution 10 were ordered printed in the Appendix to the Journal.

**Com. Sub. for Senate Concurrent Resolution 33**, Requesting WV Infrastructure and Jobs Development Council study and report on consolidation regarding public water and sewer utilities.

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 43**, Requesting Joint Committee on Government and Finance study if economically beneficial to map, name and promote all existing unpaved trails.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Natural Resources; and then to the Committee on Rules.

On motion of Senator Carmichael, the Senate recessed for fifteen minutes.

Upon expiration of the recess, the Senate reconvened.

Senator Beach requested unanimous consent that the remarks by Senator Miller regarding the adoption of Senate Concurrent Resolution 10 be printed in the Appendix to the Journal.

Thereafter, at the request of Senator Beach, and by unanimous consent, Senator Beach's aforesated request was withdrawn.

The Senate then proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 420**, Increasing tax rate on cigarette and tobacco products.

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 420 pass?"

On the passage of the bill, the yeas were: Beach, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams and Woelfel—26.

The nays were: Ashley, Blair, Boley, Karnes, Leonhardt and Cole (Mr. President)—6.

Absent: Stollings and Yost—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. 420) passed with its title.

Senator Carmichael moved that the bill take effect April 1, 2016.

On this question, the yeas were: Beach, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams and Woelfel—26.

The nays were: Ashley, Blair, Boley, Karnes, Leonhardt and Cole (Mr. President)—6.

Absent: Stollings and Yost—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. 420) takes effect April 1, 2016.

*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 485,** Establishing regional recreation authorities and areas.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Stollings and Yost—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. 485) 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 508**, Relating to civil claims for private nuisance.

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 508 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Takubo, Trump, Williams, Woelfel and Cole (Mr. President)—20.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Prezioso, Romano, Snyder, Sypolt, Unger and Walters—12.

Absent: Stollings and Yost—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. 508) 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 565**, Allowing well pad and road construction for oil and gas activities.

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 565 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall,

Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: Kessler—1.

Absent: Stollings and Yost—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. 565) 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 591**, Relating to voter registration list maintenance and combined voter registration and driver licensing 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Stollings and Yost—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. 591) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Stollings and Yost—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. 591) 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 Senate Bill 252**, Amending Wiretapping and Electronic Surveillance Act to exclude from protection oral communications.

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 274**, Relating to increasing civil jurisdictional amount in magistrate 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 291**, Law enforcement use of unmanned aircraft systems.

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 376**, Expanding authority of Secretary of State and State Police.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 416**, Allowing terminally ill patients access to investigational products.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 438**, Requiring DHHR be present at judicial proceedings.

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 474**, Exempting DEP construction and reclamation contracts from review and approval.

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 575**, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial 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 592**, Relating to pipeline safety.

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 621**, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

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.

**Senate Bill 94**, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill 476**, Relating to driving restrictions in school zones.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Eng. Com. Sub. for House Bill 3019**, Requiring official business and records of the state and its political subdivisions be conducted in English.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Yost.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 24, 2016, at 11 a.m.

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## WEDNESDAY, FEBRUARY 24, 2016

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Pastor Andy Colagrosso, King's River Ministries, St. Albans, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Gregory L. Boso, a senator from the eleventh district.



Pending the reading of the Journal of Tuesday, February 23, 2016,

At the request of Senator Trump, 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 7**, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

On motion of Senator Carmichael, 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:

That §55-7-13d of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §55-7B-5 of said code be amended and reenacted, all to read as follows:

#### **ARTICLE 7. ACTIONS FOR INJURIES.**

**§55-7-13d. Determination of fault; imputed fault; ~~plaintiff's involvement in felony criminal act; when plaintiff's criminal conduct bars recovery; burden of proof; damages; stay of action; limitations; applicability; severability.~~**

(a) *Determination of fault of parties and nonparties.* —

(1) In assessing percentages of fault, the trier of fact shall consider the fault of all persons who contributed to the alleged damages regardless of whether the person was or could have been named as a party to the suit;

(2) Fault of a nonparty shall be considered if the plaintiff entered into a settlement agreement with the nonparty or if a defending party gives notice no later than ~~one hundred eight~~ one hundred eighty days after service of process upon said defendant that a nonparty was wholly or partially at fault. Notice shall be filed with the court and served upon all parties to the action designating the nonparty and setting forth the nonparty's name and last known address, or the best identification of the nonparty which is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault;

(3) In all instances where a nonparty is assessed a percentage of fault, any recovery by a plaintiff shall be reduced in proportion to the percentage of fault chargeable to such nonparty. Where a plaintiff has settled with a party or nonparty before verdict, that plaintiff's recovery will be reduced in proportion to the percentage of fault assigned to the settling party or nonparty, rather than by the amount of the nonparty's or party's settlement;

(4) Nothing in this section is meant to eliminate or diminish any defenses or immunities, which exist as of the effective date of this section, except as expressly noted herein;

(5) Assessments of percentages of fault for nonparties are used only as a vehicle for accurately determining the fault of named parties. Where fault is assessed against nonparties, findings of such fault do not subject any nonparty to liability in that or any other action, or may not be introduced as evidence of liability or for any other purpose in any other action; and

(6) In all actions involving fault of more than one person, unless otherwise agreed by all parties to the action, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall

make findings, indicating the percentage of the total fault that is allocated to each party and nonparty pursuant to this article. For this purpose, the court may determine that two or more persons are to be treated as a single person.

(b) *Imputed fault.* — Nothing in this section may be construed as precluding a person from being held liable for the portion of comparative fault assessed against another person who was acting as an agent or servant of such person, or if the fault of the other person is otherwise imputed or attributed to such person by statute or common law. In any action where any party seeks to impute fault to another, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, on the issue of imputed fault.

~~(c) *Plaintiff's involvement in felony criminal act* When plaintiff's criminal conduct bars recovery. — In any civil action, a defendant is not liable for damages that the plaintiff suffers as a result of the negligence or gross negligence of a defendant if such damages arise out of the plaintiff's commission, attempt to commit or fleeing from the commission of a felony criminal act: Provided, That the plaintiff has been convicted of such felony, or if deceased, the jury makes a finding that the decedent committed such felony. a person or person's legal representative who asserts a claim for damages may not recover if:~~

~~(1) Such damages arise out of the person's commission, attempted commission, or immediate flight from the commission or attempted commission of a felony; and (2) that the person's damages were suffered as a proximate result of the commission, attempted commission, or immediate flight from the commission or attempted commission of a felony.~~

(d) *Burden of proof.* — The burden of alleging and proving comparative fault shall be upon the person who seeks to establish such fault. The burden of alleging and proving the defense set forth in subsection (c) of this section shall be upon the person who seeks to assert such defense: *Provided, That in any civil action in which a person has been convicted or pleaded guilty or no contest to a felony, the claim shall be dismissed if the court determines as a*

matter of law that the person's damages were suffered as a proximate result of the felonious conduct to which the person pleaded guilty or no contest, or upon which the person was convicted.

(e) Damages. — For purposes of this section, “damages” includes all damages which may be recoverable for personal injury, death, or loss of or damage to property, including those recoverable in a wrongful death action.

(f) Stay of action. — Any civil action in which the defense set forth in subsection (c) of this section is asserted shall be stayed by the court on the motion of the defendant during the pendency of any criminal action which forms the basis of the defense, including appeals, unless the court finds that a conviction in the criminal action would not constitute a valid defense under said subsection.

~~(e)~~(g) Limitations. — Nothing in this section creates a cause of action. Nothing in this section alters, in any way, the immunity of any person as established by statute or common law.

~~(f)~~(h) Applicability. — This section applies to all causes of action arising or accruing on or after the effective date of its enactment. The amendments to this section enacted during the 2016 regular session of the Legislature shall apply to all causes of action accruing on or after the effective date of those amendments.

~~(g)~~(i) Severability. — The provisions of this section are severable from one another, so that if any provision of this section is held void, the remaining provisions of this section shall remain valid.

## **ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.**

### **§55-7B-5. Health care actions; complaint; specific amount of damages not to be stated; limitation on bad faith claims; filing of first party bad faith claims; when plaintiff's criminal conduct bars recovery.**

(a) In any medical professional liability action against a health care provider no specific dollar amount or figure may be included

in the complaint, but the complaint may include a statement reciting that the minimum jurisdictional amount established for filing the action is satisfied. However, any party defendant may at any time request a written statement setting forth the nature and amount of damages being sought. The request shall be served upon the plaintiff who shall serve a responsive statement as to the damages sought within thirty days thereafter. If no response is served within the thirty days, the party defendant requesting the statement may petition the court in which the action is pending to order the plaintiff to serve a responsive statement.

(b) Notwithstanding any other provision of law, absent privity of contract, no plaintiff who files a medical professional liability action against a health care provider may file an independent cause of action against any insurer of the health care provider alleging the insurer has violated the provisions of subdivision (9), section four, article eleven, chapter thirty-three of this code. Insofar as the provisions of section three of said article prohibit the conduct defined in subdivision (9), section four of said article, no plaintiff who files a medical professional liability action against a health care provider may file an independent cause of action against any insurer of the health care provider alleging the insurer has violated the provisions of section three of said article.

(c) No health care provider may file a cause of action against his or her insurer alleging the insurer has violated the provisions of subdivision (9), section four, article eleven, chapter thirty-three of this code until the jury has rendered a verdict in the underlying medical professional liability action or the case has otherwise been dismissed, resolved or disposed of.

(d) No action related to the prescription or dispensation of controlled substances may be maintained against a health care provider pursuant to this article by or on behalf of a person whose damages arise as a proximate result of a violation of the Uniform Controlled Substances Act, as set forth in chapter sixty-a of this code, the commission of a felony, a violent crime which is a misdemeanor, or any other state or federal law related to controlled substances: *Provided*, That an action may be maintained pursuant to this article if the plaintiff alleges and proves by a preponderance

of the evidence that the health care provider dispensed or prescribed a controlled substance or substances in violation of state or federal law, and that such prescription or dispensation in violation of state or federal law was a proximate cause of the injury or death.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 7**—A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7B-5 of said code, all relating to comparative fault; providing one hundred eighty days after service of process for defendant to give notice of nonparties wholly or partially at fault; providing that a plaintiff's recovery only be reduced in proportion to the percentage of fault assigned to settling parties or nonparties and not the amount of any settlement taking place before the verdict; providing when plaintiff's criminal conduct bars recovery; prohibiting recovery in civil actions when damages are suffered as a result of the commission, attempted commission, or immediate flight from the commission or attempted commission of a felony; requiring commission, attempted commission, or immediate flight from the commission or attempted commission of a felony be proximate cause of injury; providing that the burden of proof for establishing a criminal conduct defense is upon the person asserting such defense; providing that a court shall dismiss an action upon determination that, as a matter of law, the felonious conduct upon which there was a conviction, guilty plea or plea of no contest was a proximate cause of injury; defining damages; providing for stay of civil action in which criminal conduct defense is asserted during pendency, including appeals, of criminal action; establishing that the 2016 amendments apply to all causes of action accruing on or after the effective date of those amendments; prohibiting civil action under Medical Professional Liability Act related to prescription or dispensation of controlled substances when person's damages are a proximate result of the commission of a felony, a violent crime that is a misdemeanor, or violation of any law related to controlled substances; and providing

exception if health care provider that prescribes or dispenses controlled substances in violation of law proximately causing injury.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 7, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 7) passed with its House of Delegates amended title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

At the request of Senator Boley, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again 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 amendments to the House of Delegates amendment to, and the passage as amended, to take effect July 1, 2016, of

**Eng. Com. Sub. for Senate Bill 146**, Establishing instruction standards for early childhood education.

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 387**, Shared animal ownership agreements to consume raw milk.

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 509**, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

On motion of Senator Carmichael, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 10. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS SAFETY ACT.**

**§21-10-6. Permits; application; annual inspection.**

No operator or owner may knowingly permit the operation of an amusement ride or amusement attraction without a permit issued by the division. Each year, and at least fifteen days before the first time the amusement ride or amusement attraction is made available in this state for public use, an operator or owner shall apply for a permit to the division on a form furnished by the division and containing any information the division may require. The division shall, upon application and within ~~ten~~ thirty days of the first time the ride or attraction is made available in this state for public use, inspect all amusement rides and amusement attractions. The division shall inspect all stationary rides and attractions at least once every year. The division shall create an inspection checklist



and provide it to owners and operators of amusement rides and amusement attractions. The owner or operator shall inspect all mobile amusement rides and amusement attractions each time they are assembled for use in this state and complete a copy of the inspection checklist provided by the division and must be available at the site for the division to inspect and review for the duration of the amusement ride or amusement attraction's use. The inspection may be performed by a certified inspector the division or the owner or operator as attested to on the inspection checklist. The owner or operator shall submit all completed inspection checklists to the division by December 31 of each year. The division may inspect all mobile amusement rides and amusement attractions each time they are disassembled and reassembled for use in this state. The division may conduct inspections at any reasonable time without prior notice: *Provided*, That in lieu of performing its own inspection the division may accept inspection reports from special inspectors certified by the division.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 509**—A Bill to amend and reenact §21-10-6 of the Code of West Virginia, 1931, as amended, relating to when Division of Labor must inspect amusement rides and amusement attractions; requiring the Division of Labor to create an inspection checklist; requiring owners or operators to self-inspect amusement rides and amusement attractions after every assembly; requiring the owner or operator to retain the checklist while the amusement ride or amusement attraction is in use; and requiring the owner or operator to submit the inspection checklist to the Division of Labor at the end of the calendar year.

On motion of Senator Carmichael, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 509) 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 adoption of

**Senate Concurrent Resolution 5**, Coach Bill Stewart Exit.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 20**, US Army CPL Troy Matthews Memorial Bridge.

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 2795**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to production of medical records and medical billing records in civil actions; defining medical records and medical billing records; establishing procedures for requesting releases for medical records and medical billing records to specified health care providers; providing that all releases comply with applicable state and federal law and prohibit contact between a requester and health care provider beyond written request; providing opportunity and procedure for objections to the release of medical records and medical billing records; directing copy of requests to health care providers any records received to be provided to the party who is the subject of the requests; providing that other lawful discovery methods not foreclosed; providing for confidential use and maintenance of medical records and medical billing records by receiving party, its attorneys, experts, consultants, agents and insurance carriers; allowing parties to agree on whether to provide copies of medical records or medical billing records to individual parties; requiring that medical records and medical billing records not be shared, provided or disseminated to other third parties not enumerated without consent; providing for confidential maintenance and use of medical records and medical billing records by insurance carriers; providing for limits on restrictions or conditions that may be imposed on insurance carriers with respect to maintenance of

medical records and medical billing records; specifying that nothing in this section restricts, supersedes or enlarges rights or obligations under rule twenty-six of the West Virginia Rules of Civil Procedure; and preserving rights of a party to object to production of medical records or medical billing records.

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 4001**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15, relating to candidates or candidate committees for election to the office of Governor, Board of Public Works, or legislative office to disclose contributions received while the Legislature is in session; requiring timely disclosure of certain contributions from persons while the Legislature is in session; clarifying that the legislative session includes special session; requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; defining terms; imposing the same reporting requirements upon former candidates or candidate committees for legislative office who are still in office; requiring the Secretary of State to create a form for disclosure; requiring the Secretary of State to publish information on the Secretary of State's website; authorizing the Secretary of State to establish a means for electronic filing and disclosure in the alternative; and authorizing the Secretary of State to promulgate legislative and emergency rules.

Referred to the Committee on the Judiciary.

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 4175**, Relating generally to home schooling.

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 §30-2-4 the Code of West Virginia, 1931, as amended, relating to the unauthorized practice of law; increasing the criminal penalty for the unlawful practice of law; and providing that a lawyer may advertise services or hire a person to assist in advertising services as permitted by the Rules of Professional Conduct.

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 4383**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, relating to excessive filing of false complaints; defining terms; providing for the discretionary suspension of investigatory obligations by agencies or departments; setting forth time frames for determination of excessive false complaints; limiting the time frame investigatory obligations may be suspended; providing for exceptions in the agency's or department's sole discretion; providing for written notice of determinations that a complaint was a false complaint; providing that a copy of this article accompany notices; providing for exceptions to this article for emergency investigations and the West Virginia State Police; providing for civil actions; establishing burden of proof and remedies for civil actions; and preserving other available remedies of an agency or department.

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 the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §16-5B-18, relating to designating certain hospitals as stroke centers; designating based upon certain criteria; establishing protocols; setting forth reporting requirements; establishing protocols; creating an advisory committee 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. House Bill 4470**—A Bill to amend and reenact §16-22-3 of the Code of West Virginia, 1931, relating to the expansion of newborn testing to include Adrenoleukodystrophy.

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 4489**—A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and to amend and reenact §62-1D-8 of said code, all relating generally to human trafficking; designating the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; eliminating existing criminal offense and penalties for human trafficking; creating felony offenses and penalties for trafficking an individual; defining terms; creating felony offenses and penalties for using an individual in forced labor; creating felony offenses and penalties for using an individual in debt bondage; creating felony offenses and penalties for compelling an

adult through coercion to engage in commercial sexual activity; creating a felony offense for maintaining or making available a minor for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offense; creating a felony offense of patronizing an individual to engage in commercial sexual activity; clarifying that each victim shall be considered a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for disgorgement of profits and debarment from state and local government contracts; making victims eligible for compensation under the Crime Victims Compensation Fund; providing for criminal immunity for offense of prostitution if individual was a minor at time of offense and was a victim at time of offense; providing for expungement of prostitution conviction for victims of trafficking; and authorizing law enforcement to use wiretaps to conduct investigations.

