

West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Second Legislature
Second Extraordinary Session

Held at Charleston
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September 18, 2016
FIRST DAY

West Virginia Legislature
Journal of the House of Delegates
Eighty-Second Legislature
Second Extraordinary Session

Charleston, Sunday, September 18, 2016

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

Pursuant to the Proclamation of His Excellency, the Governor, issued the 16th day of September, 2016, and hereinafter set forth, convening the Legislature in Extraordinary Session on the eighteenth day of September, 2016, the House of Delegates assembled in its Chamber in the Capitol Building in the City of Charleston at 6:00 p.m. and was called to order by the Speaker, the Honorable Tim Armstead.

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

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 740**), and 90 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Blackwell, Eldridge, Flanigan, Hicks, Manchin, Moore, R. Smith, Sobonya, Storch and Trecost.

Delegates Blackwell, Manchin and Sobonya each arrived after the quorum call.

Messages from the Executive

The Speaker laid before the House of Delegates the Proclamation of His Excellency, the Governor, convening the Legislature in extraordinary session, which was read by the Clerk, as follows:

A P R O C L A M A T I O N

By the Governor

I, EARL RAY TOMBLIN, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby call the West Virginia Legislature to convene in Extraordinary Session at 6:00 p.m. on the eighteenth day of September, Two Thousand Sixteen, in its chambers in the State Capitol, City of Charleston, for the sole purpose of considering and acting upon the following business:

FIRST: A bill expiring \$21,000,000.00 of fiscal year 2016 surplus funds from two separate accounts (*i.e.*, \$13,700,000.00 from the unappropriated balance in Lottery Net Profits and \$7,300,000.00 from the unappropriated balance in the State Excess Lottery Revenue Fund) and expiring \$55,000,000.00 from the Revenue Shortfall Reserve Fund to the State Fund, General

Revenue, and appropriating \$85,000,000.00 from the State Fund, General Revenue, into the Civil Contingent Fund to pay obligations and ongoing expenses incurred by the State as a result of the federally-declared disaster and State of Emergency of the twenty-third day of June, Two Thousand Sixteen; and

SECOND: Legislation authorizing and appropriating the expenditure of public funds to pay the expenses for the Extraordinary Session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this sixteenth day of September, in the year of our Lord, Two Thousand Sixteen, and in the One Hundred Fifty-Fourth year of the State.

EARL RAY TOMBLIN,
Governor.

By the Governor

NATALIE E. TENNANT
Secretary of State

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamation by which it had been called together.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Weld, Stansbury and Lynch.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three, to join with a similar committee on the part of the Senate, to inform His Excellency, the Governor, that the Legislature had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamation.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Duke, Border and Perdue.

Messages from the Executive

Mr. Speaker, Mr. Armstead, laid before the House a communication from His Excellency, the Governor, as follows:

State of West Virginia
OFFICE OF THE GOVERNOR
Charleston, WV

September 18, 2016

**HOUSE EXECUTIVE MESSAGE NO. 1
2016 SECOND EXTRAORDINARY SESSION**

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
Building 1, Room M-228
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Speaker Armstead:

The following replaces the "General Revenue Fund – Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on January 13, 2016 as part of my recommended Budget for the fiscal year ending June 30, 2017.

General Revenue Fund
Statement of Revenues, Expenditures
and Changes in Cash Balance

Beginning Cash Balance July 1, 2016	\$	371,422,528	
Less: 31 Day Disbursements (including adjustments) (July 1, 2016 - July 31, 2016)		(58,945,556)	
Plus: Accumulated Prior Year Reimbursements (July 1, 2016 - July 31, 2016)		87,523	
Less: Prior Year Appropriations Forwarded		(283,014,937)	
Less: Cash Balance Adjustments and Accruals		<u>(742,662)</u>	
Accumulated General Revenue Surplus @ July 31, 2016	\$	28,806,896	
Less: Transfer one-half to Revenue Shortfall Reserve Fund (Statutory)		(14,403,448)	
Less: Surplus Appropriation (FY 2017 Budget Bill SB 1013 - 2016 1st Extraordinary Session)		(5,500,000)	
Plus: Accumulated Prior Year Reimbursements (August 1, 2016 - September 15, 2016)		<u>158,837</u>	
Unappropriated Surplus Balance @ September 15, 2016	\$	9,062,285	
Plus: Recommended Expiration (from Lottery) to Surplus (2016 2 nd Extraordinary Session)		13,700,000	
Plus: Recommended Expiration (from Excess Lottery) to Surplus (2016 2 nd Extraordinary Session)		7,300,000	
Plus: Recommended Expiration (from Rainy Day) to Surplus (2016 2 nd Extraordinary Session)		55,000,000	
Less: Recommended Surplus Supplemental Appropriation (2016 2 nd Extraordinary Session)		<u>(85,000,000)</u>	
Estimated Unappropriated Surplus Balance @ June 30, 2017	\$		62,285
Plus: Revenue Estimate FY 2017		4,187,419,000	
Less: Regular Appropriations FY 2017 (FY 2017 Budget Bill SB 1013 - 2016 1 st Extraordinary Session)		<u>(4,187,373,287)</u>	
Estimated Unappropriated Balance from FY 2017 @ June 30, 2017	\$		45,713
Total Estimated Unappropriated Surplus Balance @ June 30, 2017			<u>\$ 107,998</u>

The following replaces the "Lottery Fund – Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on January 13, 2016 as part of my recommended Budget for the fiscal year ending June 30, 2017.

