

West Virginia Legislature

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HOUSE of DELEGATES

Eighty-Second Legislature
First Extraordinary Session

Held at Charleston
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May 23, 2016
SIXTH DAY

Monday, May 23, 2016

SIXTH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, May 20, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on Finance has had under consideration:

H. B. 105, Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 105 — “A Bill to amend and reenact §29-22A-10 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 transfers to the Licensed Racetrack Modernization Fund; transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the Revenue Shortfall Reserve Fund of the state during the fiscal year ending June 30, 2016; providing exceptions for recoupment of certain expenditures for eligible facility modernization improvements from the Licensed Racetrack Modernization Fund; closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund; and preserving operative effect of certain provisions,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

S. B. 1002, Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue,

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

House Calendar**Second Reading**

Com. Sub. for S. B. 1005, Increasing tax rate on cigarettes and tobacco products; on second reading, coming up in regular order, was read a second time.

Delegates Gearhart, Perry, Philips, Storch and Waxman moved to amend the bill on page one, section three, line one, by striking out the words “and tobacco products other than cigarettes”,

On page one, section three, line five, by striking out the words “and tobacco products other than cigarettes”,

On page two, section three, lines sixteen through twenty, after the word “dealer”, by striking out the proviso,

On page three, section four, line eight, by striking out the words “other than cigarettes,

On pages three through eight, by striking out all of section four-b,

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows” and a colon.

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

The yeas and nays having been ordered, they were taken (**Roll No. 671**), and there were—yeas 28, nays 67, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Blair, Butler, Ellington, Faircloth, Folk, Gearheart, Hill, Householder, Ihle, Kessinger, Kurcaba, Lane, Marcum, McGeehan, Moffatt, Moyer, O’Neal, Perry, Phillips, Rodighiero, R. Smith, Sobonya, Stansbury, Storch, Upson, Waxman and Zatezalo.

Absent and Not Voting: Caputo, Duke, Kelly, J. Nelson and Trecost.

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

On motion of Delegate Faircloth the bill was amended on page four, by striking out all of section four-b,

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows” and a colon.

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

The yeas and nays having been ordered, they were taken (**Roll No. 672**), and there were—yeas 52, nays 43, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Speaker Armstead, Ambler, Atkinson, Bates, Blackwell, Boggs, Border, Cadle, Campbell, Canterbury, Cooper, Cowles, Deem, Espinosa, A. Evans, D. Evans, Fast, Flanigan, Fleischauer, Foster, Guthrie, Hamilton, Hanshaw, Ireland, McCuskey, Miller, Morgan, E. Nelson, Overington, Perdue, Rohrbach, Romine, Rowan, Shaffer, Shott, Skinner, P. Smith, R. Smith, Sponaugle, Wagner, Weld, Westfall and B. White.

Absent and Not Voting: Caputo, Duke, Kelly, J. Nelson and Trecost.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

On motion of Delegate Faircloth the bill was amended on page two, subsection (c), line seventeen, following the word “cigarettes”, by adding the words “with the exception and not including electronic cigarettes or similar devices and vapor products”.

There being no further amendments, the bill was then ordered to third reading.

First Reading

The following bill on first reading, coming up in regular order, was read a first time and ordered to second reading:

H. B. 106, Reducing the distributions to the West Virginia Infrastructure Fund.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Caputo, Duke, Kelly, J. Nelson and Trecost.

At 12:33 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, May 24, 2016.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

HOUSE CALENDAR

Tuesday, May 24, 2016

First Extraordinary Session

7th Day

11:00 A. M.

THIRD READING

Com. Sub. for S. B. 1005 - Increasing tax rate on cigarettes and tobacco products

SECOND READING

H. B. 106 - Reducing the distributions to the West Virginia Infrastructure Fund

FIRST READING

S. B. 1002 - Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue (E. NELSON) (FINANCE COMMITTEE AMENDMENT PENDING) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 105 - Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund (E. NELSON) (JULY 1, 2016)

**WEST VIRGINIA
HOUSE OF DELEGATES**

TUESDAY, MAY 24, 2016

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON FINANCE
9:00 A.M. – ROOM 462M**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470