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 4606**—A Bill to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating to prohibited interests in public contracts and appropriations of monies under the Ethics Act; prohibiting elected or appointed mayors of a municipality or members of a municipality's governing body or council from being employed by the municipality in which they serve; and requiring public officials, except members of the Legislature, to recuse themselves from voting on the appropriation of moneys or award of contract to a nonprofit corporation if the public official or an immediate family member is employed by or an officer or board member of the nonprofit, whether compensated or not.

Referred to the Committee on the Judiciary.

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 5**—Requesting the Division of Highways to name bridge number 13-64-179.36 EB and WB (13A165, 13A166) (37.79163, -80.29291), locally known as Mountain Avenue Bridge, carrying Interstate 64 over Tuckahoe Run and CR 50 in Greenbrier County, the “U.S. Army PV2 Eskridge A. Waggoner 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 7**—Requesting the Division of Highways to name the bridge on Interstate 64 over Kilgore Creek Road, specifically Bridge Number 0-064/00-28.67 in Cabell County, the “U.S. Army PFC Cecil Ray Ball 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 10**—Requesting the Division of Highways to name a portion of Route 119/91 from Mud Fork Road to County Route 73 in Logan County, the “U.S. Marine Corps GySgt Lionel Collins 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

**Com. Sub. for House Concurrent Resolution 15—**Requesting the Division of Highways to name bridge numbers 20-79-15.46, northbound and southbound (20A510 and 20A511), latitude 38.50136, longitude -81.41475, locally known as I-79 Wills Creek Overpass 2674 Bridges Northbound and Southbound, carrying Interstate 79 over County Route 53 and Wills Creek in Kanawha County, as the “U.S. Marine Corps PFC Clayton Andrew Craft 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 Greenville Road Bridge, located in Logan County near the town of Man which traverses Rock House Creek, the “SGT Larry Joseph Whitt 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 18—**Requesting the Division of Highways to name a section of road on State Route 10 running through Man, Logan County from the intersection of State Route 10 and State Route 80 to the intersection of State Route 10 and County Route 16, the “U.S. Air Force Staff Sergeant William Henry ‘Bill’ Whitman 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 41**—Requesting the Division of Highways to name the twin bridges on Interstate 79, over County Route 24 in Harrison County, Bridge Number 17-79-121.32 NB-SB (17A316 and 17A317), latitude 39.30697, longitude -80.27468, locally known as the Meadowbrook Road Overpass, the “U.S. Army Air Corps CPT Kenneth R. Winters, Sr. 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 60**—Requesting that the Joint Committee on Government and Finance study the state-level background check process for new employees and volunteers of caregiving businesses and facilities.

Referred to the Committee on Government Organization; and then to the Committee on Rules.

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**—Urging the United States Environmental Protection Agency not to prohibit conversion of vehicles to race cars.

Referred to the Committee on Government Organization; 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 23rd day of February, 2016, 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. 4148)**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

**(Com. Sub. for H. B. 4158)**, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

**(Com. Sub. for H. B. 4244)**, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

And,

**(Com. Sub. for H. B. 4245)**, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 24th day of February, 2016, 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. 309)**, Relating to child-care center licensing and exempting county parks and recreation from licensure.

And,

**(H. B. 4161)**, Relating to levies on classifications of property by the Board of Public Works.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Hall, 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 116** (originating in the Committee on the Judiciary), Increasing number of limited video lottery terminals allowed at retail location.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill 116** (originating in the Committee on Finance)—A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended, relating to increasing number of limited video lottery terminals allowed at retail locations; requiring Lottery Commission to conduct bid only open to current permit holders prior to September 1, 2016, for permits expiring June 30, 2021; and establishing procedure for bid process.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 392**, Transferring Cedar Lakes Camp from Board of Education to Department of Agriculture.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 392** (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 §18-2-16b, relating to transferring Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture; providing that employees are will and pleasure employees and are exempt from classified service; and transferring Cedar Lakes Camp and Conference Center employee pensions from the Teachers Retirement System Trust Fund into the Public Employees Retirement System Trust Fund.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. 392), 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

**Senate Bill 411**, Creating Second Chance for Employment Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 411** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to the creation of the West Virginia Second Chance for Employment Act; defining terms; expanding eligibility for criminal expungement to persons convicted of certain nonviolent felonies; defining “nonviolent felony”; providing exclusions to eligibility; establishing timing for filing a petition for expungement; creating petition requirements and court procedure for evaluating preliminary and final orders of expungement for nonviolent felonies; providing for preliminary orders of expungement; requiring a ten-year period under a preliminary order of expungement for a felony before one may obtain a final order of expungement; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; and making technical changes.

And,

**Senate Bill 468**, Allowing lender to charge and receive interest on rescindable loan during rescission period.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 468** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-6K-3 of the Code of West Virginia, 1931, as amended, relating to allowing the accrual of interest during the rescission period on a loan where a right of rescission applies if the loan is not rescinded; and providing an exclusion to the charging and payment of interest.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 421**, Terminating behavioral health severance and business privilege tax.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 421** (originating in the Committee on Finance)—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-9i of said code, all relating to the termination of the behavioral health severance and business privilege tax; specifying the effective date of the termination; establishing the method of payment of outstanding refund claims; generating a replacement revenue stream by changing the durable medical goods sales tax exemption to home users only; specifying the effective dates of this amendment; providing the method to claim this exemption; and providing definitions for clarification.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Sypolt, from the Committee on Education, submitted the following report:

Your Committee on Education has had under consideration

**Senate Bill 452**, Revising school aid formula.

And reports the same back without recommendation as to passage; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

Senator Unger moved that the report from the Committee on Education for Senate Bill 452 be rejected.

Following discussion,

The question being on the adoption of Senator Unger's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Unger's aforestated motion had prevailed.

Whereupon, the President declared the report from the Committee on Education for Senate Bill 452 was not received.

Senator Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 455**, Allowing person to be both limited video lottery operator and retailer.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 461**, Updating WV Workforce Investment Act to WV Workforce Innovation and Opportunity Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Walters, 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 494**, Creating Legislative Oversight Commission on Department of Transportation Accountability.



And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Chris Walters,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Hall, 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 595**, Relating to retirement credit for members of WV National Guard.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 619**, 2016 Regulatory Reform Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 619** (originating in the Committee on Government Organization)—A Bill to amend and reenact §29A-3-5 and §29A-3-11 of the Code of West Virginia, 1931, as

amended; to amend said code by adding thereto two new sections, designated §29A-3-19 and §29A-3-20; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to legislative rulemaking; requiring agencies respond to public comments during the rule-making process; requiring five-year expiration provisions in all future rules promulgated by executive agencies and higher education, but with provided exceptions; requiring expiration provisions in all future modifications of rules affecting agencies and higher education, but with provided exceptions; providing that any rule containing an expiration provision shall remain in effect after the expiration date and until the rule is modified or repealed; requiring agencies to explain why or why not public comments were incorporated into the rule; providing that failure of an agency to adequately explain why or why not public comments were incorporated into the rule is grounds for rejection of the rule; requiring additional information to be included when an agency submits proposed rules to the Legislative Rule-Making Review Committee, including an economic impact statement, detailed description of the purpose or objective of the rule, explanation of the statutory authority, public comments and written responses by the agency concerning those comments, requiring the agency's response address each issue and concern expressed by the comments received and whether the rule will be overly burdensome on business and industry by setting forth specific factors that must be addressed; requiring all executive branch agencies to review and evaluate all rules, guidelines, policies and recommendations with any federal counterparts and determine if the state's rules, guidelines, policies and recommendations are more stringent; and requiring each agency to review each of its rules within four years to determine if its rules should be continued without change, modified or repealed, and to submit a report to the Legislative Rule-Making Review Committee.

With the recommendation that the committee substitute 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 627**, Permitting physician to decline prescribing controlled substance.

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 634**, Creating WV Second Chance Driver's License Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 634** (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 §17B-7-1, §17B-7-2, §17B-7-3, §17B-7-4, §17B-7-5, §17B-7-6, §17B-7-7, §17B-7-8, §17B-7-9 and §17B-7-10, all relating to creation of the Second Chance Driver's License Act; creating short title; setting forth legislative findings and purpose; defining terms; establishing program; directing the Director of the Division of Justice and Community Services to administer program; setting eligibility requirements to become program participant; requiring application from person wishing to participate; directing the director to coordinate with officials from courts and commissioner to verify total amount of unpaid court costs; setting deadlines for provision of information regarding unpaid court costs to director;

directing how unreported court costs are to be handled; requiring notification to applicant of acceptance into program; directing the director to develop consolidated repayment schedule for participant; setting requirements for consolidated repayment schedule; permitting modification of consolidated repayment schedule; permitting hardship waiver; clarifying that participant is under no obligation to make separate or additional payments directly to court if those costs are included in consolidated repayment schedule; establishing moratorium on collection of unpaid court fees by a court or its designee while a participant is in good standing with the program; requiring monthly remittance of payments to director; directing issuance of certificate of compliance, certificate of noncompliance, program removal notice and program completion certificate under certain conditions; directing Division of Motor Vehicles to place stay or lift stay on suspension or revocation of participant's driver's license under certain conditions; permitting Division of Motor Vehicles to require retesting under certain circumstances; exempting participants from certain retesting fees and reinstatement fees; creating Second Chance Driver's License Program Account; providing for administration of account; directing deposit of funds into account; authorizing expenditure of funds from account for certain purposes; requiring Division of Justice and Community Services to collect and distribute unpaid court costs on a pro rata basis; and providing legislative and emergency rule-making authority.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill 642**, Relating to temporary higher education classified employees annual salary schedule.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 642** (originating in the Committee on Education)—A Bill to amend and reenact §18B-9-3 of the Code of West Virginia, 1931, as amended, relating to temporary higher education classified employees annual salary schedule; providing that when developed and adopted by the Higher Education Policy Commission and the Council for Community and Technical College Education, a new salary structure will replace the schedule that currently exists for higher education classified employees; providing that any provision of law in conflict with the new salary structure is null and void; requiring the commission and council to recommend legislation in 2017 to enact the new salary structure into law; and requiring prior to adoption of the new structure the commission and council must seek comments from affected constituents.

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,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. 642), under the original double committee reference, was then referred to the Committee on Finance.

Senator Walters, 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 30**, Lester W. and Ida C. Ellis Memorial Bridge.

**Senate Concurrent Resolution 31**, US Air Force Staff Sgt Bethel Howard McNeely and US Marine Staff Sgt Clyde Elmo Bryant Bridge.

**Senate Concurrent Resolution 32**, CW2 Robert D. Taylor Memorial Bridge.

**Senate Concurrent Resolution 36**, US Army SPC5 Joseph Richard “Rick” Schafer Memorial Bridge.

**Com. Sub. for House Concurrent Resolution 2**, U.S. Army PV2 William Frederick Kump Memorial Bridge.

**Com. Sub. for House Concurrent Resolution 14**, Second Friday in July as West Virginia Collector Car Appreciation Day.

And,

**Com. Sub. for House Concurrent Resolution 19**, H. Laban White Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (S. C. R. 30, 31, 32 and 36 and Com. Sub. for H. C. R. 2, 14 and 19) 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 Blair, 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 4163**, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Walters, 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 4188**, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

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,

Chris Walters,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

Senators Laird, Stollings, Unger and Plymale offered the following resolution:

**Senate Concurrent Resolution 44**—Requesting Division of Highways name bridge number 10-15-10.14 (10A039) (37.98063, -81.29932), locally known as the Turnpike Bridge, carrying County Route 15 over I-77 NBL and SBL in Fayette County, West Virginia, the “U. S. Marine Corps SGT Mike Plasha Memorial Bridge”.

Whereas, SGT Mike Plasha was born March 14, 1925, in the coal mining town of Kingston, West Virginia. He was the son of East European immigrants George and Anna Plasha and had five brothers and one sister. His Yugoslavian father was a miner for the Kingston Pocahontas Coal Company; and

Whereas, As a student at Kingston High School, SGT Mike Plasha was considered a star athlete and lettered in football and basketball, but he wanted to enter the military after the war began, hoping to return after the war and eventually become an athletic coach; and

Whereas, SGT Mike Plasha entered the Marine Corps on August 18, 1942. He was first stationed at Camp Lejeune and later Camp Pendleton and then served in the Pacific theater in the 2nd Battalion, 25th Marines, 4th Marine Division; and

Whereas, During the invasion of Ennubirr Island, one of the Marshall Islands, on January 31, 1944, then CPL Plasha pushed ahead with his rifle, killing several Japanese soldiers and urged the Marine forces forward. For his actions, SGT Plasha was awarded the Silver Star; and

Whereas, SGT Mike Plasha’s Silver Star Award reads, “*Awarded for actions during the World War II: The President of the United States of America takes pride in presenting the Silver*



Star (Posthumously) to CPL Mike Plasha (MCSN: 444727), United States Marine Corps, for conspicuous gallantry and intrepidity while serving with Company F, Second Battalion, Twenty-fifth Marines, FOURTH Marine Division in action against enemy Japanese forces during the invasion of Ennubirr Island, Kwajalein Atoll on 31 January 1944. Realizing upon landing that his machine guns were masked by friendly troops and so of no value in the action, CPL Plasha immediately left his guns with a squad leader and pushed forward alone. With complete disregard for his own safety he took the enemy under fire with his rifle accounting for approximately five Japanese. Noting that the assault rifle troops were moving too slowly he personally led these Marines urging them forward and causing the enemy to fall back. His daring aggressiveness, heroic devotion to duty and intelligent analysis of a critical situation reflected the highest credit upon CPL Plasha and the United States Naval Service"; and

Whereas, Five months later, on June 16, 1944, SGT Mike Plasha, now a Sergeant, again displayed "conspicuous gallantry" during action on Saipan in the Marianas. For this action, he was awarded a Gold Star; and

Whereas, SGT Mike Plasha's Gold Star Award reads: "The President of the United States takes pride in presenting the GOLD STAR in lieu of a second SILVER STAR MEDAL posthumously to SGT MIKE PLASHA, UNITED STATES MARINE CORPS RESERVE for services as set forth in the following: CITATION: 'For conspicuous gallantry and intrepidity as Leader of a Machine-Gun Section serving with the Second Battalion, Twenty-Fifth Marines, Fourth Marine Division, during action against enemy Japanese forces at Saipan, Marianas Islands, on 16 June 1944. In courageous defiance of heavy, enemy mortar and artillery fire, SGT Plasha valiantly led a section of the attack to exposed positions in order to bring fire to bear on strongly fortified enemy gun positions and pillboxes which had resisted the tank-led efforts of an entire battalion for over a day. Persistently firing and throwing hand grenades, he continued to press the attack until extremely heavy casualties forced the withdrawal of our men, later returning to the ridge to assist in the evacuation of the wounded. His daring spirit

of aggressiveness and cool determination under intense hostile fire reflect the highest credit upon SGT Plasha and the United States Naval Service.’ For the President, Secretary of the Navy”; and

Whereas, SGT Mike Plasha was killed on July 10, 1944, while attempting to rescue a fellow Marine in the Battle of Saipan. He was posthumously awarded the Bronze Star. His body is buried at Highland Park Cemetery in Fayette County; and

Whereas, SGT Mike Plasha’s Bronze Star Medal reads: “The President of the United States takes pride in presenting the BRONZE STAR MEDAL posthumously to SGT MIKE PLASHA, UNITED STATES MARINE CORPS RESERVE, for service as set forth in the following CITATION: ‘For heroic service as Leader of a Machine-Gun Section serving with the Second Battalion, Twenty-Fifth Marines, Fourth Marine Division, during action against enemy Japanese forces at Saipan, Marianas Islands, on 10 July 1944. Risking his life to rescue a Marine who had been shot at close range by a Japanese sniper, SGT Plasha unhesitatingly ran forward to the area where the man lay exposed to enemy fire but was himself mortally wounded before he could fulfill his voluntary and hazardous mission. His outstanding courage in the face of danger and his valiant spirit of self-sacrifice were in keeping with the highest traditions of the United States Naval Service. He gallantly gave his life for another.’ For the President, Secretary of the Navy”; and

Whereas, It was said that SGT Mike Plasha became something of a hero to the boys in the Twenty-fifth Regiment. *Recollection of the Early Years*, by Frank S. Craig, Jr., contains a tribute to SGT Plasha, and he is memorialized in a poem written by Carl Dearborn. Both men served with him. “So many of us, of ‘F’ Company, owe so much to Sgt. Mike Plasha. A very brave Marine who would have gone far in life,” Dearborn later wrote SGT Mike Plasha’s brother, Tom; and

Whereas, It is fitting that an enduring structure commemorate United States Marine Corps SGT Mike Plasha’s service to his country during World War II in having made the ultimate sacrifice for his country, his state and his fellow Marines; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 10-15-10.14 (10A039) (37.98063, -81.29932), locally known as the Turnpike Bridge, carrying County Route 15 over I-77 NBL and SBL in Fayette County, West Virginia, the “U. S. Marine Corps SGT Mike Plasha 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 SGT Mike Plasha Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of SGT Mike Plasha.

