

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
FORTY-SIXTH DAY

Charleston, W. Va., Saturday, February 27, 2016

The Senate met at 11 a.m.

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

Prayer was offered by the Honorable Ronald F. Miller, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Friday, February 26, 2016,

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

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

The Senate then proceeded to the third order of business.

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

Eng. House Bill 2494—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-2-1b, relating to creating a provisional plea process in criminal cases; and making findings.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 4009—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-27-1, §7-27-2, §7-27-3, §7-27-4, §7-27-5, §7-27-6, §7-27-7, §7-27-8, §7-27-9, §7-27-10, §7-27-11, §7-27-12, §7-27-13, §7-27-14, §7-27-15, §7-27-16, §7-27-17, §7-27-18, §7-27-19, §7-27-20, §7-27-21, §7-27-22, §7-27-23, §7-27-24, §7-27-25, §7-27-26, §7-27-27, §7-27-28, §7-27-29, §7-27-30, §7-27-31, §7-27-32, §7-27-33, §7-27-34, §7-27-35, §7-27-36, §7-27-37, §7-27-38, §7-27-39, §7-27-40, §7-27-41, §7-27-42, §7-27-43, §7-27-44 §7-27-45 and §7-27-46, all relating to road construction projects; providing legislative purpose and findings; defining terms; authorizing county commissions to develop road construction project plans; specifying process for development and approval of road construction project plans and plan amendments; allowing joint road construction project plans; requiring referendum for approval of certain road construction project plans; providing for amendments to road construction plans; requiring county commissions to submit road construction project plans and plan amendments to Commissioner of Highways for approval; specifying contents of application and approval process; creating new account and subaccounts in State Road Fund; allowing road construction projects be financed on cash basis or by special revenue bonds issued by Commissioner of Highways; giving Commissioner of Highways jurisdiction over all road construction projects accepted into state road system; specifying that road construction projects are public improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds and refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions, are negotiable instruments and are exempt from taxation; specifying that persons executing bonds have no personal liability; providing that powers relating to road construction project plans, construction of projects and issuance of special revenue bonds are additional powers; allowing county commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; requiring transactions and uses subject or exempt from county sales and use taxes to conform to state consumers sales and service tax and use tax requirements except that county tax may not apply to sales of motor vehicles, motor fuels or to purchases where local taxation is prohibited by federal law; requiring Tax Commissioner to administer, collect and enforce county transportation sales and use tax and, for that purpose, specifying a fee allowed for commissioner's services; making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act and to West Virginia Tax Crimes and Penalties Act; requiring that definitions, taxable transactions and exemptions from county transportation sales and use taxes automatically update when state consumers sales and service tax and use tax laws are amended; requiring county commissions to develop and maintain county rate and boundary databases; requiring county commission to notify Tax Commissioner if tax has been imposed or tax rate has changed; specifying when collection of county transportation sales and use taxes begins; requiring that net collection of county transportation sales and use taxes be deposited in subaccount of county in county road improvement account in the State Road Fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; providing criminal penalties; and providing Commissioner of Highways with authority to propose rules for legislative approval.

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

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

Eng. Com. Sub. for House Bill 4014—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, all relating generally to academic standards and assessments in primary and secondary schools; removing reference to the No Child Left Behind Act; adding digital literacy to the list of education and efficiency standards to be periodically reviewed; defining “academic standards”; making a findings with respect to the Legislature’s constitutional authority; making a finding regarding the state board of education’s adoption and renaming of Common Core

State Standards; establishing the Academic Standards Evaluation Panel to be appointed by the Senate President and the Speaker of the House; establishing duties of the panel; requiring work of Panel to be completed by October 1, 2016; requiring the state board of education to adopt and implement the standards reviewed and revised by the Panel on or before the 2017-2018 school year; establishing criteria for any academic standards adopted by the state board; requiring withdrawal from Memorandum of Agreement relating to adoption of Common Core State Standards; requiring withdrawal as a governing state in the Smarter Balanced Assessment Consortium; prohibiting implementation of science standards effective July 1, 2016; requiring the state board to keep current science standards in effect through June 30, 2017; requiring the Legislative Oversight Commission on Education and Accountability to review proposed rules for compliance with the law and legislative intent and take further action at its discretion; removing certain requirements that comprehensive statewide student assessment must meet and removing associated rule-making authority; requiring the state board of education to review and approve a summative assessment for certain grade levels to test proficiency in certain subject areas; requiring that summative assessments meet certain requirements; prohibiting the implementation of any assessment developed specifically to align with Common Core State Standards; requiring online assessment preparation; requiring the state board of education to develop a plan and make recommendations regarding end of course assessments and student accountability; establishing reporting requirements; requiring the state board to develop a policy outlining accountability measures for students taking the comprehensive statewide assessment; requiring that written requests by parent's or guardian's to opt their student out of assessment be granted; prohibiting discipline, punishment, or grade reduction of a student who opts out; prohibiting refusal to grant Promise Scholarship, placing in remedial courses or refusing admission to a West Virginia institution of higher education based upon the parent choice to opt out; and establishing maximum percentage of instructional time for summative assessment.