**Lottery Fund
Statement of Revenues, Expenditures
and Changes in Cash Balance**

Balance July 1, 2016	\$	61,831,572
Less: Reserve for Cash Flow and Contingencies		(40,000,000)
Less: Surplus Appropriations (FY 2017 Budget Bill SB 1013 – 2016 1st Extraordinary Session)		(8,000,000)
Unappropriated Balance @ July 1, 2016	\$	<u>13,831,572</u>
Plus: FY 2017 Revenue Estimate		135,961,119
Less: Veterans Fund		(400,000)
Less: FY 2017 Appropriations (FY 2017 Budget Bill SB 1013 - 2016 1st Extraordinary Session)		(135,561,119)
Unappropriated Balance @ September 18, 2016	\$	<u>13,831,572</u>
Less: Recommended Cash Expiration (2016 2nd Extraordinary Session)		<u>(13,700,000)</u>
Estimated Unappropriated Balance @ June 30, 2017		<u><u>\$ 131,572</u></u>

The following replaces the "Excess Lottery Fund – Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on January 13, 2016 as part of my recommended Budget for the fiscal year ending June 30, 2017.

**Excess Lottery Fund
Statement of Revenues, Expenditures
and Changes in Cash Balance**

Balance July 1, 2016	\$	73,360,388
Less: Reserve for Cash Flow and Contingencies		(5,900,000)
Less: Catastrophic Event Contingency		(30,000,000)
Less: Surplus Appropriations (FY 2017 Budget Bill SB 1013 – 2016 1st Extraordinary Session)		(30,000,000)
Unappropriated Balance @ July 1, 2016	\$	<u>7,460,388</u>
Plus: FY 2017 Revenue Estimate		284,459,230
Less: FY 2017 Appropriations (FY 2017 Budget Bill SB 1013 - 2016 1st Extraordinary Session)		(284,459,230)
Unappropriated Balance @ September 18, 2016	\$	<u>7,460,388</u>
Less: Recommended Cash Expiration (2016 2nd Extraordinary Session)		<u>(7,300,000)</u>
Estimated Unappropriated Balance @ June 30, 2017		<u><u>\$ 160,388</u></u>

Thank you for your cooperation in this matter.

Sincerely,

Earl Ray Tomblin
Governor

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, addressed the House regarding the flooding that occurred across the state in June and thanked those that assisted in the relief efforts.

Mr. Speaker, Mr. Armstead then requested to be excused from voting on all questions regarding H. B. 201 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting. The Speaker Pro Tempore announced that other members with similar requests could inform the Clerk and would also be directed to vote. Delegate P. Smith noted such request to the Clerk.

Mr. Speaker, Mr. Armstead, in the Chair

Bills Introduced

The following bill was introduced, pursuant to House Rule 92 as follows:

By Mr. Speaker, Mr. Armstead, and Delegate Miley [By Request of the Executive]:

H. B. 201 — “A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017, in the amount of \$13,700,000 from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits, in the amount of \$7,300,000 from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund, and in the amount of \$55,000,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, and 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 Governor’s Office – Civil Contingent Fund, fund 0105, fiscal year 2017, organization 0100, by supplementing and amending the appropriation for the fiscal year ending June 30, 2017.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (H. B. 201) to a committee was dispensed with and it was taken up for immediate consideration, read a first time and ordered to second reading.

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

On this question, the yeas and nays were taken (**Roll No. 741**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge, Flanigan, Hicks, Moore, R. Smith, Storch and Trecost.

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

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

Having been engrossed, the bill was then read a third time.

Messages from the Senate

A message from the Senate, by Senators Boso, Leonhardt and Beach, announced that the Senate had convened in extraordinary session, pursuant to the Proclamation of the Governor, with a quorum present, and was ready to enter upon the business for which the Legislature had been called together.

H. B. 201 was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 742**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Eldridge, Flanigan, Hicks, Moore, R. Smith, Storch and Trecost.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 201) passed.

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

On this question, the yeas and nays were taken (**Roll No. 743**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Eldridge, Flanigan, Hicks, Moore, R. Smith, Storch and Trecost.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 201) takes effect from its passage.

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

Remarks by Members

Delegate Ireland asked and obtained unanimous consent that the remarks of Mr. Speaker, Mr. Armstead, regarding the flooding that occurred across the state in June be printed in the Appendix to the Journal.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Eldridge, Flanigan, Hicks, Moore, R. Smith, Storch and Trecost.

At 6:35 p.m., the House of Delegates adjourned until 12:00 Noon, Monday, September 19, 2016.

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

**WEST VIRGINIA
HOUSE OF DELEGATES**

MONDAY, SEPTEMBER 19, 2016

HOUSE CONVENES AT 12:00 NOON

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