Which, under the rules, lies over one day.

Senators Hall, Stollings, Unger and Plymale offered the following resolution:

**Senate Concurrent Resolution 45**—Requesting Division of Highways name bridge in Putnam County, bridge number 40-35-9.68 (40A157) northbound and bridge number 40-35-9.68 (40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the “U. S. Army SGT Deforest Lee Talbert Memorial Bridge”.

Whereas, SGT Deforest Lee Talbert was born January 24, 1982, in Alexandria, Virginia, the son of Gloria Nesbitt and Benjamin Dickens. He graduated from T. C. Williams High School. He moved to West Virginia to attend West Virginia State University where he majored in communications. He enlisted in the West Virginia Army National Guard at Dunbar, West Virginia, and was assigned to Bravo Company 1/150 AR in 2001; and

Whereas, SGT Deforest Lee Talbert was mobilized as part of Operation Iraqi Freedom on October 1, 2003, and was reassigned to Charlie Company 1/150 AR. His company was deployed to the Iraqi Theater of Operations along with the 1-150th Armor Battalion

and the 30th Brigade Team on February 29, 2004. He served as an assistant gunner with the First Platoon, Charlie 12 gun truck. While patrolling on the evening of July 27, 2004, SGT Talbert's convoy was the target of an enemy attack using an improvised explosive device. Three of his fellow soldiers were injured, but SGT Talbert absorbed the brunt of the explosion and was instantly killed. SGT Deforest Lee Talbert received the Army Service Ribbon, the Sharpshooter Marksmanship Badge (Pistol), the Expert Marksmanship Badge (Grenade), SSI/FWS for the 30th Brigade Combat Team and the 1st Infantry Division and, posthumously, a Purple Heart and a Bronze Star with V Device; and

Whereas, SGT Deforest Lee Talbert made the ultimate sacrifice for his country and in doing so represented West Virginia and his country with the highest levels of honor and courage and his sacrifice should not go unnoticed. Naming this bridge in Putnam County for him is an appropriate recognition of his ultimate sacrifice for state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge in Putnam County, bridge number 40-35-9.68(40A157) northbound and bridge number 40-35-9.68(40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the "U. S. Army SGT Deforest Lee Talbert 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 SGT Deforest Lee Talbert Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the surviving family members of SGT Deforest Lee Talbert: Mother, Gloria Nesbitt; father, Benjamin Dickens; sisters, Tawanna Talbert-Loving, Latasha Marble and Chiquita Talbert; brother, James Talbert; and his devoted friend, Frances Hamlet.

Which, under the rules, lies over one day.

Senators Boso and Karnes offered the following resolution:

**Senate Concurrent Resolution 46**—Requesting the United States General Services Administration resolve to support the KVC Health Systems, Inc., plan to reuse the Navy Information Operations Command (NIOC) Sugar Grove Support Facility for the purposes of establishing a specialized education enrichment facility primarily targeted toward foster care children.

Whereas, The Legislature recognizes that the Navy Information Operations Command Sugar Grove Support Facility closed on September 30, 2015; and

Whereas, This facility is being offered to eligible organizations through the General Services Administration real property disposal process; and

Whereas, Thirty thousand young adults age out of foster care each year; and

Whereas, Only two percent of those young adults who age out graduate from college; and

Whereas, These young adults are at high risk of becoming homeless, unemployed, incarcerated, victimized or unexpectedly pregnant and, in all such cases, dependent on continued public assistance without the appropriate supports and opportunities; and

Whereas, There is a compelling need for real solutions to this social problem; and

Whereas, KVC Health Systems, Inc., has proposed a plan for reuse of the NIOC Sugar Grove Support Facility to establish a specialized education enrichment facility primarily targeted toward foster care children; and

Whereas, The Legislature is not aware of any other organization with viable plans for reuse of the facility at Sugar Grove; and

Whereas, KVC Health Systems, Inc., is a §501(c)(3) organization based in Olathe, Kansas, with a subsidiary organization in West Virginia providing foster care services and related services; and

Whereas, KVC Health Systems is a national leader in delivery of foster care, adoption services and related mental and behavioral health supports; and

Whereas, KVC Health Systems has consistently reported revenues in excess of \$100 million annually, demonstrating sufficient organizational resources capable of managing and maintaining a project of this magnitude; and

Whereas, No facility of this nature exists in the nation; and

Whereas, The State of West Virginia has an opportunity to collaborate with KVC Health Systems, Inc., to effect positive outcomes for these young adults; and

Whereas, Establishment of a specialized education enrichment facility promotes economic growth in the state; and

Whereas, The plans of KVC Health Systems, Inc., for reuse have been endorsed by the Pendleton County Commission, Pendleton County Economic Development Authority, the West Virginia Secretary of Health and Human Services and the Governor of West Virginia; and

Whereas, Continuing growth and development of West Virginia's economy is of major concern to all our citizens, as is the well-being of our young people; and

Whereas, This is a unique opportunity to foster the promotion of both of those objectives through the establishment of the nation's first specialized education enrichment facility designed for young adults aging out of foster care; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the United States General Services Administration is hereby requested to support the KVC Health Systems, Inc., plan to repurpose the Navy Information Operations Command Sugar Grove Support Facility, disposing of the Command's real property to the KVC Health Systems, Inc., for the purpose of extending foster care services to more children of West Virginia; and, be it

*Further Resolved*, That the West Virginia Legislature provides its full endorsement of the KVC Health Systems, Inc., plan for reuse of the Sugar Grove facility.

Which, under the rules, lies over one day.

Senators Kirkendoll, Stollings, Unger and Plymale offered the following resolution:

**Senate Concurrent Resolution 47**—Requesting Division of Highways name bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the “West Virginia State Police SGT Harold E. Dailey Bridge”.

Whereas, Harold E. Dailey was born on August 3, 1938, in Logan, West Virginia. He graduated from Logan High school in 1957, where he was an all-state baseball pitcher for the Wildcats. After a stint in the U. S. Army, he joined the West Virginia State Police on August 2, 1968, and served until February 25, 1994, when he retired as the Quincy Detachment Commander. He served eastern Kanawha County from detachments in Chelyan, Glasgow and Quincy for much of his career, with stints out of the South Charleston and Cross Lanes detachments as well. Harold E. Dailey lived in the Witcher Creek/Belle area for much of his career, while also living in Malden and Burning Springs during his service time with the State Police; and

Whereas, Harold E. Dailey served the State of West Virginia as a State Trooper for 26 years, his country in the U. S. Army for two years and continues to serve the state as a part-time security officer for the West Virginia Supreme Court; and

Whereas, Naming the bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the “West Virginia State Police SGT Harold E. Dailey Bridge” is an appropriate recognition of his contribution to his country, state, community and Kanawha County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the “West Virginia State Police SGT Harold E. Dailey Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is requested to have made and be placed signs identifying the bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the “West Virginia State Police SGT Harold E. Dailey Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and SGT Harold E. Dailey.

Which, under the rules, lies over one day.

Senators Palumbo, Takubo, Walters, Gaunch, Williams, Stollings, Unger and Plymale offered the following resolution:

**Senate Resolution 50**—Congratulating the Charleston Catholic High School girls’ soccer team for winning the 2015 AA/A State Soccer Championship.



Whereas, The Charleston Catholic High School girls' soccer team had a dominant year, finishing with a record of 21-1-1, including going undefeated against West Virginia schools, on their way to winning the 2015 AA/A State Soccer Championship; and

Whereas, The Charleston Catholic High School girls' soccer team is led by head coach, Amy Mullen, who was named the 2015 West Virginia Soccer Coaches Association's Coach of the Year, and is assisted by coaches Kevin Carr and Kellianne Haden; trainer, Colleen Hoyer; and statistician, Toney Bumgarner; and

Whereas, The Charleston Catholic High School girls' soccer team roster consists of players: Caroline Dundervill, Payton Mullen, Sophie Bumgarner, Jada Bohn, Amanda George, Peyton Keener, Alexa White, Madeline Blaydes, Sydney Moore, Mia Casingal, Vida Imani, Jordan Keener, Sara Carr, Kelly Krietzer, Francesca George, Anna Hewitt, Jenna Jordan, Isabella Paternostro, Mills Mullen, Sarrah George and Racheal Saldanha; and

Whereas, The 2015 Charleston Catholic High School girls' soccer team displayed their talent and strong will for an entire season and is a shining example of what can be accomplished with teamwork, dedication and spirit; and

Whereas, The 2015 Charleston Catholic High School girls' soccer team won the school's second consecutive state championship and will be remembered as one of the best soccer teams in West Virginia history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Charleston Catholic High School girls' soccer team for winning the 2015 AA/A State Soccer Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Charleston Catholic High School girls' soccer team.

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Plymale, Woelfel, Williams, Stollings and Unger offered the following resolution:

**Senate Resolution 51**—Congratulating the Cabell Midland High School boys' cross country team for winning the 2015 Class AAA State Championship.

Whereas, The Cabell Midland boys' cross country team had an extraordinary season in route to winning the 2015 Class AAA State Championship; and

Whereas, The Cabell Midland High School boys' cross country team is coached by Chris Parsons and assistant coaches Rhonda Short and Rachel Stewart; and

Whereas, The Cabell Midland High School boys' cross country team consists of members Mason Bills, Danny Jarrell, Jonathan Merryweather, Michael Otte, Jeremiah Parlock, Nick Salmons, Will Sheils, Andrew Short, Adam Whitmore, David Ball, Salem Carlton, Alex Farmer, Jonathan Hathaway, Austin Jordan, George McPhail, Coy Smith, Evan Fleshman, Aaron Frost, Josh Minor, Devin Nease, Stephen Woolums, Brett Armbruster, Steven Ball, Maguire Beaver, Ian Carlton, Tanner Chapman, Nick Harmon, K. J. Helgason, Dillon Jobe, Bryce Morris, Ben Norton, Tyler Straub and Gabe Tomblin; and

Whereas, The Cabell Midland High School boys' cross country 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; and

Whereas, The Cabell Midland High School boys' cross country team went undefeated against West Virginia competition, on their way to winning the school's ninth state championship, and will be remembered as one of the best teams ever assembled in West Virginia high school cross country history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Cabell Midland High School boys' cross country team for winning the 2015 Class AAA State Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Cabell Midland High School boys' cross country team.

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.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened 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 Senate amendments, as amended by the House of Delegates, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4145**, Relating to carry or use of a handgun or deadly weapon.

On motion of Senator Carmichael, 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 eight, section four, after subsection (q), by adding thereto a new subsection, designated subsection (r), to read as follows:

(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.;

And by relettering the remaining subsection;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for House Bill 4145**—A Bill to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code; and to amend said code by adding thereto three new sections, designated §61-7-4a and §61-7-15a and §61-7-17, all relating to the carrying of firearms and deadly weapons generally; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization apply only to persons under twenty-one years of age and prohibited persons; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; requiring training courses in handling and firing a handgun to include the actual live firing of ammunition; requiring certificates of completion of a training course which are submitted with license applications include the instructor's name, signature and NRA or state instructor identification number; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs' Bureau of Professional Standards, prepare uniform applications for licenses and license cards; entitling a person who pays fees for

training or application after the effective date to a tax credit equal to the amount actually paid for training not to exceed \$50, unless such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application; establishing a provisional license to carry concealed deadly weapons for persons at least eighteen years of age and less than twenty-one years of age; establishing provisional license application requirements and procedures; providing for exceptions as to prohibitions against carrying handguns concealed for persons at least eighteen years of age and fewer than twenty-one years of age; providing for any United States citizen or legal resident thereof at least twenty-one years of age and not otherwise prohibited from possessing a firearm may carry a concealed deadly weapon without a license; creating felony offenses for any persons prohibited from possessing firearms who carry concealed firearms and providing for criminal penalties; providing that it shall not be unlawful to possess a firearm in or on a private primary or secondary education building, structure or facility when such institution has adopted written policies allowing for possession of firearms; exempting probation officers from prohibition against possessing firearms on premises of educational facilities; requiring a school principal to report certain violations to the State Police; creating felony offense for persons using or presenting a firearm while engaged in the commission of a felony and providing for criminal penalties; and providing for construction of article.

On motion of Senator Carmichael, the Senate concurred in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 4145, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Karnes, Kessler, Kirkendoll, Leonhardt, Maynard, Mullins, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—24.

The nays were: Ashley, Beach, Facemire, Hall, Laird, Miller, Palumbo, Romano and Snyder—9.

Absent: Yost—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4145) passed with its House of Delegates amended title.

*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 Senate Bill 252**, Amending Wiretapping and Electronic Surveillance Act to exclude from protection oral communications.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 252) 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 274**, Relating to increasing civil jurisdictional amount in magistrate 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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—31.

The nays were: Beach and Woelfel—2.

Absent: Yost—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. 274) 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 291,** Law enforcement use of unmanned aircraft systems.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: Miller—1.

Absent: Yost—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. 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 376**, Expanding authority of Secretary of State and State Police.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 376) 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 416**, Allowing terminally ill patients access to investigational products.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.



Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 416) 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 438**, Requiring DHHR be present at judicial proceedings.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 438) 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 474**, Exempting DEP construction and reclamation contracts from review and approval.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 474) 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 575**, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 575) 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 592**, Relating to pipeline safety.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 592) 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 621,** Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 621) 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.

**Senate Bill 94,** Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 476,** Relating to driving restrictions in school zones.

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 3019,** Requiring official business and records of the state and its political subdivisions be conducted in English.

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.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 106,** Waiver of warranty on sale of used manufactured home under certain circumstances.

**Com. Sub. for Senate Bill 525,** Relating to WV Insurance Guaranty Association Act.

**Senate Bill 538,** Relating to salaries of appointed officers fixed by Governor.

**Com. Sub. for Senate Bill 593,** Clarifying disqualification from unemployment benefits.

**Senate Bill 613**, Defining total capital for purposes of calculating state-chartered bank's lending limit.

And,

**Eng. Com. Sub. for House Bill 2511**, Health Care Sharing Ministries Freedom to Share Act.

The Senate proceeded to the eleventh order of business and the introduction of guests.

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate recessed until 5:30 p.m. today.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

Senator Takubo, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Senate Bill 325**, Developing matching grant to foster development of creative communities.

And,

**Senate Bill 618**, Allowing Economic Development Authority to make loans to certain whitewater outfitters.

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 Finance.

Respectfully submitted,

Tom Takubo,  
*Chair.*

Senate Bill 325, under the original double committee reference, was then referred to the Committee on Finance.

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Senate Bill 618 contained in the foregoing report from the Committee on Economic Development.

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 344**, Clarifying composition and chairmanship of Commission on Special Investigations.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 344** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, §4-5-5 and §4-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to Commission on Special Investigations; clarifying composition and chairmanship of commission; redefining what constitutes a quorum for voting procedures of commission; clarifying contents of commission's annual report; listing existing and necessary commission staff positions; defining a person's or federal or state agency's duty to cooperate with commission during investigations and requiring persons and agencies to disclose information and documents to commission; establishing requirements for commission to enter into executive session; establishing procedures for conducting executive session; removing requirement that Joint Committee on Government and Finance approve expenses of commission; establishing procedure for commission retention and disposal of records; defining new felony offense of making false statement to commission; setting penalties for making false statement to commission; defining new felony offense of impersonating a commission member or staff member; setting penalties for impersonating a commission member or staff

member; allowing the commission award duty weapons to certain members on retirement; and disposal of surplus weapons.

And,

**Senate Bill 542**, Admissibility of certain evidence in civil action on use or nonuse of safety belt.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 542** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating generally to admissibility of certain evidence in a civil action for damages; allowing the admission of the nonuse of an adult motor vehicle occupant's safety belt in violation of law on the issue of failure to mitigate damages; subjecting that evidentiary issue to West Virginia Rules of Evidence; prohibiting admission of evidence of failure to wear safety belt for comparative negligence purposes; providing for admission of evidence related to failure to wear safety belt for issue of mitigation of damages under certain circumstances; requiring expert evidence showing failure to wear safety belt in violation of this section be relevant to injuries or damages of plaintiff; permitting trier of fact to reduce amount of plaintiff's recovery attributable to failure to wear safety belt after reductions for comparative negligence; limiting percentage of reduction of medical expenses for an adult vehicle occupant's failure to wear safety belt to fifty percent; and clarifying that nothing is intended to limit a manufacturer from introducing evidence of an adult vehicle occupant's failure to wear safety belt to defend the design, manufacture or crashworthiness of a product in any action claiming damages under a product liability theory.

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 578**, Protecting utility workers from crimes against person.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 631**, Authorizing higher education boards of governors develop retirement and incentive packages.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 631** (originating in the Committee on Pensions)—A Bill to amend and reenact §18B-1-1d of the Code of West Virginia, 1931, as amended, relating to retirement and separation incentives.

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,

C. Edward Gaunch,  
*Chair.*



The bill (Com. Sub. for S. B. 631), under the original double committee reference, was then referred to the Committee on Finance.