Referred to the Committee on Education.

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

Eng. Com. Sub. for House Bill 4201—A Bill to amend and reenact §61-8-19a and §61-8-19b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8-19c, all relating to increasing the criminal penalties for participating in an animal fighting venture; defining terms; making unlawful the selling, buying, owning, possessing, keeping, training, transporting, delivering, or receiving an animal with the intent that the animal engage in an animal fighting venture; making unlawful knowingly causing an individual under the age of eighteen to attend an animal fighting venture; providing that wagering at an animal fighting venture is a crime; making unlawful knowingly conducting, financing, managing, supervising, directing, leasing, or owning all or a part of a business or premises involving wagering on an animal fighting venture; providing for penalties; and providing penalties for second or subsequent violations.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2016, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4351—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-16b, relating to transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture.

Referred to the Committee on Government Organization.

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

Eng. House Bill 4358—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-11c, and to amend said code by adding thereto a new section, designated §30-14-8a, all relating to out of state physicians and surgeons traveling with sports teams within this state; authorizing a physician or surgeon who is licensed to practice medicine or osteopathic medicine in another state to provide medical care to sports team members under certain circumstances.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4433—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees receiving pensions from defined-benefit pension plans that have been terminated with a consequent reduced benefit and extending the effective period of the allowed adjustment.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 4487—A Bill to amend and reenact §5-10-2 and §5-10-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7A-17a of said code, all relating to state retirement systems; defining compensation and employee for the Public Employees Retirement System; requiring payment of reinstatement interest in the Public Employees Retirement System in certain circumstances; authorizing purchase of retroactive service credit under certain circumstances and with certain restrictions; and providing that failure of employee to pay the Teachers Retirement System according to a contract to purchase military service credit is to be treated as an overpayment or excess contribution pursuant to the article.

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

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

Eng. Com. Sub. for House Bill 4519—A Bill to amend and reenact §8-22A-2, §8-22A-6 and §8-22A-32 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §8-22A-33, all relating to authorizing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System; providing definitions; authorizing certain municipal police officers and firefighters to become members of the retirement system under certain circumstances and with certain restrictions; and providing limitations and requirements for municipalities or municipal subdivisions to elect to participate in the retirement system.

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

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

Eng. House Bill 4558—A Bill to amend and reenact §61-11A-8 of the Code of West Virginia, as amended, relating to victim notification and designation of additional individuals to receive notice of an offender's release, sentencing, placement or escape; providing an option to victims to designate

additional adult individuals to receive notification; and requiring the victim to provide the additional adult individual's contact information in writing to the appropriate notifying entity.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 4612—A Bill to amend and reenact §7-11B-3, §7-11B-4, §7-11B-14, §7-11B-21 and §7-11B-22 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §7-11B-29 and §7-11B-30; to amend and reenact §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of said code; to amend said code by adding thereto two new sections, designated §7-22-23 and §7-22-24; to amend and reenact §8-38-5, §8-38-7, §8-38-8, §8-38-12 and §8-38-14 of said code; to amend said code by adding thereto two new sections, designated §8-38-23 and §8-38-24; and to amend and reenact §11-10-11a of said code, all relating generally to tax increment financing; authorizing tax increment financing for the funding road projects in West Virginia; permitting certain agreements between the Division of Highways and counties or municipalities regarding development districts; permitting financing of certain projects by proceeds of tax increment financing obligations; permitting road construction projects be done jointly by counties and municipalities under certain circumstances; establishing procedures and requirements for applications and the management of projects and districts; providing that projects are public improvements and subject to certain requirements; permitting the Division of Highways to propose certain projects; establishing procedures for the West Virginia Development Office and the Tax Commissioner regarding applications and their review; permitting audits in certain circumstances; establishing a procedure for adding or removing property from an economic opportunity development district; requiring procedures relating to taxpayers; providing for confidentiality; providing that roads to be part of the state road system; requiring legislative rulemaking; permitting a fee to be assessed; making findings; establishing an effective date; and defining terms.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 4636—A Bill to amend and reenact §6C-1-6 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for violating the Whistle-blower Law; increasing the civil fine; removing the authority of the Court to suspend a person from public service; authorizing discipline by the person's employer upon a finding of violation by the Court; and authorizing termination from employment as a potential discipline.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 4652—A Bill to amend and reenact §21-11-3 and §21-11-5 of the Code of West Virginia, 1931, as amended, all relating to the creation of an intermediate contractor's license; limiting the maximum cost of the project that an intermediate contractor may undertake to \$10,000; and exempting applicants for the intermediate contractor's license from an examination.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 26th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 419), Relating to termination of Workers' Compensation Debt Reduction Act.

