

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
THIRTY-NINTH DAY

Charleston, W. Va., 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 the 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 the West Virginia University Institute of Technology from Montgomery, West Virginia, to Beckley, West Virginia; establishing a revitalization council to organize and prioritize state resources and technical assistance for the Upper Kanawha Valley; directing the revitalization council to develop strategies to stimulate economic activity in and around the municipalities in the Upper Kanawha Valley in coordination with certain contributing partners to the extent possible; directing the revitalization council to annually report to the Governor and the Legislature; directing the Development Office and Revitalization Council to facilitate economic development incentives for the Upper Kanawha Valley; and authorizing the 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 the indigent and needy in a clinical

setting; and allowing for some of the 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 and 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 forward a certified 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 referred 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 growlers 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.

(g) 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.

~~(e)~~(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 report 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 23 to 26, 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.

SENATE CALENDAR

**Monday, February 22, 2016
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 40 - Encouraging Congress pass Toxic Exposure Research Act of 2016.
- S. C. R. 41 - US Army SGT Philip Ray Casto Memorial Bridge.
- S. C. R. 42 - US Navy LCDR Helen Elizabeth Peck Memorial Bridge.

THIRD READING

- Eng. Com. Sub. for S. B. 339 - Establishing Judicial Compensation Commission.
- Eng. S. B. 478 - Authorizing licensees who sell growlers to offer samples - (Com. title amend. pending).
- Eng. Com. Sub. for S. B. 481 - Authorizing distillery operators to offer liquor for purchase and consumption on premises (original similar to HB4565).
- Eng. Com. Sub. for S. B. 500 - Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network.
- Eng. S. B. 505 - Exempting certain uses of field gas from motor fuel excise taxes (original similar to SB38).
- Eng. Com. Sub. for S. B. 520 - Allowing PEIA ability to recover benefits or claims obtained through fraud (original similar to HB4543).
- Eng. Com. Sub. for S. B. 581 - Eliminating sunset provision terminating pilot domestic violence court program.
- Eng. Com. Sub. for H. B. 4145 - Relating to carry or use of a handgun or deadly weapon.
- Eng. H. B. 4161 - Relating to levies on classifications of property by the Board of Public Works (original similar to SB432).

SECOND READING

- Com. Sub. for S. B. 420 - Increasing tax rate on cigarette and tobacco products (original similar to HB4494, SB607).
- Com. Sub. for S. B. 485 - Establishing regional recreation authorities and areas.
- Com. Sub. for S. B. 508 - Relating to civil claims for private nuisance.
- Com. Sub. for S. B. 565 - Allowing well pad and road construction for oil and gas activities.
- Com. Sub. for S. B. 591 - Relating to voter registration list maintenance and combined voter registration and driver licensing fund.

FIRST READING

- Com. Sub. for S. B. 252 - Amending Wiretapping and Electronic Surveillance Act excluding from protection oral communications.
- Com. Sub. for S. B. 274 - Relating to increasing civil jurisdictional amount in magistrate courts.
- Com. Sub. for S. B. 291 - Law enforcement use of unmanned aircraft systems (original similar to SB560).
- Com. Sub. for S. B. 376 - Expanding authority of Secretary of State and State Police (original similar to HB4359, HB4367).
- S. B. 416 - Allowing terminally ill patients access to investigational products.
- S. B. 438 - Requiring DHHR be present at judicial proceedings.
- Com. Sub. for S. B. 474 - Exempting DEP construction and reclamation contracts from review and approval (original similar to HB4573).
- Com. Sub. for S. B. 575 - Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services.
- Com. Sub. for S. B. 592 - Relating to pipeline safety.
- Com. Sub. for S. B. 621 - Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Monday, February 22, 2016

1 p.m.	Agriculture & Rural Development	(Room 451M)
2 p.m.	Banking & Insurance	(Room 208W)
3 p.m.	Finance	(Room 451M)