Senator Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 641**, Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 641** (originating in the Committee on Finance)—A Bill to amend and reenact §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-7, §29-22A-8, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said code; and to amend and reenact §29-22C-7, §29-22C-8, §29-22C-27 and §29-22C-27a of said code, all relating to horse and dog racing and lottery; transferring certain revenues derived from racetrack video lottery and racetrack table games from special fund established for greyhound racetrack licensees to State Excess Lottery Revenue Fund; defunding West Virginia Greyhound Breeding Development Fund and Licensed Racetrack Modernization Fund and transferring money so dedicated to State Excess Lottery Revenue Fund for appropriation by the Legislature; amending rules related to recall elections for video lottery and racetrack table games; eliminating requirement that video lottery licensees at dog tracks must hold a racing license to renew video lottery license or racetrack table games license; and eliminating requirement that video lottery licensees at dog tracks must hold a racing license to conduct simulcast racing.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*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 Joint Resolution 6**, WV Better Roads Amendment of 2016.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Joint Resolution 6** (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$2 billion to be used for improvement and construction of state roads and bridges; establishing the authority of the Legislature to impose a levy on real property and public utility property in this state to retire the indebtedness; limiting the amount and duration of the levy to repayment of the bond indebtedness; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute be adopted; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The resolution (Com. Sub. for S. J. R. 6), under the original double committee reference, was then referred to the Committee on Finance.

Senator Karnes, 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 43**, Requesting Joint Committee on Government and Finance study if economically beneficial to map, name and promote all existing unpaved trails.

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,

Robert Karnes,  
*Chair.*

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

Senator Takubo, 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 2444**, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Tom Takubo,  
*Chair.*

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Kessler.

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Stollings, unanimous consent being granted, it was ordered that the Journal show had Senator Stollings been present in the chamber on yesterday, Tuesday, February 23, 2016, he would have voted “yea“ on the passage of Engrossed Committee Substitute for Senate Bill 420, Engrossed Committee Substitute for Senate Bill 485, Engrossed Committee Substitute for Senate Bill 565 and Engrossed Committee Substitute for Senate Bill 591 and “nay” on the passage of Engrossed Committee Substitute for Senate Bill 508.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Yost.

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 25, 2016, at 11 a.m.

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## THURSDAY, FEBRUARY 25, 2016

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Keith Tyler, State Director of the Fellowship of Christian Athletes, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Kent Leonhardt, a senator from the second district.

Pending the reading of the Journal of Wednesday, February 24, 2016,

At the request of Senator Hall, 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, to take effect from passage, of

**Eng. Senate Bill 341**, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 351**, Dedicating severance tax proceeds.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 449**, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 450**, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 451**, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs.

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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 462**, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

On motion of Senator Carmichael, 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:

**Eng. Senate Bill 462**—A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to the West Virginia Infrastructure Fund; reducing the distributions to the West Virginia Infrastructure Fund to \$30 million for fiscal year 2017 and increasing the percentage of funds available for grants therefrom.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Senate Bill 462, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 462) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 462) 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 that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Senate Bill 509**, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Arvon, Stansbury and P. White.

On motion of Senator Carmichael, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Blair, Ferns and Snyder.

*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 2823**—A Bill to amend and reenact §11-13-2d of the Code of West Virginia, 1931, as amended, relating to eliminating a certain tax on persons engaging or continuing within this state in the service or business of street and interurban and electric railways.

Referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Ferns, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill 414**, Relating to Juvenile Justice Reform Oversight Committee.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 414** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §49-2-913 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §49-2-914; and to amend and reenact §49-5-106 of said code, all relating to Juvenile Justice Reform Oversight Committee and averted costs reinvestment; requiring additional information for annual report; creating a special revenue account, known as the Juvenile Justice Account and providing its purpose, sources of funding and allowable



disbursements; and requiring new data to be collected and compiled to allow calculation of juvenile recidivism and the outcome of programs and making this information available to the public.

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,

Ryan J. Ferns,  
*Vice Chair.*

The bill (Com. Sub. for S. B. 414), under the original double committee reference, was then referred to the Committee on Finance.

Senator Ferns, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill 637**, Creating WV Uniform Fiduciary Access to Digital Assets Act of 2016.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 637** (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 §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18 and §44-5B-19, all relating to the West Virginia Uniform Fiduciary Access to Digital Assets Act of 2016; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets; addressing terms of service agreements; setting forth procedure for disclosing digital assets; providing for disclosure of content of

electronic communications and other digital assets of deceased users; providing for disclosure of content of electronic communications of a principal; addressing disclosure of digital assets of a principal; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of digital assets held in trust when trustee is not an original owner or user; addressing disclosure of digital assets to conservator of a protected person; setting forth fiduciary's duties and authority; providing for custodian's compliance and immunity; providing for uniformity of application and construction of article; addressing relation of article to Electronic Signatures in Global and National Commerce Act; providing for severability of article; and setting date when article takes effect.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan J. Ferns,  
*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  
**Senate Bill 670**, Relating to filling vacancies in elected offices.

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 Karnes, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Joint Resolution 14** (originating in the Committee on Agriculture and Rural Development)—Proposing an amendment to the Constitution of the State of West Virginia amending article III thereof, by adding thereto a new section, designated section twenty-three, relating to the right to farm and ranch; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Robert Karnes,  
*Chair.*

On motion of Senator Carmichael, the resolution (S. J. R. 14) contained in the foregoing report from the Committee on Agriculture and Rural Development was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

Senators Ferns and Stollings offered the following resolution:

**Senate Concurrent Resolution 48**—Requesting the Joint Committee on Government and Finance to study the addition of medical review panels in West Virginia in medical malpractice cases.

Whereas, The overly litigious environment of West Virginia does not promote better care for our citizens, nor does it promote a healthy legal environment; and

Whereas, Medical review panels may be a solution to reduce the number of unwarranted lawsuits, allowing for lower health care costs; and

Whereas, Medical review panels are designed to ensure that a health care provider receives a venue to validate their actions before the commencement of a legal action; and

Whereas, Medical review panels are designed to ensure that a legitimate victim of medical malpractice has a proper source of inquiry as to whether the standard of care was violated; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the addition of medical review panels in West Virginia in medical malpractice cases; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, 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.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 44**, US Marine Corps SGT Mike Plasha 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 45**, US Army SGT Deforest Lee Talbert 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 46**, Requesting US General Services Administration support KVC Health Systems, Inc., plan to reuse Navy Information Operations Command Sugar Grove Support Facility.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Government Organization.

**Senate Concurrent Resolution 47**, WV State Police SGT Harold E. Dailey Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 94**, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 94) 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 476**, Relating to driving restrictions in school zones.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 476) 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 476**—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; authorizing county boards of education to expand school zones to a road adjacent to school property by formal request; requiring Division of Highways to expand school zones accordingly; and requiring Division of Highways to erect new signage to indicate expanded school zone's location and speed limit within thirty days of receiving the formal request.

*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 3019**, Requiring official business and records of the state and its political subdivisions be conducted in English.

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 3019 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—27.

The nays were: Beach, Gaunch, Kessler, Laird, Miller and Woelfel—6.

Absent: Yost—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. 3019) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senators Facemire and Snyder regarding the passage of Engrossed Committee Substitute for House Bill 3019 were ordered printed in the Appendix to the Journal.

At the request of Senator Facemire, unanimous consent being granted, the remarks by Senator Romano regarding the passage of Engrossed Committee Substitute for House Bill 3019 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 106**, Waiver of warranty on sale of used manufactured home under certain circumstances.

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 525**, Relating to WV Insurance Guaranty Association Act.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 538**, Relating to salaries of appointed officers fixed by Governor.

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 593**, Clarifying disqualification from unemployment benefits.

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 four, section three, line sixty-nine, by striking out the word “For” and inserting in lieu thereof the words “Upon the determination of the facts by the commissioner, an individual is disqualified for benefits for”.

The bill (Com. Sub. for S. B. 593), as amended, was then ordered to engrossment and third reading.

**Senate Bill 613**, Defining total capital for purposes of calculating state-chartered bank’s lending limit.

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 2511**, Health Care Sharing Ministries Freedom to Share Act.

On second reading, coming up in regular order, was reported by the Clerk.

On motion of Senator Carmichael, the bill was committed to the Committee on Rules.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for Com. Sub. for Senate Bill 116**, Increasing number of limited video lottery terminals allowed at retail location.

**Com. Sub. for Senate Bill 344**, Clarifying composition and chairmanship of Commission on Special Investigations.

**Com. Sub. for Senate Bill 411**, Creating Second Chance for Employment Act.

**Com. Sub. for Senate Bill 421**, Terminating behavioral health severance and business privilege tax.

**Senate Bill 455**, Allowing person to be both limited video lottery operator and retailer.

**Senate Bill 461**, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act.

**Com. Sub. for Senate Bill 468**, Allowing lender charge and receive interest on rescindable loan during rescission period.

**Com. Sub. for Senate Bill 542**, Admissibility of certain evidence in civil action on use or nonuse of safety belt.

**Senate Bill 578**, Protecting utility workers from crimes against person.

**Com. Sub. for Senate Bill 595**, Relating to retirement credit for members of WV National Guard.

**Senate Bill 618**, Allowing Economic Development Authority to make loans to certain whitewater outfitters.

**Com. Sub. for Senate Bill 619**, 2016 Regulatory Reform Act.

**Senate Bill 627**, Permitting physician to decline prescribing controlled substance.

**Com. Sub. for Senate Bill 634**, Creating William R. Laird IV Second Chance Driver's License Act.

**Com. Sub. for Senate Bill 641**, Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.

**Eng. Com. Sub. for House Bill 2444**, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

And,

**Eng. Com. Sub. for House Bill 4163**, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

The Senate proceeded to the eleventh order of business and the introduction of guests.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate recessed until 5 p.m. today.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

Senator Blair, 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 47** (originating in the Committee on Health and Human Resources), Rewriting licensing requirements for practice of medicine and surgery and podiatry.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill 47** (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-3-13 of the Code of West Virginia, 1931, as amended, relating to practice of medicine; rewriting licensing requirements for practice of medicine and surgery or podiatry; making exceptions; providing for unauthorized practice; requiring notice; establishing criminal penalties; making exceptions; and defining terms.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Ferns, from the Committee on Labor, submitted the following report, which was received:

Your Committee on Labor has had under consideration

**Senate Bill 287**, Creating West Virginia Safer Workplaces Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 287** (originating in the Committee on Labor)—A Bill to amend the Code of West Virginia, 1931, as

amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8, §21-3E-9, §21-3E-10, §21-3E-11, §21-3E-12, §21-3E-13, §21-3E-14, §21-3E-15, §21-3E-16 and §21-3E-17, all relating to creating West Virginia Safer Workplaces Act; permitting employers to test employees and prospective employees for drugs and alcohol; providing a short title; defining terms; making findings; declaring public policy; clarifying exceptions to the applicability of the West Virginia Safer Workplaces Act for employers covered by other drug and alcohol testing statutes; determining a collection of samples, scheduling of tests and testing procedures; providing for ability to request split sample be tested to challenge a positive test result; establishing responsibility for cost of split sample testing; setting forth testing policy requirements; providing for disciplinary procedures; providing for sensitive employees; providing for preemption; providing protection from liability; establishing causes of action; providing exceptions; providing for confidentiality; providing for termination of employment; providing for forfeiture of certain benefits; clarifying that the drug and alcohol testing provisions of the West Virginia Safer Workplace Act cannot be used to show intoxication pursuant to section two, article four, chapter twenty-three of this code; and requiring employers to have drug and alcohol testing policies and procedures when implementing drug and alcohol testing.

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,

Ryan J. Ferns,  
*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 Labor.

Senator Blair, 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 303** (originating in the Committee on Natural Resources), Providing for 5-day resident fishing license.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill 303** (originating in the Committee on Government Organization)—A Bill to amend and reenact §20-2-42o of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §20-2-42z; and to amend and reenact §20-2B-9 of said code, all relating to fishing licenses; and providing Class L resident five-day fishing license.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Boso, 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 337**, Creating 5-year tax credit for businesses on post-mine sites.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 337** (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 article, designated §11-28-1, §11-28-2 and §11-28-3, all relating to creating five-year tax credit for new businesses locating on post-mine sites; defining terms; setting eligibility requirements for credit; establishing amount of tax credit allowed; and establishing how credit may be applied.

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,

Gregory L. Boso,  
*Chair.*

The bill (Com. Sub. for S. B. 337), under the original double committee reference, was then referred to the Committee on Finance.

Senator Boso, 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 370**, Authorizing local units of government adopt local energy efficiency partnership 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 Government Organization.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of the bill contained

in the foregoing report from the Committee on Energy, Industry and Mining.

On motion of Senator Carmichael, the bill (S. B. 370) was then referred to the Committee on Rules.

Senator Ferns, 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 384**, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation.

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,

Ryan J. Ferns,  
*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 Health and Human Resources.

Senator Hall, 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 399**, Establishing personal and corporate income tax credits for farmers donating edible agricultural products.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 435**, Allowing farm winery enter alternating wine proprietorship agreements with farm owners.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Ferns, 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 460**, Repealing regulation of opioid treatment programs and creating licenses for all medication-assisted programs.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 460** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5, §16-5Y-6, §16-5Y-7, §16-5Y-8, §16-5Y-9, §16-5Y-10, §16-5Y-11, §16-5Y-12 and §16-5Y-13; and to amend and reenact §60A-9-5 of said code, all



relating to licensing and regulation of medication-assisted treatment programs for substance use disorders; repealing regulation of opioid treatment programs; setting out purpose; providing definitions; creating licenses for opioid treatment programs; creating categories of licenses; setting out licensing requirements; providing for registration of office-based medication-assisted programs; providing for application, fees and inspections of office-based medication-assisted programs; setting operational requirements for medication-assisted treatment programs; providing for a program sponsor and medical director; setting forth staffing requirements; providing for regulation and oversight by Office of Health Facility Licensure and Certification; designating necessity for a medical director and prescribing minimum training and performance requirements; allowing enrollment as a Medicaid provider; providing billing requirements; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards and patient treatment standards for any medication-assisted treatment program prescribing or dispensing medication-assisted treatment medications; requiring review of the Controlled Substances Monitoring Database for each patient at least quarterly; setting compliance requirements for a medication-assisted treatment program; providing for patient protocols, treatment plans and profiles; allowing liquid methadone to be prescribed and dispensed only as allowed by legislative rule; setting notification requirements of operation changes; restricting location of medication-assisted treatment programs; allowing for waivers and variances from certification or licensure standards; permitting inspection warrants; providing for an administrative review and appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules, including emergency rules; providing advertisement requirements; creating a moratorium on new opioid treatment programs; establishing state authority and state oversight authority for medication-assisted treatment programs; mandating data collection; and granting Office of Health Facility Licensure and Certification access to the Controlled Substances Monitoring

Database for use in certification, licensure and regulation of health facilities.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 460), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 594**, Requiring State Auditor consider for payment claim submitted by electronically generated invoice.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 594** (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 §12-3-10g, relating to requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice.

With the recommendation that the committee substitute 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 596**, Permitting natural gas companies enter upon real property in certain instances.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 596** (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 §37-16-1, relating to landowner protection by setting forth written notice from natural gas companies prior to entry for studies and surveys; permitting natural gas companies to enter upon real property only in certain instances for limited purposes; setting forth those instances and purposes; making legislative findings; establishing a procedure to enter upon the property; requiring the company to pay for damages; excluding certain activities; exempting the company and its agents from trespass penalties if certain conditions are met; and providing that certain other rights are not impaired.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, 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 626**, Requiring DHHR secretary seek waiver within Supplemental Nutrition Assistance Program limiting purchases under WIC program.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 647**, Exempting certain complimentary hotel rooms from occupancy tax.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 647** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-18-2 of the Code of West Virginia, 1931, as amended, relating to exempting certain complimentary hotel rooms from hotel occupancy tax.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. 647), under the original double committee reference, was then referred to the Committee on Finance.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 700** (originating in the Committee on Government Organization)—A Bill to authorize the Berkeley County Council to own or operate a drug treatment or drug rehabilitation facility within the city limits of the City of Martinsburg.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Hall, 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 1**, County Economic Development Amendment.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Karnes, 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 49** (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study funding options for all-terrain vehicle and off-highway recreational vehicle trail development, establishing an ATV and ORV Recreation Commission and identifying state and federal lands that may be developed for ATV and ORV adventure trails.

Whereas, A great number of West Virginia residents and visitors enjoy participating in all-terrain vehicle (ATV) and off-highway recreational vehicle (ORV) recreational activities; and

Whereas, The Hatfield-McCoy Regional Recreation Area has proven to be a very successful model for ATV trail development and has spurred legislation to permit the formation of other regional recreation areas for ATV and ORV trails and economic development; and

Whereas, There is little public access to ATV and ORV trails other than the Hatfield-McCoy trail system; and

Whereas, It is estimated that the average adventure traveler will spend over \$200 per person per overnight visit, which will spur economic development in rural areas perfect for ATV and ORV adventure trails; and

Whereas, Other states have used ATV and ORV vehicle registration fees, apportionment of gas taxes, ATV and ORV parking permits and other means to raise funds dedicated to ATV and ORV trail development; and

Whereas, Other states have task forces and commissions developing ATV and ORV trail systems, managing dedicated funds, awarding grants for development and establishing websites and guidebooks for adventure travelers to promote ATV and ORV adventure trails; and

Whereas, Other states have dedicated state and federal lands for ATV and ORV trail systems, which provides more permanent trail systems than voluntary leases that can be cancelled; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study funding options for all-terrain vehicle and off-highway recreational vehicle trail development, establishing an ATV and ORV Recreation Commission and identifying state and federal lands that may be developed for ATV and ORV adventure trails; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with any 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,

Roberts Karnes,  
*Chair.*

On motion of Senator Carmichael, the resolution (S. C. R. 49) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Karnes, 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 50** (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the fiscal impact of

permitting lineal ascendants and descendants of a landowner to hunt, trap and fish on such landowner's property without obtaining a license.