And,

(Com. Sub. for H. B. 4145), Relating to carry or use of a handgun or deadly weapon.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
John B. McCuskey,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 104, Classifying Marshall University Forensic Science Center as a criminal justice agency.

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

Com. Sub. for Senate Bill 104 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to declaring Forensic DNA Analysis Laboratory of the Marshall University Forensic Science Center to be engaged in administration of criminal justice as that term is defined in 28 C. F. R. 20.3(b); requiring Marshall University Forensic Science Center and the West Virginia State Police to confer as to available grants and similar possible funding sources and applications therefor; affording West Virginia State Police primacy of decisionmaking over Marshall University Forensic Science Center as to which entity may apply for certain grants; and directing West Virginia State Police and Marshall University Forensic Science Center to execute an agreement to ensure compliance with the section provisions.

And,

Senate Bill 539, Relating to condemnation proceedings.

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

Com. Sub. for Senate Bill 539 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §54-2-14a of the Code of West Virginia, 1931, as amended, relating to condemnation proceedings; setting forth conditions which must be met; providing the compensation for taking coal, oil and natural gas; clarifying that near-surface minerals are part of the surface estate unless specifically granted to the mineral estate; providing for the inadmissibility of certain evidence; providing for an owner's interest in the money paid into the court; removing refund and reimbursement provisions; and conforming certain language to accepted drafting standards.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 363, Creating exemption for autocycles.

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

Com. Sub. for Senate Bill 363 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; defining “autocycle”; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver’s license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; deleting obsolete language regarding the motorcycle safety and education committee; and making technical corrections.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 398, Revocation of certificate of authority to conduct business.

Senate Bill 494, Creating Legislative Oversight Commission on Department of Transportation Accountability.

Senate Bill 644, Authorizing counties to offer license plates customized to county.

And,

Senate Bill 648, Allowing local authorities permit flashing traffic signals during low traffic times.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 460 (originating in the Committee on Health and Human Resources), Repealing regulation of opioid treatment programs and creating licenses for all medication-assisted programs.

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

Com. Sub. for Com. Sub. for Senate Bill 460 (originating in the Committee on the Judiciary)—
A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5, §16-5Y-6, §16-5Y-7, §16-5Y-8, §16-5Y-9, §16-5Y-10, §16-5Y-11, §16-5Y-12 and §16-5Y-13; and to amend and reenact §60A-9-5 of said code, all relating to licensing and regulation of medication-assisted treatment programs for substance use disorders; repealing regulation of opioid treatment programs; setting out purpose; providing definitions; creating licenses for opioid treatment programs; creating categories of licenses; setting out licensing requirements; providing for registration of office-based medication-assisted programs; providing for application, fees and inspections of office-based medication-assisted programs; setting operational requirements for medication-assisted treatment programs; providing for a program sponsor and medical director; setting forth staffing requirements; providing for regulation and oversight by Office of Health Facility Licensure and Certification; designating necessity for a medical director and prescribing minimum training and performance requirements; allowing enrollment as a Medicaid provider; providing billing requirements; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards and patient treatment standards for any medication-assisted treatment program prescribing or dispensing medication-assisted treatment medications; requiring review of the Controlled Substances Monitoring Database for each patient at least quarterly; setting compliance requirements for a medication-assisted treatment program; providing for patient protocols, treatment plans and profiles; allowing liquid methadone to be prescribed and dispensed only as allowed by legislative rule; setting notification requirements of operation changes; restricting location of medication-assisted treatment programs; allowing for waivers and variances from certification or licensure standards; permitting inspection warrants; providing for an administrative review and appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules, including emergency rules; providing advertisement requirements; creating a moratorium on new opioid treatment programs; establishing state authority and state oversight authority for medication-assisted treatment programs; mandating data collection; and granting Office of Health Facility Licensure and Certification access to the Controlled Substances Monitoring Database for use in certification, licensure and regulation of health facilities.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 614, Conforming statute with court interpretation by replacing “unconscionable” with “fraudulent” when referring to conduct.

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

Com. Sub. for Senate Bill 614 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-1-105 of the Code of West Virginia, 1931, as amended; and to amend and reenact §46A-2-115 and §46A-2-121 of said code, all relating to the Consumer Credit and Protection Act; excluding obligation to make required payments to property owners’ or homeowners’ association from provisions of the Consumer Credit and Protection Act; clarifying conduct for unconscionable inducement; and providing limits on charges a secured lender may recover from a consumer borrower upon default.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 622, Composition of PEIA Finance Board.

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

Com. Sub. for Senate Bill 622 (originating in the Committee on Government Organization)—A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to the composition of the Public Employees Insurance Agency Finance Board; reducing the number of members; and changing the experience requirements for members.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 625, Revising exceptions from FOIA provided for in Aboveground Storage Tank Act.

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

Com. Sub. for Senate Bill 625 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §16-1-9c of the Code of West Virginia, 1931, as amended, relating to limitations on public access to information regarding aboveground storage tanks; creating an exception to information in a water protection plan; and allowing disclosure of information already in the public domain as a result of the action of a state or federal agency.

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 628, Permitting treating physician direct palliative or emergent treatment for patients.

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

Com. Sub. for Senate Bill 628 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-10b; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to palliative or emergent treatment for terminally ill or critically injured incapacitated patients whose medical directives would otherwise be made under the authority of the Secretary of the Department of Health and Human Resources; defining certain terms; providing that a treating physician with the concurrence of another treating physician may direct a palliative or emergent medical care plan or treatment for terminally ill or critically injured incapacitated patients, including when not to resuscitate, when the Department of Health and Human Resources delays in providing a directive for medical treatment; and providing that in order to direct a palliative or emergent treatment plan, two treating physicians must concur that the Department of Health and Human Resources delay has resulted in the patient having to endure unnecessary pain and suffering and that any remedial medical intervention likely would not lead to any meaningful recovery.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan J. Ferns,
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 657, Relating to damages for medical monitoring.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator 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 658, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

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

Respectfully submitted,

Ryan J. Ferns,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Joint Resolution 14, Right to Farm and Ranch Amendment.

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

Com. Sub. for Senate Joint Resolution 14 (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia amending article III thereof, by adding a new section, designated section twenty-three, relating to the right to farm and ranch; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4012, West Virginia Religious Freedom Restoration Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator 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. Com. Sub. for House Bill 4209, Relating generally to health care provider taxes.

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

Respectfully submitted,

Ryan J. Ferns,
Chair.

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

The Senate proceeded to the sixth order of business.

Senators Sypolt, Williams, Stollings and Boso offered the following resolution:

Senate Concurrent Resolution 51—Requesting the Joint Committee on Government and Finance to conduct an interim study of the governance structure of the regional educational service agencies.

Whereas, A primary responsibility of the State Legislature is to ensure a thorough and efficient education for the children of the state; and

Whereas, The eight regional educational service agencies have a duty to provide for services to local school districts which reflect the needs of the individual districts and schools; and

Whereas, Current governance of RESAs is centralized with the West Virginia Board of Education; and

Whereas, Decisions regarding staffing and programming at the RESAs may be more efficient and responsive to the needs of local school districts at a regional level as opposed to being centralized at the state level; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility and related issues with regards to moving the governance of RESAs to regional level boards of governors as opposed to the West Virginia Board of Education; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Joint Committee on Education, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Palumbo, Laird, Woelfel, Prezioso, Williams, Stollings and Plymale offered the following resolution:

Senate Concurrent Resolution 52—Requesting the Joint Committee on Government and Finance study the feasibility of introducing a Home Modification Tax Credit and/or Grant Program in the State of West Virginia with the purpose of assisting older adults and people with disabilities with modifying their homes in order to make them more accessible.