Whereas, A great number of West Virginia residents and visitors enjoy participating in the recreational activities of hunting, trapping and fishing; and

Whereas, West Virginia residents' and nonresidents' participation in these activities has a large impact on the West Virginia economy and the budget of the Division of Natural Resources; and

Whereas, An estimated 2,744 residents and 2,398 nonresidents may take advantage of this benefit with an estimated \$1 million decrease in combined lost license revenue and federal funds; and

Whereas, The division estimates that forty-three percent of all hunters and anglers currently do not purchase a hunting or fishing license, which calls into question whether legislation legally permitting ascendants and descendants of landowners to hunt, trap and fish without a license would have such a substantial fiscal impact; and

Whereas, The division will conduct a deer hunter survey in 2016 that will help answer questions about the number of residents and nonresidents who hunt on family land and the fiscal impact of permitting ascendants and descendants to hunt, trap and fish without a license; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the fiscal impact of permitting lineal ascendants and descendants of a landowner to hunt, trap and fish on such landowner's property without obtaining a license; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with



any 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,

Robert Karnes,  
*Chair.*

On motion of Senator Carmichael, the resolution (S. C. R. 50) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

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 2852**, Relating to legalizing and regulating the sale and use of fireworks.

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 Hall, 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 4366**, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Walters.

At the request of Senator Carmichael, and by unanimous consent, 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 5:47 p.m. today:

**Eng. Com. Sub. for House Bill 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 26, 2016, at 11 a.m.

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FRIDAY, FEBRUARY 26, 2016

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Minister Donnie Chapman, Dunbar Church of Christ, Dunbar, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Bob Ashley, a senator from the third district.

Pending the reading of the Journal of Thursday, February 25, 2016,

At the request of Senator Carmichael, 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 Plymale, and by unanimous consent, the provisions of rule number fifty-four of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant William "Red" Dawson privileges of the floor for the day.

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. Senate Bill 419**, Relating to termination of Workers' Compensation Debt Reduction Act.

On motion of Senator Carmichael, 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:

That §4-11A-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-13A-3b of said code be amended and reenacted; that §11-13V-4 of said code be amended and reenacted; that §11-21-96 of said code be amended and reenacted; that §23-2C-3 of said code be amended and reenacted; and that that §29-22A-10d and §29-22A-10e of said code be amended and reenacted, all to read as follows:

#### **CHAPTER 4. THE LEGISLATURE.**

#### **ARTICLE 11A. LEGISLATIVE APPROPRIATION OF TOBACCO SETTLEMENT FUNDS; ~~CREATION OF TOBACCO SETTLEMENT FINANCE AUTHORITY.~~**

#### **§4-11A-18. Dedication of personal income tax proceeds as replacement moneys for anticipated tobacco master settlement agreement proceeds to the Old Fund.**

(a) There is hereby dedicated an annual amount of \$50,400,000 from annual collections of the tax imposed by article twenty-one, chapter eleven of this code as a portion of the revenue source dedicated to satisfy the Old Fund liabilities as they occur to provide a dollar for dollar replacement of the first \$30 million received pursuant to section IX(c)(1) of the master settlement agreement and the anticipated strategic compensation payments to be received pursuant to section IX(c)(2) of the master settlement agreement as previously dedicated to the Old Fund prior to the sale of state's share to the Tobacco Settlement Finance Authority. No portion of this amount may be pledged for payment of debt service on revenue bonds issued pursuant to article two-d, chapter twenty-three of this code.

(b) Notwithstanding any other provision of this code to the contrary, beginning immediately after the sale of the state's share to the Tobacco Settlement Finance Authority, \$50,400,000 from collections of the tax imposed by article twenty-one, chapter eleven of this code shall be deposited each calendar year to the credit of

the Old Fund created in article two-d, chapter twenty-three of this code in accordance with the following schedule. Each calendar month, except for July, August and September each year, \$5,600,000 shall be transferred, on or before the twenty-eighth day of the month, to the Workers' Compensation Debt Reduction Fund created in article two-d, chapter twenty-three of this code. The transfers pursuant to this section are in addition to the transfers pursuant to section ninety-six, article twenty-one, chapter eleven of this code.

(c) *Expiration.* —

The transfers required by this section shall ~~continue to be made until the Governor certifies to the Legislature that an independent actuary study determined that the unfunded liability of the Old fund, as defined in chapter twenty three of this code, has been paid or provided for in its entirety~~ cease on and after February 1, 2016. No transfer pursuant to this section shall be made thereafter.

## CHAPTER 11. TAXATION.

### ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

#### §11-13A-3b. Imposition of tax on privilege of severing timber.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of severing timber for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax.

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section shall be three and twenty-two hundredths percent of the gross value of the timber produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article: *Provided,* That as to timber produced after December 31, 2006 the rate of the tax imposed in subsection (a) of this section shall be one and twenty-two hundredths percent of the gross value of the timber produced, as

shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article.

(c) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all persons severing timber in this state and shall be in addition to all other taxes imposed by law.

(d) ~~*Elimination*~~ *Discontinuation and reestablishment of tax.* — Beginning in the tax year 2010 and continuing until June 30, 2016, the imposition of the additional tax on the privilege of severing timber imposed by subsection (c), section four, article thirteen v of this chapter expires under the authority of subsection (g), section four, article thirteen v of this chapter, the tax imposed by this section is discontinued. On and after ~~expiration of the additional tax on the privilege of severing timber imposed by subsection c, section four, article thirteen v of this chapter~~ July 1, 2016, the tax imposed by this section ~~resumes~~ is reestablished and is imposed and shall apply to all persons severing timber in this state at the rate of ~~one and twenty two hundredths~~ one and fifty hundredths percent of the gross value of the timber produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article.

(e) *Termination of taxes imposed by this section.* – The taxes imposed under this section shall cease, terminate and be of no further force or effect on and after July 1, 2019. Termination of the taxes imposed under this section shall not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of such termination.

## **ARTICLE 13V. WORKERS' COMPENSATION DEBT REDUCTION ACT.**

### **§11-13V-4. Imposition of tax.**

(a) *Imposition of additional tax on privilege of severing coal.* — Upon every person exercising the privilege of engaging within this state in severing, extracting, reducing to possession or producing coal for sale, profit or commercial use, there is hereby

imposed an additional annual severance tax for exercising the privilege after November 30, 2005. The tax shall be 56 cents per ton and the measure of the tax is tons of clean coal severed or produced in this state by the taxpayer after November 30, 2005, for sale, profit or commercial use during the taxable year. When the person mining the coal sells raw coal, the measure of tax shall be ton of clean coal determined in accordance with rules promulgated by the Tax Commissioner as provided in article three, chapter twenty-nine-a of this code. If this rule is filed for public comment before July 1, 2005, the rule may be promulgated as an emergency legislative rule. This tax shall be in addition to all taxes imposed with respect to the severance and production of coal in this state including, but not limited to, the taxes imposed by articles twelve-d and thirteen-a of this chapter and the taxes imposed by sections eleven and thirty-two, article three, chapter twenty-two of this code, if applicable.

(b) *Imposition of additional tax on privilege of severing natural gas.* — For the privilege of engaging or continuing within this state in the business of severing natural gas for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising this privilege an additional annual privilege tax. The rate of this additional tax shall be ~~\$.047~~ 4.7 cents per mcf of natural gas and the measure of the tax is natural gas produced after November 30, 2005, determined at the point where the production privilege ends for purposes of the tax imposed by section three-a, article thirteen-a of this chapter, and with respect to which the tax imposed by section three-a of said article thirteen-a is paid. The additional tax imposed by this subsection shall be collected with respect to natural gas produced after November 30, 2005.

(c) *Imposition of additional tax on privilege of severing timber.* — For the privilege of engaging or continuing within this state in the business of severing timber for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising this privilege an additional annual privilege tax equal to two and seventy-eight hundredths percent of the gross value of the timber produced, determined at the point where the production privilege ends for purposes of the tax imposed by section three-b,

article thirteen-a of this chapter and upon which the tax imposed by section three-b of said article thirteen-a is paid. The additional tax imposed by this subsection shall be collected with respect to timber produced after November 30, 2005: *Provided*, That during the period of discontinuance of the tax as provided in subsection (d), section three-b, article thirteen-a of this chapter, the additional tax imposed by this subsection shall be determined as provided in this subsection in the same manner as if the tax described under section three-b, article thirteen-a of this chapter is being imposed and collected, subject to the provisions of subsection (g) of this section.

(d) *No pyramiding of tax burden.* — Each ton of coal and each mcf of natural gas severed in this state after the effective date of the taxes imposed by this section shall be included in the measure of a tax imposed by this section only one time.

(e) *Effect on utility rates.* — The Public Service Commission shall, upon the application of any public utility that, as of the effective date of the taxes imposed by this section, is not currently making periodic adjustments to its approved rates and charges to reflect changes in its fuel costs because the mechanism historically used to make such periodic adjustments is suspended by an order of the commission, allow such utility to defer, for future recovery from its customers, any increase in its costs attributable to the taxes imposed by this section upon: Coal and natural gas severed in this state and utilized in the production of electricity generated or produced in this state and sold to customers in this state; coal and natural gas severed in this state and utilized in the production of electricity not generated or produced in this state that is sold to customers in this state; and natural gas severed in this state that is sold to customers in this state.

(f) *Dedication of new taxes.* —

(1) Subject to the provisions of subdivision (2) of this subsection, the ~~The~~ net amount of all moneys received by the Tax Commissioner from collection of the taxes imposed by this section, including any interest, additions to tax, or penalties collected with respect to these taxes pursuant to article ten, chapter eleven of this code, shall be deposited in the Workers' Compensation Debt



Reduction Fund created in article two-d, chapter twenty-three of this code. As used in this section, “net amount of all taxes received by the Tax Commissioner” means the gross amount received by the Tax Commissioner less the amount of any refunds paid for overpayment of the taxes imposed by this article, including the amount of any interest on the overpayment amount due the taxpayer under the provisions of section fourteen, article ten of this chapter.

(2) If the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from taxes imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

~~(g) *Sunset expiration date of taxes.* — The new taxes imposed by this section shall expire and not be imposed with respect to privileges exercised on and after the first day of the month following the month in which the Governor certifies to the Legislature that: (1) The revenue bonds issued pursuant to article two d, chapter twenty three of this code, have been retired, or payment of the debt service provided for; and (2) that an independent certified actuary has determined that the unfunded liability of the old fund, as defined in chapter twenty three of this code, has been paid or provided for in its entirety. Expiration of the taxes imposed in this section as provided in this subsection shall not relieve any person from payment of any tax imposed with respect to privileges exercised before the expiration date.~~

(g) *Termination of taxes imposed by this article.* — The taxes imposed under this article shall cease, terminate and be of no further force or effect on and after July 1, 2016: *Provided*, That the Governor may, by Executive Order, cause the tax to terminate before July 1, 2016. Termination of the taxes imposed under this article shall not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of such termination.

**ARTICLE 21. PERSONAL INCOME TAX.****§11-21-96. Dedication of personal income tax proceeds.**

(a) There is hereby dedicated an annual amount of \$45 million from annual collections of the tax imposed by this article for payment of the unfunded liability of the current Workers' Compensation Fund. No portion of this amount may be pledged for payment of debt service on revenue bonds issued pursuant to article two-d, chapter twenty-three of this code.

(b) Notwithstanding any other provision of this code to the contrary, beginning in January of 2006, \$45 million from collections of the tax imposed by this article shall be deposited each calendar year to the credit of the old fund created in article two-c, chapter twenty-three of this code, in accordance with the following schedule. Each calendar month, except for July, August and September each year, \$5 million shall be transferred, on or before the twenty-eighth day of the month, to the Workers' Compensation Debt Reduction Fund created in article two-d, chapter twenty-three of this code.

(c) ~~The transfers required by subsection (b) of this section shall continue to be made until the Governor certifies to the Legislature that an independent actuarial study determined that the unfunded liability of the old fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety. Thereafter, cease on and after February 1, 2016. For fiscal years beginning on and after July 1, 2016, an annual amount of \$35 \$30 million from annual collections of the tax imposed by this article and which were previously dedicated by this section for payment of the unfunded liability of the Workers Compensation Fund shall be dedicated for payment of the unfunded liability of the West Virginia Retiree Health Benefit Trust Fund and to provide funding for the Post July 1, 2010, Employee Trust Fund created by section five b, article sixteen, chapter five of this code. The \$35 \$30 million transferred pursuant to this subsection shall be transferred in accordance with the following:~~

~~(1) The annual amount of \$30 million shall be transferred into the West Virginia Retiree Health Benefit Trust Fund by transferring \$5 million each month for the following months of each year: October, November, December, January, February and March, until the Governor certifies to the Legislature that an independent actuarial study has determined that the unfunded liability of West Virginia Retiree Health Benefit Trust Fund, as created in section two, article sixteen-d, chapter five of this code, has been provided for in its entirety or July 1, 2037, whichever date is later: *Provided*, That no transfer shall be made under this subdivision in the months of February and March of fiscal year 2016. Transfers shall thereafter resume and be made in October, November, December, January, February and March of fiscal year 2017 and thereafter. No transfer into the West Virginia Retiree Health Benefit Trust Fund pursuant to this subdivision shall be made after the Governor certifies to the Legislature that an independent actuarial study has determined that the unfunded liability of West Virginia Retiree Health Benefit Trust Fund, as created in section two, article sixteen-d, chapter five of this code, has been provided for in its entirety or July 1, 2037, whichever date is later. thereafter; and~~

~~(2) An annual amount of \$5 million shall be transferred into the Post July 1, 2010, Employee Trust Fund created by section five b, article sixteen, chapter five of this code in April of each year.~~

## CHAPTER 23. WORKERS' COMPENSATION.

### ARTICLE 2C. EMPLOYERS' MUTUAL INSURANCE COMPANY.

#### **§23-2C-3. Creation of employer mutual as successor organization of the West Virginia Workers' Compensation Commission.**

(a) (1) On or before July 1, 2005, the executive director may take such actions as are necessary to establish an employers' mutual insurance company as a domestic, private, nonstock, corporation to:

(A) Insure employers against liability for injuries and occupational diseases for which their employees may be entitled to receive compensation pursuant to this chapter and federal Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §901, *et seq.*;

(B) Provide employer's liability insurance incidental to and provided in connection with the insurance specified in paragraph (A) of this subdivision, including coal workers' pneumoconiosis coverage and employer excess liability coverage as provided in this chapter; and

(C) Transact other kinds of property and casualty insurance for which the company is otherwise qualified under the provisions of this code.

(2) The company may not sell, assign or transfer substantial assets or ownership of the company.

(b) If the executive director establishes a domestic mutual insurance company pursuant to subsection (a) of this section:

(1) As soon as practical, the company established pursuant to the provisions of this article shall, through a vote of a majority of its provisional board, file its corporate charter and bylaws with the Insurance Commissioner and apply for a license with the Insurance Commissioner to transact insurance in this state. Notwithstanding any other provision of this code, the Insurance Commissioner shall act on the documents within fifteen days of the filing by the company.

(2) In recognition of the workers' compensation insurance liability insurance crisis in this state at the time of enactment of this article and the critical need to expedite the initial operation of the company, the Legislature authorizes the Insurance Commissioner to review the documentation submitted by the company and to determine the initial capital and surplus requirements of the company, notwithstanding the provisions of section five-b, article three, chapter thirty-three of this code. The company shall furnish the Insurance Commissioner with all information and cooperate in

all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The Insurance Commissioner shall monitor the economic viability of the company during its initial operation on not less than a monthly basis, until the commissioner, in his or her discretion, determines that monthly reporting is not necessary. In all other respects the company shall comply with the applicable provisions of chapter thirty-three of this code.

(3) Subject to the provisions of subdivision (4) of this subsection, the Insurance Commissioner may waive other requirements imposed on mutual insurance companies by the provisions of chapter thirty-three of this code the Insurance Commissioner determines are necessary to enable the company to begin insuring employers in this state at the earliest possible date.

(4) Within forty months of the date of the issuance of its license to transact insurance, the company shall comply with the capital and surplus requirements set forth in subsection (a), section five-b, article three, chapter thirty-three of this code in effect on the effective date of this enactment, unless the deadline is extended by the Insurance Commissioner.

(c) For the duration of its existence, the company is not a department, unit, agency or instrumentality of the state for any purpose. All debts, claims, obligations and liabilities of the company, whenever incurred, are the debts, claims, obligations and liabilities of the company only and not of the state or of any department, unit, agency, instrumentality, officer or employee of the state.

(d) The moneys of the company are not part of the General Revenue Fund of the state. The debts, claims, obligations and liabilities of the company are not a debt of the state or a pledge of the credit of the state.

(e) The company is not subject to provisions of article nine-a, chapter six of this code; the provisions of article two, chapter six-c of this code; the provisions of chapter twenty-nine-b of this code;

the provisions of article three, chapter five-a of this code; the provisions of article six, chapter twenty-nine of this code; or the provisions of chapter twelve of this code.

(f) If the commission has been terminated, effective upon the termination, private carriers, including the company, are not subject to payment of premium taxes, surcharges and credits contained in article three, chapter thirty-three of this code on premiums received for coverage under this chapter. In lieu thereof, the workers' compensation insurance market is subject to the following:

(1) (A) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be collected by each private carrier from its policyholders. The surcharge percentage shall be calculated by dividing the previous fiscal year's total premiums collected plus deductible payments by all employers into the portion of the Insurance Commissioner's budget amount attributable to regulation of the private carrier market. This resulting percentage shall be applied to each policyholder's premium payment and deductible payments as a surcharge and remitted to the Insurance Commissioner. Said surcharge shall be remitted within ninety days of receipt of premium payments;

(B) With respect to fiscal years beginning on and after July 1, 2008, in lieu of the surcharge set forth in the preceding paragraph, each private carrier shall collect a surcharge in the amount of five and five-tenths percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied: *Provided*, That prior to June 30, 2013, and every five years thereafter, the commissioner shall review the percentage surcharge and determine a new percentage as he or she deems necessary.

(C) The amounts required to be collected under paragraph (B) of this subdivision shall be remitted to the Insurance Commissioner on or before the twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year.

(2) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be remitted on a quarterly basis by self-insured employers and said percentage shall be calculated by dividing previous year's self-insured payroll in the state into the portion of the Insurance Commissioner's budget amount attributable to regulation of the self-insured employer market. This resulting percentage shall be applied to each self-insured employer's payroll and the resulting amount shall be remitted as a regulatory surcharge by each self-insured employer. The Industrial Council may promulgate a rule for implementation of this section. The company, all other private carriers and all self-insured employers shall furnish the Insurance Commissioner with all required information and cooperate in all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The surcharge shall be calculated so as to only defray the costs associated with the administration of this chapter and the funds raised shall not be used for any other purpose except as set forth in subdivision (4) of this subsection;

(3) (A) Each private carrier shall collect a premiums surcharge from its policyholders as annually determined, by May 1 of each year, by the Insurance Commissioner to produce \$45 million annually, of each policyholder's periodic premium amount for workers' compensation insurance: *Provided*, That the surcharge rate on policies issued or renewed on or after July 1, 2008, shall be nine percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied.

(B) By May 1 each year, the self-insured employer community shall be assessed a cumulative total of \$9 million. The methodology for the assessment shall be fair and equitable and determined by exempt legislative rule issued by the Industrial Council. The amount collected pursuant to this subdivision shall be remitted to the Insurance Commissioner for deposit in the Workers' Compensation Debt Reduction Fund created in section five, article two-d of this chapter: *Provided, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, if the budget shortfall, as determined by the state*

Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of the amount collected pursuant to this subdivision, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the fund otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code: *Provided, however, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of the amount collected pursuant to this subdivision, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.*

(4) On or before July 1, 2009, the Insurance Commissioner shall make a one-time lump sum transfer of \$40 million generated from the surcharges assessed pursuant to paragraph (B), subdivision (1) of this subsection and subdivision (2) of this subsection to the Bureau of Employment Programs' Commissioner for deposit with the Secretary of the Treasury of the United States as a credit of this state in the Unemployment Trust Fund Account maintained pursuant to section four, article eight, chapter twenty-one-a of this code.

(g) The new premiums surcharge imposed by paragraphs (A) and (B), subdivision (3), subsection (f) of this section sunset and are not collectible with respect to workers' compensation insurance premiums paid when the policy is renewed on or after the first day of the month following the month in which the Governor certifies to the Legislature that the revenue bonds issued pursuant to article two-d of this chapter have been retired and that the unfunded liability of the Old Fund has been paid or has been provided for in its entirety, whichever occurs last.



**CHAPTER 29. MISCELLANEOUS BOARDS AND  
OFFICERS.**

**ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

**§29-22A-10d. Changes in distribution of net terminal income;  
distributions from excess lottery fund.**

(a) Notwithstanding any provision of subsection (b), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

(b) Notwithstanding any provision of subsection (c), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(c) The total amount of reductions resulting from subsection (b) of this section shall be paid into the State Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(d) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(e) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(f) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(g) (1) Notwithstanding Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (c), section ten of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

**§29-22A-10e. Changes in distribution of excess net terminal income; distributions from excess lottery fund.**

(a) Notwithstanding any provision of subsection (a), section ten-b of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten-b of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(b) The total amount of reductions resulting from subsection (a) of this section shall be paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(c) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(d) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d, and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(e) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(f)(1) Notwithstanding Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (a), section ten-b of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (a), section ten-b of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed

under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 419**—A Bill to amend and reenact §4-11A-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13A-3b of said code; to amend and reenact §11-13V-4 of said code; to amend and reenact §11-21-96 of said code; to amend and reenact §23-2C-3 of said code; and to amend and reenact §29-22A-10d and §29-22A-10e of said code, all relating to termination of transfers of certain personal income tax revenues to the Workers' Compensation Debt Reduction Fund; reestablishing and imposing increased severance tax on severance of timber effective July 1, 2016; termination of additional severance taxes on severance of coal, natural gas and timber on and after July 1, 2016; authorizing earlier termination date; authorizing redirection of additional severance tax revenues to the General Revenue Fund for period prior to termination date; delaying transfers of certain

personal income tax revenues to the West Virginia Retiree Health Benefit Trust Fund; eliminating transfers of certain personal income tax revenues to the Post-July 1, 2010, Employee Trust Fund; authorizing redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to July 1, 2017; authorizing redirection of amounts collected from certain deposits of revenues derived from net terminal income for periods prior to July 1, 2017.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 419, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 419) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 419) 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, to take effect July 1, 2016, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 2202**—A Bill to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to more equitable disbursement of funds to county boards to lessen budgetary impact of serving high cost/high acuity special needs students; eliminating requirement to annual review of rules, policies and standards and federal law and report to legislative oversight commission; defining high cost/high acuity special needs; and providing for method of fund disbursement.

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 2897**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §59-1-2c, relating to creating Young Entrepreneur Reinvestment Act; waiving certain fees for individuals under thirty creating certain business organizations, and expire the waiver of those fees.

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, to take effect July 1, 2016, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4171**—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, all relating to primary and secondary school instructional terms; removing the word “separate” throughout the section as it relates to the number of instructional days in the school calendar; requiring that the instructional term for students begin no earlier than August 10 and end no later than June 10, except for schools operating on a balanced calendar; removing preparation for opening and closing school from mandatory list of areas for which remaining noninstructional days may be designated by county school board; designating one noninstructional day for teachers as a preparation day; allowing teacher preparation day to be used for other purposes only at teacher’s discretion; increasing number of two-hour blocks for faculty senate meetings from four to six; removing requirement that faculty senate meetings be held once every forty-five days; permitting accrued minutes to be used for lost instructional days; designating time frames within which faculty senate meetings may take place; requiring county boards to first use accrued minutes for early dismissals and late arrivals and requiring that any reimagining student instructional days be exhausted prior to using accrued minutes for lost instructional days.

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 4295**—A Bill to amend the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5B-14; and to further amend said code by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, §18-5E-6 and §18-5E-7, all relating to all relating to Innovation in Education Schools and Innovation Zones; terminating funding for Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation



Zones; setting forth purpose of Innovation in Education Act; defining innovation in education school; specifying minimum requirements; authorizing soliciting, accepting and expending gifts, donations and grants with certain limits to remain for use in school accounts; authorizing state board designation of innovation in education school; requiring state board rule for implementation and authorizing emergency rule if necessary; providing process for application process, minimum content, review and approval; requiring innovation in education plan as part of application; specifying plan minimum contents, components and requirements; requiring operational agreement between school principal and county board; specifying minimum contents of operational agreement; requiring evaluations of Innovation in Education designated schools; authorizing amendment and suspension of components of Innovation in Education plans; authorizing termination of designation of a school as an Innovation in Education school; authorizing designation of demonstration schools; creating Innovation in Education Fund; authorizing expenditures from Innovation in Education Fund; and authorizing investment of Innovation in Education Fund moneys.

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 4365**—A Bill to repeal §16-2D-4a, §16-2D-4b, §16-2D-5a, §16-2D-5b, §16-2D-5c, §16-2D-5d, §16-2D-5e and §16-2D-7a, of the Code of West Virginia, 1931, as amended; to amend and reenact §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-6, §16-2D-7, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14 and §16-2D-15; and to amend said code by adding thereto five new sections, designated §16-2D-16, §16-2D-17, §16-2D-18, §16-2D-19 and §16-2D-20, all relating to the certificate of need process; providing legislative findings; defining terms; providing powers to the authority; providing duties to the authority; providing rulemaking authority; continuing a special revenue account;

providing a process to update certificate of need standards; providing a process to update the state health plan; providing a process to review the cost effectiveness of the certificate of need standards; providing a process for the Health Care Authority to review whether a certificate of need is required; providing health services that require a certificate of need; providing health services for which a certificate of need may not be granted; providing an exemption process; providing exemptions to the certificate of need requirement; providing criteria the authority shall use to determine whether to grant a certificate of need; changing the certificate of need process; providing certain timelines; requiring the creation of a process to review an uncontested certificate of need application; requiring the authority to make certain findings to approve a certificate of need; providing an appeal process; prohibiting the transfer of a certificate of need; permitting the authority to perform a compliance review of an issued certificate of need; permitting the revocation of a license; creating an injunction process; establishing a statute of limitations; establishing an administrative penalty;

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 4572**—A Bill to amend and reenact §18-1-1 of the Code of West Virginia, 1931, as amended, relating to excepting specialized contract instructors from the definition of teacher; and defining that term.

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 4594**—A Bill to amend and reenact §30-21-7 of the Code of West Virginia, 1931, as amended, relating to predoctoral psychology internship qualifications; and requiring that in order to be eligible for a license to engage in the practice of

psychology, an applicant with a doctor of philosophy degree or its equivalent must have at least one thousand eight hundred hours from a doctoral internship.

Referred to the Committee on Health and Human Resources; and then 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 4617**—A Bill to amend and reenact §18B-17-2 of the Code of West Virginia, 1931, as amended, relating to authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program.

Referred to the Committee on Education.

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 4651**—A Bill to amend and reenact §30-26-4, §30-26-6 and §30-26-7 of the Code of West Virginia, 1931, as amended, all relating to professional examination requirements for hearing-aid dealers and fitters; requiring applicants for professional licensure to pass the International Licensing Examination for Hearing Healthcare Professionals or an equivalent examination; requiring applicants for professional licensure to pass a nationally recognized practical examination, or a practical examination designed by the West Virginia Board of Hearing-Aid Dealers to test certain demonstrated skills and techniques; requiring applicants to pass an examination, designed by the board, to test knowledge of certain local laws and practices; eliminating the requirement that the board provide applicants with certain details pertaining to an applicant's failure of an examination; and authorizing emergency and legislative rulemaking.

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 4674**—A Bill to amend and reenact §17C-15-19 of the Code of West Virginia, 1931, as amended, relating to motor vehicle back-up lamps.

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 from passage, and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4705**—A Bill to amend and reenact §11-21-32 and §11-21-77 of the Code of West Virginia, 1931, as amended, relating to adding an additional type of West Virginia source income of nonresident individual; and exclusion of lottery winnings as compensation for personal services.

Referred to the Committee on Finance.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 25, 2016, he had approved **Enr. Senate Bill 15, Enr. Senate Bill 123, Enr. Senate Bill 261, Enr. House Bill 4148, Enr. Committee Substitute for House Bill 4158, Enr. House Bill 4161, Enr. Committee Substitute for House Bill 4244 and Enr. Committee Substitute for House Bill 4245.**

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 26th day of February, 2016, 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. 7)**, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

**(Com. Sub. for S. B. 14)**, Limiting successor corporation asbestos-related liabilities.

**(Com. Sub. for S. B. 146)**, Establishing instruction standards for early childhood education.

**(Com. Sub. for S. B. 150)**, Authorizing Department of Transportation promulgate legislative rules.

**(Com. Sub. for S. B. 369)**, Reducing legislative education reporting requirements.

**(Com. Sub. for Com. Sub. for S. B. 387)**, Shared animal ownership agreements to consume raw milk.

And,

**(Com. Sub. for H. B. 4175)**, Relating generally to home schooling.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Hall, 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 12** (originating in the Committee on Transportation and Infrastructure), Relating to County Local Powers Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill 12** (originating in the Committee on Finance)—A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-seven new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50 and §7-20-51; and to amend said code by adding thereto a new section, designated §31-15-16c, all relating generally to County Local Powers Act; fees, taxes and expenditures for county development; restating short title; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; amending authorization for county commissions to impose impact fees, services fees and other taxes; providing that certain fees and taxes collected may be deposited in special fund and used to pay debt service on revenue bonds issued to finance capital improvements or to finance them on a pay-as-you-go basis; making technical corrections; allowing county commissions and Commissioner of Highways to enter into intergovernmental agreements for construction and modernization of state roads, bridges and related infrastructure and financing in their respective counties; providing procedures for creation and finalization or project plans and amendments of plans; requiring notice to certain locally elected public officials and general public on proposed road, bridge and related infrastructure construction projects and project amendments with opportunity for public comment; providing means to finance cost of proposed road, bridge and related infrastructure construction projects and project amendments; allowing reallocation of ad valorem property taxes after ratification of constitutional amendment of certain property tax collections to finance, in whole or in part, capital improvements to infrastructure; providing for applications for a construction project and the

contents of applications; providing rule-making authority; creating special fund; requiring approval of boards of education for reallocation of regular property tax levies; providing for termination of reallocation of levies; authorizing West Virginia Economic Development Authority to issue revenue bonds and refunding bonds to finance road, bridge and related infrastructure projects financed, in whole or in part, by county commissions; providing that all bonds are exempt from tax, are negotiable and are lawful investments; providing procedures for issuance of bonds; allowing projects to also be constructed on a pay-as-you-go basis; providing that these powers are supplemental powers of county commissions, Commissioner of Highways and West Virginia Economic Development Authority; requiring reports; exempting public officials from personal liability; providing a severability clause; effective dates; and generally directing how the West Virginia Economic Development Authority implements and manages bonds issued for road, bridge and related infrastructure projects.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*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 534**, Transferring jurisdiction in DUI and other matters from Office of Administrative Hearings to courts.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 534** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-5-2, §17C-5-2b, §17C-5-4 and §17C-5-7 of the Code of West Virginia, 1931, as

amended; to amend and reenact §17C-5A-1, §17C-5A-1a and §17C-5A-3 of said code; to amend said code by adding thereto two new sections, designated §17C-5A-1b and §17C-5A-1c; and to amend said code by adding thereto a new section, designated §17C-5C-6, all relating generally to the procedures for drivers' license suspensions and revocations for driving under the influence of alcohol, controlled substances or drugs; transferring authority for hearing matters related to suspensions or revocations of drivers' license for operating a motor vehicle while under the influence of alcohol, controlled substances or drugs from the Office of Administrative Hearings to magistrate courts; granting authority to magistrate courts to suspend or revoke driver's licenses in such cases; establishing mandatory revocation periods for individuals convicted of driving under the influence; authorizing alternate revocation period involving participation in motor vehicle alcohol test and lock period for certain first offenses; establishing mandatory revocation periods for individuals upon subsequent convictions for driving under the influence; requiring individuals whose driver's licenses have been revoked upon conviction for driving under the influence to complete comprehensive safety and treatment program; making individuals who are found guilty of driving under the influence ineligible for deferral of further proceedings upon condition of participation in motor vehicle alcohol test and lock program; making individuals who refuse to submit to a secondary chemical test ineligible for deferral of further proceedings upon condition of participation in motor vehicle alcohol test and lock program; prohibiting secondary test of blood without issuance of warrant signed by a magistrate or circuit judge; requiring that individual arrested for driving under the influence be advised orally of certain consequences for refusal to submit to secondary chemical test; requiring that individual arrested for driving under the influence be given written statement informing the individuals of legal consequences of taking or refusing to take a preliminary breath test and informing the individual of right to receive secondary blood test; requiring that officer give second oral warning fifteen minutes after first warning given and before refusal is considered final; requiring that, following an individual's refusal to take a preliminary breath test, an arresting officer execute a signed statement that the officer administered all required



warnings; directing officer to submit copy of written statement to court having jurisdiction over charges filed against the individual; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's driver's license on the basis of a driving under the influence arrest; limiting administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2016; providing that administrative hearings relating to refusal to undergo a secondary chemical test does not apply to offenses occurring on or after July 1, 2016; eliminating requirement for an order entered by the Division of Motor Vehicles revoking a driver's license to advise of procedures for requesting administrative hearing when the offense is driving under the influence; limiting the right of individuals to challenge suspension or revocation of driver's licenses to the issue of mistaken identity; requiring the Commissioner to take corrective action if a driver's license is incorrectly suspended or revoked based on mistaken identity; providing that plea of no contest constitutes a conviction; requiring pretrial suspension of driver's licenses if individual refuses to submit to secondary chemical test; permitting pretrial suspension of driver's license by court under certain circumstances; establishing right to request and receive judicial review of suspension orders pending criminal proceedings; establishing the scope of review for judicial review of pretrial driver's license suspension for refusal to submit to secondary chemical test; requiring the clerk of a court to transmit a copy of an order suspending or revoking a driver's license to the Division of Motor Vehicles; providing terms and length of pretrial license suspension; giving person's convicted of driving under the influence credit for pretrial suspension time against period of revocation imposed; 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 competition thereof; establishing procedures and timeline for the Division of Motor Vehicles to transfer jurisdiction of driver's license suspension and revocation to the courts; and making technical corrections.