Whereas, West Virginia's population is expected to age at a rate that exceeds the country. The U. S. Census estimates that 30 percent of West Virginia's population will be 60 and older by 2030. Many older adults will choose to age in place and continue to be active in the communities in which they live. Having an accessible home will help an older adult live safely at home for as long as possible; and

Whereas, West Virginia has one of the highest rates of disability in the country. According to the 2015 Annual Report of the Disability Statistics & Demographics Rehabilitation and Training Center, 17.9 percent of adults ages 18-64 in West Virginia live with a disability. Nationally, 10.5 percent of adults in the same age bracket live with a disability. In the 64 and older age bracket — more than two of every five West Virginians lives with a disability. Accessible homes are key to helping people with disabilities live their best lives; and

Whereas, Home modifications prevent falls. Studies consistently report that over 50 percent of people with multiple sclerosis (MS) fall in a three-to-six-month period and around 30 to 50 percent fall multiple times. People with MS also suffer various sequelae (or side effects) of falls, with over 50 percent having been injured by a fall. Falls are also associated with loss of confidence and independence, social isolation, curtailment of activities, increased risk for more falls and increased use and cost of healthcare services. In the older adult population, one in three adults (aged 65 or older) falls each year. Among older adults, falls are the leading cause of both fatal and nonfatal injuries. In 2011, the Centers for Disease Control and Prevention estimated 22,900 older adults died from unintentional fall injuries. In older adults, fall-related injuries may result in nursing home admission and injuries that require extensive rehabilitation (e.g. hip fractures and traumatic brain injuries). The direct medical cost of these falls was \$30 billion in 2010. Given the high prevalence and serious consequences of falls on people with disabilities and older adults, interventions such as home modifications that prevent falls are essential; and

Whereas, Home modifications can place a large financial burden on individuals with disabilities and their families. According to the Center for Universal Design, home modifications can range from \$100 to \$50,000. Modifications can be simple such as installing a grab bar in the shower, which minimal costs are associated; involve assistive technology, which comes at a moderate or expensive cost; or require much costlier structural changes such as widening a doorway; and

Whereas, There are currently no grants or tax credit programs in West Virginia to help individuals make their home more accessible. Tax credits provide much needed financial relief for those individuals and families living with disabilities who are often unable to access other programs that offer assistance for home modifications due to income guidelines. A grant program would benefit individuals who do not have tax liability or who cannot afford to pay for a home modification initially; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of introducing a Home Modification Tax Credit and/or Grant Program in the State of West Virginia with the purpose of assisting older adults and people with disabilities with modifying their homes in order to make them more accessible; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Prezioso, Williams, Stollings and Plymale offered the following resolution:

Senate Concurrent Resolution 53—Requesting Division of Highways name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek, and connecting the town of Farmington to U. S. Route 250 in Marion County, the “Harry C. ‘Buck’ Markley Jr. Memorial Bridge”.

Whereas, Harry C. “Buck” Markley, was born on May 27, 1935, in Farmington, West Virginia. He was the son of Harry and Virginia Pyles Markley. He graduated from Farmington High School and worked in Marion County at Wall Plaster and Angelucci Trucking before transitioning to the coal fields of the Four States, Blacksville and Grant Town mines. He served as a federal mine inspector from 1972 through 1996 and was a member of the Four States, Blacksville and the federal mine rescue teams; and

Whereas, Harry Markley was a devoted public servant, serving on the Farmington Town Council and as Mayor of Farmington for eighteen years, as well as serving with the Farmington Volunteer Fire Department for forty-five years, and forty years as chief of Company Seven. During Harry Markley’s career in public service he also served on the Marion County Fire Board. As Mayor, Harry Markley took the steps necessary to make Farmington easily accessible by leading the effort to reconstruct the bridge connecting Farmington to U. S. Route 250 in 1985; and

Whereas, Harry Markley passed away on June 23, 2015, in his home in Marion County. He has been an outstanding citizen and leader of Farmington and it is fitting that Harry C. “Buck” Markley Jr.’s legacy is memorialized on the very bridge that he helped to create; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek in Marion County, the Harry C. “Buck” Markley Jr. Memorial Bridge; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signed identifying the Harry C. “Buck” Markley Jr. Bridge; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Mayor Donna Costello.