And,

**Senate Bill 691**, Modifying certain air pollution standards.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 691** (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 modifying certain air pollution standards; changing certain mandatory requirements to permissive ones; and changing a meter-based standard to a mass-based standard.

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 545**, Relating to asbestos abatement on pipes.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 545** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §16-32-2 and §16-32-11 of the Code of West Virginia, 1931, as amended, all relating to asbestos abatement on oil and gas pipelines; defining terms; requiring requests for waivers and other matters be made to the Commissioner of the Bureau for Public Health; exempting the removal, repair and maintenance of intact oil and gas pipeline asphaltic wrap which contains asbestos fibers encapsulated or coated by bituminous or resinous compounds from asbestos

abatement requirements; and providing specific requirements for that exemption to apply.

And,

**Senate Bill 635**, Limiting action to recover unpaid balance on contract by consumer purchase.

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 amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-2-6b, relating to the statute of limitation period that applies to an action to recover the unpaid balance due upon a contract made by a consumer for the purchase of personal property containing terms of financing the purchase price; establishing the statute of limitation period to be four years on claims upon a contract made by a consumer for the purchase of personal property which contains terms of financing all or part of the purchase price over a period of time; clarifying the start of the four-year statute of limitation period; and distinguishing the start of the statute of limitation period if the due date is accelerated.

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 602**, Relating to Patient Injury Compensation Fund.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 602** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-12B-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-12D-1 and §29-12D-3 of said code; to amend said code by adding thereto a new section, designated §29-12D-1a; to amend and reenact §55-7B-9 and §55-7B-9c of said code; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating to the Patient Injury Compensation Fund; transferring funds from Medical Liability Fund to Patient Injury Compensation Fund and thereafter closing Medical Liability Fund; prohibiting direct recover of legal fees from Patient Injury Compensation Fund; providing that the board may not compensate claimants who have not filed a claim with the fund by a specific date; providing an assessment on medical licenses; providing exceptions to assessment on medical licenses; prohibiting granting or renewal of medical license for failure to pay assessment; providing an assessment on trauma patients treated at designated trauma centers; providing an assessment on claims filed under the Medical Professional Liability Act; defining “qualifying claim”; defining “date” for purposes of determining applicability of section; directing entities collecting assessments to remit payment to Board of Risk and Insurance Management; setting schedule for remittance of payments to Board of Risk and Insurance Management; providing termination of assessments upon certain deadlines being met; limiting jurisdiction of court reviewing award from board to approval of final award; clarifying authority of Board of Risk and Insurance Management make periodic payments or place claims in nonpayment status in its discretion; permitting trier of fact to consider fault of all alleged parties, including fault of persons who have settled claims with plaintiff arising out of same medical injury, in assessing percentages of fault; permitting clarifying manner in which damages are to be determined with respect to each defendant for purposes of entering judgment when there is no pre-verdict settlement; providing for limit on liability for economic damages in causes of actions against a trauma facility to be adjusted for inflation annually beginning January 1, 2016; setting limit on

inflation increase; authorizing plaintiff who suffers economic damages in excess of limit of liability to collect economic damages up to an additional \$1 million; clarifying that additional economic liability limit is not subject to inflation; providing that a claimant's attorney fees may not be paid out of the fund; providing that several liability applies in all cases under the Medical Professional Liability Act; increasing filing fee for causes of action under the Medical Professional Liability Act; and directing clerk of court to deposit a portion of the filing fee into Patient Injury Compensation Fund.

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,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

Senator 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 4228**, Relating to transportation network companies.

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.*

The Senate proceeded to the sixth order of business.

Senators Plymale, Woelfel, Maynard, Ashley, Romano, Stollings, Prezioso, Williams, Unger, Laird, Kessler, Trump and Facemire offered the following resolution:

**Senate Resolution 52**—Designating February 26, 2016, as Marshall University Day at the Legislature.

Whereas, The year 2016 marks the 179th anniversary of Marshall University, one of the oldest institutions of higher education in West Virginia, founded in 1837 as Marshall Academy in honor of Chief Justice John Marshall; and

Whereas, Marshall University is one of the state's premier institutions of higher education, and today educates more than 14,000 students at campuses in Huntington, Point Pleasant, South Charleston, Beckley, Logan and Gilbert; and

Whereas, Marshall University is composed of academic units that include the Colleges of Arts and Media; Business; Education and Professional Development; Information Technology and Engineering; Liberal Arts; Health Professions; and Science, as well as the Honors College; University College; the Graduate College; the School of Pharmacy; and the Joan C. Edwards School of Medicine; and

Whereas, Marshall University offers degrees at the associate, baccalaureate, master's and doctoral levels; and

Whereas, Marshall University will soon graduate its first class of students from its School of Pharmacy, which opened in the fall of 2012, with approximately 80 to 85 students getting their degrees in May, 2016; and

Whereas, Marshall University has built a national reputation for research in biotechnology, forensics and medicine; and

Whereas, Marshall University opened its spectacular four-story, \$56 million, 152,000 square-foot, 480-foot long Arthur Weisberg Family Applied Engineering Complex in 2015, a

building that includes 72 miles of telecommunication wiring and about one million feet of electrical wiring, which equals about 190 miles; and

Whereas, With every dollar the state invests in Marshall University, the University generates nearly \$20 spent in the West Virginia economy, resulting in an estimated economic output of \$1.5 billion per year; and

Whereas, The Robert C. Byrd Institute (RCBI), Marshall University's center for advanced manufacturing, innovation and entrepreneurship, provides innovative products, services, and solutions; 3D printing, advanced technology and prototyping, workforce skills and world-class apprenticeships that are dedicated to the productivity, growth and global competitiveness of West Virginia entrepreneurs; and

Whereas, The Nick J. Rahall II Appalachian Transportation Institute of Marshall University continues to set national standards in transportation; and

Whereas, Marshall University's Health Sciences trains hundreds of West Virginians to serve as doctors, nurses, therapists and health technicians each year; and

Whereas, In 2015, the Marshall University football team, under the guidance of Coach Doc Holliday, won its fifth bowl game in a row by defeating the University of Connecticut, 16-10, in the St. Petersburg Bowl; and

Whereas, With that victory over the University of Connecticut, the Herd clinched its third consecutive season of 10 or more wins, going 10-3 this season, 13-1 in 2014 and 10-4 in 2013, giving it 33 victories against only eight defeats in its past 41 games; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 26, 2016, as Marshall University Day at the Legislature; and, be it

*Further Resolved*, That the Senate hereby recognizes Marshall 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. Jerome Gilbert, President of Marshall University.

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 Kessler, and by unanimous consent, the remarks by Senators Plymale, Woelfel and Hall regarding the adoption of Senate Resolution 52 were ordered printed in the Appendix to the Journal.

At the request of Senator Carmichael, unanimous consent being granted, the remarks by Senators Stollings, Maynard and Boso regarding the adoption of Senate Resolution 52 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Plymale, Woelfel, Maynard, Romano, Stollings, Prezioso, Williams, Unger, Kessler and Facemire offered the following resolution:

**Senate Resolution 53**—Honoring William “Red” Dawson for his dedication and service to Marshall University and the state of West Virginia.

Whereas, William “Red” Dawson was born and raised in Valdosta, Georgia, on December 4, 1942, and was nicknamed “Red” for his red hair; and



Whereas, Red Dawson received a football scholarship to Florida State University, was team co-captain and an All-American at both tight end and defensive end. Head coach Peterson described him as, “. . . one of the best team leaders I have ever been associated with. When ‘Red’ spoke, his teammates listened”. Red, #83 and being 6’-3” and 230 lbs., finished his collegiate career at Florida State with a 36-19 win over Oklahoma in the Gator Bowl. His position coach his final two years was legendary coach Bobby Bowden. They developed a life-long friendship, with Coach Bowden frequently referring to Red as one of his all-time favorite players and friends, saying simply “I love him”; and

Whereas, Red Dawson was drafted by both the Los Angeles Rams and the Boston Patriots and he signed with the Patriots in 1965. He played nine games for Boston in 1965 before a knee injury curtailed his career in 1966 with the Orlando Panthers of the Continental Football League; and

Whereas, In 1968, at the young age of twenty-six, Red Dawson was given his first job as a coach. He was hired as a receivers coach at Marshall University by head coach Perry Moss, his former coach for the Orlando Panthers. Coach Moss was replaced later by Rick Tolley. Coach Dawson continued his role under Tolley’s leadership and became a recruiting asset for the football team; and

Whereas, On November 14, 1970, Marshall University played East Carolina University in football and lost 17-14. The chartered jet bringing the Marshall football team home that night crashed into a hillside just short of the airport and was the worst sports-related plane crash in American history; and

Whereas, Marshall University and its surrounding community lost all seventy-five people aboard, including Marshall head coach Rick Tolley, assistant coach, Frank Loria, thirty-seven football players, the team doctors, the university athletic director and twenty-four wonderful team boosters. The Marshall University community was left in mourning and devastated as “the whole heart of the town was aboard”; and

Whereas, William “Red” Dawson and graduate assistant Gail Parker were sent on a recruiting mission after the game and drove back instead of boarding the plane. The news of the plane crash broke on the radio as they were driving to Huntington. Their lives were spared but forever changed; and

Whereas, Still in mourning and coping with survivor’s guilt, Dawson was appointed acting head coach in 1970 until a new head coach could be found. The Marshall University Athletic Director recruited a new coach, Jack Lengyel, to help revive the broken team. Coach Lengyel persuaded Red Dawson to stay on as an assistant coach to help him rebuild the Marshall University football team and gain the respect of the community; and

Whereas, Coach Lengyel, Coach Dawson and the Marshall University administration convinced the NCAA to do something never done before in modern day football: allow freshmen to play on the varsity team. Coach Lengyel and Coach Dawson were able to pull together a ragtag group of first-years, walk-ons and the nine veteran players who had not been on the plane that night; and

Whereas, In 1971, the Thundering Herd defeated Ohio’s Xavier University 15-13 in its first home game since the crash in an emotional victory. The team won one more emotional home game that season against Bowling Green. Coach Dawson resigned in the fall of 1972; and

Whereas, After his last season of coaching, Red Dawson distanced himself from Marshall University and its football program; however, he could not part with the city of Huntington. He began working in construction and eventually owned his own successful construction company, which he operated for thirty-five years prior to retiring; and

Whereas, When Jim Donnan became the Herd’s head coach in 1990, he contacted Red Dawson to involve him with the program again. Red met with Donnan and rekindled his relationship with Marshall football. His relationship with Marshall has grown closer under coaches Bobby Pruett, Mark Snyder and Doc Holliday; and

Whereas, The making of the movie, *We Are Marshall*, helped Dawson, the Huntington community and the State of West Virginia in the healing process. When Warner Brothers set out to make the movie, Red felt it was his “duty that it was positive and respectful of the family of the boys who died on that plane”. He was instrumental in retelling and consulting with screenwriters to create the worldwide sensation. The movie premier in Huntington was at the historic Keith Albee Performing Arts Center on December 12, 2006, attended by Matthew McConaughey, who played Coach Lengyel, and Matthew Fox, who played Coach Red Dawson; and

Whereas, Another step in overcoming his survivor’s guilt came from opening up to write his book, *A Coach In Progress: Marshall Football – A Story of Survival and Revival*. The book was released on November 10, 2015, which coincided with the 45th anniversary of the crash. Forewords were provided by Coach Bobby Bowden and Fred Biletnikoff, a former Florida State cocaptain with Red and Pro Football Hall of Famer for the Oakland Raiders. Biletnikoff wrote in the foreword: “Knowing Red for more than fifty years, the one thing I can say is if you could have only one friend, Red Dawson is the friend you want to have”; and

Whereas, William “Red” Dawson can still be found at Marshall’s scrimmages and, on game days in Huntington, at tailgates and along the sidelines. He resides in Huntington, West Virginia, and remains a huge supporter of Marshall University; therefore, be it

*Resolved by the Senate:*

That the Senate hereby honors William “Red” Dawson for his dedication and service to Marshall University and the State of West Virginia; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to William “Red” Dawson.

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 Carmichael, and by unanimous consent, the remarks by Senators Plymale, Woelfel, Hall and Romano regarding the adoption of Senate Resolution 53 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Stollings, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate then proceeded to the seventh order of business.

**Senate Concurrent Resolution 48**, Requesting Joint Committee on Government and Finance study addition of medical review panels in medical malpractice cases.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on the Judiciary; and then to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 106**, Waiver of warranty on sale of used manufactured home 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—31.

The nays were: None.

Absent: Plymale, Woelfel and Yost—3.

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.

**Eng. Com. Sub. for Senate Bill 525**, Relating to WV Insurance Guaranty Association 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams and Cole (Mr. President)—28.

The nays were: Facemire, Romano and Unger—3.

Absent: Plymale, Woelfel and Yost—3.

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. 525) 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 538**, Relating to salaries of appointed officers fixed by Governor.

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 538 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt,

Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams and Woelfel—15.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 538) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. Senate Bill 538**—A Bill to amend and reenact §5B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §17A-2-6 of said code; and to amend and reenact §29-21-5 of said code, all relating to the salaries of certain appointed officers being fixed by the Governor.

*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 593**, Clarifying disqualification from unemployment benefits.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. 593) 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 613**, Defining total capital for purposes of calculating state-chartered bank's lending limit.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: Facemire—1.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 613) 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 Com. Sub. for Senate Bill 116**, Increasing number of limited video lottery terminals allowed at retail 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 344**, Clarifying composition and chairmanship of Commission on Special Investigations.

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 411**, Creating Second Chance for Employment Act.

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 twenty-six, lines ten and eleven, by striking out the words “as defined in subsection (c) of this section, or nonviolent felony” and inserting in lieu thereof the word “or”.

The bill (Com. Sub. for S. B. 411), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 421**, Terminating behavioral health severance and business privilege tax.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 455**, Allowing person to be both limited video lottery operator and retailer.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 461**, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act.

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 five, section three, line eighty-three, after the word "Governor," by inserting the words "with the advice and consent of the Senate,".

The bill (S. B. 461), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 468**, Allowing lender charge and receive interest on rescindable loan during rescission period.

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 542**, Admissibility of certain evidence in civil action on use or nonuse of safety belt.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Kessler, the following amendment to the bill was reported by the Clerk:

On pages two and three, section forty-nine, lines twenty-two through fifty-four, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated subsection (d), to read as follows:

(d) A violation of this section is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and is not admissible in mitigation of damages: *Provided*, That the court may, upon motion of the defendant, conduct an in camera hearing to determine whether an injured party's failure to wear a safety belt was a proximate cause of the injuries complained of. Upon a finding by the court, the court may then, in a jury trial, by special interrogatory to the jury, determine: (1) That the injured party failed to wear a safety belt; and (2) that the failure to wear the safety belt constituted a failure to mitigate damages. The trier of fact may reduce the injured party's recovery for medical damages by an amount not to exceed five percent thereof. In the event the plaintiff stipulates to the reduction of five percent of medical damages, the court shall

make the calculations and the issue of mitigation of damages for failure to wear a safety belt may not be presented to the jury. In all cases, the actual computation of the dollar amount reduction shall be determined by the court. In any action claiming damages under a product liability theory, claim or cause of action, this subsection is not intended to limit the manufacturer from introducing evidence of an adult vehicle occupant's failure to wear a safety belt in violation of this section to defend the design, manufacture or crashworthiness of the product that is the subject of the action.

The question being on the adoption of Senator Kessler's amendment to the bill (Com. Sub. for S. B. 542), the same was put.

The result of the voice vote being inconclusive, Senator Kessler demanded a division of the vote.

The question being on the adoption of Senator Kessler's amendment to the bill, and on this question, Senator Kessler demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Walters, Williams and Woelfel—16.

The nays were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump and Cole (Mr. President)—17.

Absent: Yost—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Kessler's amendment to the bill rejected.

The bill (Com. Sub. for S. B. 542) was then ordered to engrossment and third reading.

**Senate Bill 578**, Protecting utility workers from crimes against person.

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 595**, Relating to retirement credit for members of WV National Guard.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill 618**, Allowing Economic Development Authority to make loans to certain whitewater outfitters.

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 619**, 2016 Regulatory Reform Act.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Miller, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page four, section eleven, after line twenty-five, by inserting a new subdivision, designated subdivision (7), to read as follows:

“(7) A public health impact statement assessing the health impact of the proposed rule on the State of West Virginia, including, but not limited to, the effect of the regulation on the short-term and long-term health impact on the citizens of the state and whether there will be any detrimental public health impact from the rule. The agency may work with the Bureau of Public Health or any public university department that has sufficient expertise to determine the impact of the rule on public health. The statement shall include the names of those persons who participated in the drafting of the statement and the time spent preparing the statement. The agency shall also make available the lead author of the statement or other qualified representative of the agency to discuss the statement with the Legislative Rule-Making Committee

and any committee of the Senate or House of Delegates to which the rule is referred;”;

And by renumbering the remaining subdivisions;

On page six, section eleven, line sixty-seven, after the word “Innovation;” by striking out the word “and”;

On page six, section eleven, line seventy-two, after the word “rule” by changing the period to a semicolon and inserting the word “and”;

And,

On page six, section eleven, after line seventy-two, by inserting a new subdivision, designated subdivision (10), to read as follows:

(10) Whether the proposed legislative rule will negatively impact public health based on the public health impact statement and other relevant considerations presented to the committee.

The bill (Com. Sub. for S. B. 619), as amended, was then ordered to engrossment and third reading.

**Senate Bill 627**, Permitting physician to decline prescribing controlled substance.

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 634**, Creating William R. Laird IV Second Chance Driver’s License 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 641**, Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Carmichael, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 2444**, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Stollings, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section five, lines thirty-one through thirty-five, by striking out all of subdivisions (3) and (4) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

“(3) Identify and describe issues with formation, registration and licensure requirements that state law imposes on small businesses that small businesses have identified to the West Virginia Development Office in the immediately preceding reporting cycle as burdensome;”;

And by renumbering the remaining subdivisions;

On page two, section five, line thirty-six, after the word “law” by inserting the words “that small businesses have identified to the West Virginia Development Office in the immediately preceding reporting cycle”;

On page two, section five, line forty-one, by striking out “(6)” and inserting in lieu thereof “(4)”;

And,

On page three, section five, lines fifty-two and fifty-three, by striking out all of subdivision (8).

The bill (Eng. Com. Sub. for H. B. 2444), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4163**, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

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 section and inserting in lieu thereof the following:

### **ARTICLE 13. TAXATION AND FINANCE.**

#### **§8-13-24. Notice of delinquency.**

Plenary power and authority is hereby conferred upon all municipalities to adopt an ordinance providing for the publication of delinquent business and occupation taxes, subject to the requirements and limitations set forth herein. The ordinance shall set forth the time, place and manner in which the publication shall occur and shall identify the official or officials responsible for conducting and overseeing the publication. Any such ordinance shall provide for notice of the delinquency to the taxpayer at least thirty days prior to publication. Said notice may be by mail to each delinquent taxpayer or may be by general notice of the forthcoming publication by publishing a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. No delinquency shall be published by the municipality unless the delinquency has lasted for at least for at least four consecutive quarters.

#### **§8-13-25. Delinquent list preparation.**

(a) The official designated to conduct publication of delinquent business and occupation taxes provided for by section twenty-four of this article shall prepare the delinquent list in a manner set forth

in the ordinance, so long as it is consistent with the requirements and limitations set forth herein. The ordinance shall require the designated code official adopt policies and procedures designed to verify each delinquency prior to publication.

(b) The delinquent list may include the name of the delinquent taxpayer and the year(s) in which the delinquency arises.

(c) For each delinquent list published by the municipality, and prior to such publication, the official designated in the ordinance to oversee or conduct the publication shall take an oath, to be included in or attached to the delinquent list, certified by the city clerk or some other person duly authorized to administer oaths, in form and effect as follows:

“I, \_\_\_\_\_ (municipal official title) of \_\_\_\_\_, do swear, to the best of my knowledge and belief, that the foregoing list of delinquent business and occupation taxes to be published on \_\_\_\_\_, is complete and accurate, and, as of the date of this oath, that I have not received payment from any of the entities listed for the delinquent amounts included in the list.”

**§8-13-26. Publication and posting of delinquent tax list; costs.**

(a) A copy of a delinquent list may be posted at the front door of city hall or other municipal buildings used to conduct municipal business, and may be published as a Class I-0 legal advertisement in the newspaper or other media in compliance with the provisions of article three, chapter fifty-nine of this code, on the municipality’s website or in such other reasonable manner as determined by the municipality to provide notice of the delinquency without incurring unnecessary costs related to the publication.

(b) To cover the costs of preparing, publishing and posting a delinquent list, a reasonable charge may be added to the amount owed by a taxpayer included in any such list, in addition to the tax, interest and penalty already owed by the taxpayer.

**§8-13-27. Notice of delinquent lists to city council and retention of list by city.**

A copy of each published delinquent list shall be provided to the city council of the municipality not later than the first regular meeting of the city council after the publication. A copy of the delinquent list shall be retained by the official designated in the ordinance for a period of not less than three years.

The bill (Eng. Com. Sub. for H. B. 4163), as amended, was then ordered to third reading.

On motion of Senator Carmichael, the Senate recessed until 1:30 p.m. today.

Upon expiration of the recess, the Senate reconvened and proceeded to the tenth order of business.

**Com. Sub. for Com. Sub. for Senate Bill 47**, Rewriting licensing requirements for practice of medicine and surgery and podiatry.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Senate Bill 287**, Creating West Virginia Safer Workplaces Act.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Com. Sub. for Senate Bill 303**, Providing for 5-day resident fishing license.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill 384**, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation.

On first reading, coming up in regular order, was read a first time and ordered to second reading.



**Com. Sub. for Senate Bill 399**, Establishing personal and corporate income tax credits for farmers donating edible agricultural products.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill 435**, Allowing farm winery enter alternating wine proprietorship agreements with farm owners.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Senate Bill 594**, Requiring State Auditor consider for payment claim submitted by electronically generated invoice.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Senate Bill 596**, Permitting natural gas companies enter upon real property in certain instances.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill 626**, Requiring DHHR secretary seek waiver within Supplemental Nutrition Assistance Program limiting purchases under WIC program.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Senate Bill 637**, Creating WV Uniform Fiduciary Access to Digital Assets Act of 2016.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill 670**, Relating to filling vacancies in elected offices.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill 700**, Authorizing Berkeley County Council own or operate a drug treatment or drug rehabilitation facility.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Senate Joint Resolution 1**, County Economic Development Amendment.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Eng. Com. Sub. for House Bill 2852**, Relating to legalizing and regulating the sale and use of fireworks.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

And,

**Eng. Com. Sub. for House Bill 4366**, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Yost.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Saturday, February 27, 2016, at 11 a.m.

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## SATURDAY, FEBRUARY 27, 2016

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by the Honorable Ronald F. Miller, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Friday, February 26, 2016,

At the request of Senator Blair, 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. House Bill 2494**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-2-1b, relating to creating a provisional plea process in criminal cases; and making findings.

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 4009**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new

article, designated §7-27-1, §7-27-2, §7-27-3, §7-27-4, §7-27-5, §7-27-6, §7-27-7, §7-27-8, §7-27-9, §7-27-10, §7-27-11, §7-27-12, §7-27-13, §7-27-14, §7-27-15, §7-27-16, §7-27-17, §7-27-18, §7-27-19, §7-27-20, §7-27-21, §7-27-22, §7-27-23, §7-27-24, §7-27-25, §7-27-26, §7-27-27, §7-27-28, §7-27-29, §7-27-30, §7-27-31, §7-27-32, §7-27-33, §7-27-34, §7-27-35, §7-27-36, §7-27-37, §7-27-38, §7-27-39, §7-27-40, §7-27-41, §7-27-42, §7-27-43, §7-27-44 §7-27-45 and §7-27-46, all relating to road construction projects; providing legislative purpose and findings; defining terms; authorizing county commissions to develop road construction project plans; specifying process for development and approval of road construction project plans and plan amendments; allowing joint road construction project plans; requiring referendum for approval of certain road construction project plans; providing for amendments to road construction plans; requiring county commissions to submit road construction project plans and plan amendments to Commissioner of Highways for approval; specifying contents of application and approval process; creating new account and subaccounts in State Road Fund; allowing road construction projects be financed on cash basis or by special revenue bonds issued by Commissioner of Highways; giving Commissioner of Highways jurisdiction over all road construction projects accepted into state road system; specifying that road construction projects are public improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds and refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions, are negotiable instruments and are exempt from taxation; specifying that persons executing bonds have no personal liability; providing that powers relating to road construction project plans, construction of projects and issuance of special revenue bonds are additional powers; allowing county commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; requiring transactions and uses subject or exempt from county sales and use taxes to conform to state consumers sales and service tax and use tax requirements except that county tax may not apply to sales of motor vehicles, motor

fuels or to purchases where local taxation is prohibited by federal law; requiring Tax Commissioner to administer, collect and enforce county transportation sales and use tax and, for that purpose, specifying a fee allowed for commissioner's services; making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act and to West Virginia Tax Crimes and Penalties Act; requiring that definitions, taxable transactions and exemptions from county transportation sales and use taxes automatically update when state consumers sales and service tax and use tax laws are amended; requiring county commissions to develop and maintain county rate and boundary databases; requiring county commission to notify Tax Commissioner if tax has been imposed or tax rate has changed; specifying when collection of county transportation sales and use taxes begins; requiring that net collection of county transportation sales and use taxes be deposited in subaccount of county in county road improvement account in the State Road Fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; providing criminal penalties; and providing Commissioner of Highways with authority to propose rules for legislative approval.

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 4014**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, all relating generally to academic standards and assessments in primary and secondary schools; removing reference to the No Child Left Behind Act; adding digital literacy to the list of education and efficiency standards to be periodically reviewed; defining “academic standards”; making a findings with respect to the Legislature’s constitutional authority; making a finding regarding the state board of education’s adoption and renaming of Common Core State Standards; establishing the Academic Standards Evaluation Panel to be appointed by the Senate President

and the Speaker of the House; establishing duties of the panel; requiring work of Panel to be completed by October 1, 2016; requiring the state board of education to adopt and implement the standards reviewed and revised by the Panel on or before the 2017-2018 school year; establishing criteria for any academic standards adopted by the state board; requiring withdrawal from Memorandum of Agreement relating to adoption of Common Core State Standards; requiring withdrawal as a governing state in the Smarter Balanced Assessment Consortium; prohibiting implementation of science standards effective July 1, 2016; requiring the state board to keep current science standards in effect through June 30, 2017; requiring the Legislative Oversight Commission on Education and Accountability to review proposed rules for compliance with the law and legislative intent and take further action at its discretion; removing certain requirements that comprehensive statewide student assessment must meet and removing associated rule-making authority; requiring the state board of education to review and approve a summative assessment for certain grade levels to test proficiency in certain subject areas; requiring that summative assessments meet certain requirements; prohibiting the implementation of any assessment developed specifically to align with Common Core State Standards; requiring online assessment preparation; requiring the state board of education to develop a plan and make recommendations regarding end of course assessments and student accountability; establishing reporting requirements; requiring the state board to develop a policy outlining accountability measures for students taking the comprehensive statewide assessment; requiring that written requests by parent's or guardian's to opt their student out of assessment be granted; prohibiting discipline, punishment, or grade reduction of a student who opts out; prohibiting refusal to grant Promise Scholarship, placing in remedial courses or refusing admission to a West Virginia institution of higher education based upon the parent choice to opt out; and establishing maximum percentage of instructional time for summative assessment.

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 4201**—A Bill to amend and reenact §61-8-19a and §61-8-19b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8-19c, all relating to increasing the criminal penalties for participating in an animal fighting venture; defining terms; making unlawful the selling, buying, owning, possessing, keeping, training, transporting, delivering, or receiving an animal with the intent that the animal engage in an animal fighting venture; making unlawful knowingly causing an individual under the age of eighteen to attend an animal fighting venture; providing that wagering at an animal fighting venture is a crime; making unlawful knowingly conducting, financing, managing, supervising, directing, leasing, or owning all or a part of a business or premises involving wagering on an animal fighting venture; providing for penalties; and providing penalties for second or subsequent violations.

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 July 1, 2016, and requested the concurrence of the Senate in the passage of

**Eng. House Bill 4351**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-16b, relating to transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture.

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 4358**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §30-3-11c, and to amend said code by adding thereto a new section, designated §30-14-8a, all relating to out of state physicians and surgeons traveling with sports teams within this state; authorizing a physician or surgeon who is licensed to practice medicine or osteopathic medicine in another state to provide medical care to sports team members under certain circumstances.

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, to take effect from passage, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill 4433**—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees receiving pensions from defined-benefit pension plans that have been terminated with a consequent reduced benefit and extending the effective period of the allowed adjustment.

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 4487**—A Bill to amend and reenact §5-10-2 and §5-10-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7A-17a of said code, all relating to state retirement systems; defining compensation and employee for the Public Employees Retirement System; requiring payment of reinstatement interest in the Public Employees Retirement System in certain circumstances; authorizing purchase of retroactive service credit under certain circumstances and with certain restrictions; and providing that failure of employee to pay the Teachers Retirement System according to a contract to purchase military service credit is to be treated as an overpayment or excess contribution pursuant to the article.



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 4519**—A Bill to amend and reenact §8-22A-2, §8-22A-6 and §8-22A-32 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §8-22A-33, all relating to authorizing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System; providing definitions; authorizing certain municipal police officers and firefighters to become members of the retirement system under certain circumstances and with certain restrictions; and providing limitations and requirements for municipalities or municipal subdivisions to elect to participate in the retirement system.

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. House Bill 4558**—A Bill to amend and reenact §61-11A-8 of the Code of West Virginia, as amended, relating to victim notification and designation of additional individuals to receive notice of an offender's release, sentencing, placement or escape; providing an option to victims to designate additional adult individuals to receive notification; and requiring the victim to provide the additional adult individual's contact information in writing to the appropriate notifying entity.

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 4612**—A Bill to amend and reenact §7-11B-3, §7-11B-4, §7-11B-14, §7-11B-21 and §7-11B-22 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §7-11B-29 and §7-11B-30; to amend and reenact §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of said code; to amend said code by adding thereto two new sections, designated §7-22-23 and §7-22-24; to amend and reenact §8-38-5, §8-38-7, §8-38-8, §8-38-12 and §8-38-14 of said code; to amend said code by adding thereto two new sections, designated §8-38-23 and §8-38-24; and to amend and reenact §11-10-11a of said code, all relating generally to tax increment financing; authorizing tax increment financing for the funding road projects in West Virginia; permitting certain agreements between the Division of Highways and counties or municipalities regarding development districts; permitting financing of certain projects by proceeds of tax increment financing obligations; permitting road construction projects be done jointly by counties and municipalities under certain circumstances; establishing procedures and requirements for applications and the management of projects and districts; providing that projects are public improvements and subject to certain requirements; permitting the Division of Highways to propose certain projects; establishing procedures for the West Virginia Development Office and the Tax Commissioner regarding applications and their review; permitting audits in certain circumstances; establishing a procedure for adding or removing property from an economic opportunity development district; requiring procedures relating to taxpayers; providing for confidentiality; providing that roads to be part of the state road system; requiring legislative rulemaking; permitting a fee to be assessed; making findings; establishing an effective date; and defining terms.

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 4636**—A Bill to amend and reenact §6C-1-6 of the Code of West Virginia, 1931, as amended,

relating to increasing the penalties for violating the Whistle-blower Law; increasing the civil fine; removing the authority of the Court to suspend a person from public service; authorizing discipline by the person's employer upon a finding of violation by the Court; and authorizing termination from employment as a potential discipline.

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 4652**—A Bill to amend and reenact §21-11-3 and §21-11-5 of the Code of West Virginia, 1931, as amended, all relating to the creation of an intermediate contractor's license; limiting the maximum cost of the project that an intermediate contractor may undertake to \$10,000; and exempting applicants for the intermediate contractor's license from an examination.

Referred to the Committee on Government Organization.

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 26th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. 419)**, Relating to termination of Workers' Compensation Debt Reduction Act.

And,

**(Com. Sub. for H. B. 4145)**, Relating to carry or use of a handgun or deadly weapon.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*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 104**, Classifying Marshall University Forensic Science Center as a criminal justice agency.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 104** (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 §15-2-24c, relating to declaring Forensic DNA Analysis Laboratory of the Marshall University Forensic Science Center to be engaged in administration of criminal justice as that term is defined in 28 C. F. R. 20.3(b); requiring Marshall University Forensic Science Center and the West Virginia State Police to confer as to available grants and similar possible funding sources and applications therefor; affording West Virginia State Police primacy of decisionmaking over Marshall University Forensic Science Center as to which entity may apply for certain grants; and directing West Virginia State Police and Marshall University Forensic Science Center to execute an agreement to ensure compliance with the section provisions.

And,

**Senate Bill 539**, Relating to condemnation proceedings.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 539** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §54-2-14a of the Code of West Virginia, 1931, as amended, relating to condemnation proceedings; setting forth conditions which must be met; providing the compensation for taking coal, oil and natural gas; clarifying that near-surface minerals are part of the surface estate unless specifically granted to the mineral estate; providing for the inadmissibility of certain evidence; providing for an owner's interest in the money paid into court; removing refund and reimbursement provisions; and conforming certain language to accepted drafting standards.

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 363**, Creating exemption for autocycles.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 363** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; defining "autocycle"; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver's license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; deleting

obsolete language regarding the motorcycle safety and education committee; and making technical corrections.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 398**, Revocation of certificate of authority to conduct business.

**Senate Bill 494**, Creating Legislative Oversight Commission on Department of Transportation Accountability.

**Senate Bill 644**, Authorizing counties to offer license plates customized to county.

And,

**Senate Bill 648**, Allowing local authorities permit flashing traffic signals during low traffic times.

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