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Com. Sub. for Senate Bill 116, Increasing number of limited video lottery terminals allowed at retail location.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Prezioso and Unger—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 116) 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 344, Clarifying composition and chairmanship of Commission on Special Investigations.

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

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

Eng. Com. Sub. for Senate Bill 411, Creating Second Chance for Employment Act.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 411) 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 421, Terminating behavioral health severance and business privilege tax.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 421) 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 455, Allowing person to be both limited video lottery operator and retailer.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Snyder—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 455) 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 461, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 461) 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 468, Allowing lender charge and receive interest on rescindable loan during rescission period.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 468) 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 542, Admissibility of certain evidence in civil action on use or nonuse of safety belt.

On third reading, 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, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—29.

The nays were: Facemire, Kessler, Romano, Snyder and Unger—5.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 542) 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 578, Protecting utility workers from crimes against person.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 578) 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 595, Relating to retirement credit for members of WV National Guard.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 595) 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 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters.

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

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

Eng. Com. Sub. for Senate Bill 619, 2016 Regulatory Reform Act.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 619 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 619) passed.

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

Eng. Com. Sub. for Senate Bill 619—A Bill to amend and reenact §29A-3-5 and §29A-3-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §29A-3-19 and §29A-3-20; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to legislative rulemaking; requiring agencies respond to public comments during the rule-making process; requiring five-year expiration provisions in all future rules promulgated by executive agencies and higher education, but with provided exceptions; requiring expiration provisions in all future modifications of rules affecting agencies and higher education, but with provided exceptions; providing that any rule containing an expiration provision shall remain in effect after the expiration date and until the rule is modified or repealed; requiring agencies to explain why or why not public comments were incorporated into the rule; providing that failure of an agency to adequately explain why or why not public comments were incorporated into the rule is grounds for rejection of the rule; requiring additional information to be included when an agency submits proposed rules to the Legislative Rule-Making Review Committee, including an economic impact statement, public health impact statement, detailed description of the purpose or objective of the rule, explanation of the statutory authority, public comments and written responses by the agency concerning those comments; requiring the agency’s response address each issue and concern expressed by the comments received and whether the rule will be overly burdensome on business and industry or negatively impact public health by setting forth specific factors that must be addressed; requiring all executive branch agencies to review and evaluate all rules, guidelines, policies and recommendations with those any federal counterparts and determine if the state’s rules, guidelines, policies and recommendations are more stringent; and requiring each agency to review

each of its rules within four years to determine if its rules should be continued without change, modified or repealed, and to submit a report to the Legislative Rule-Making Review Committee.

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

Eng. Senate Bill 627, Permitting physician to decline prescribing controlled substance.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 627) 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 634, Creating William R. Laird IV Second Chance Driver's License Act.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 634 pass?"

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 634) passed with its title.

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

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senators Trump, Laird and Miller regarding the passage of Engrossed Committee Substitute for Senate Bill 634 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for House Bill 2444, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2444) passed with its title.

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

Eng. Com. Sub. for House Bill 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4163) passed.

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

Eng. Com. Sub. for House Bill 4163—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto four new sections, designated §8-13-24, §8-13-25, §8-13-26 and §8-13-27, all relating to providing municipalities plenary power and authority to adopt an ordinance providing for the publication of delinquent business and occupation taxes; providing notice requirements; requiring policies and procedures regarding the preparation, publication and posting of a delinquent business and occupation list; and allowing for a reasonable charge to be added to the amount owed by a delinquent taxpayer to cover the costs of preparing, publishing and posting a delinquent list.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 47, Rewriting licensing requirements for practice of medicine and surgery and podiatry.

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 287, Creating West Virginia Safer Workplaces Act.

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

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

On page four, section four, line four, after the word “employees” by changing the period to a colon and inserting the following proviso: *Provided*, That this article does not abrogate the right of privacy, including the right of an individual to be let alone and to keep secret his or her private communications, conversations and affairs, as stated in *Roach v. Harper*, 143 W. Va. 869, but rather determines that the right of privacy is outweighed by the public policy stated in this section if an employer meets the requirements set forth in this article.

The bill (Com, Sub. for S. B. 287), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Com. Sub. for Senate Bill 303, Providing for 5-day resident fishing license.

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

Senate Bill 384, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation.

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 399, Establishing personal and corporate income tax credits for farmers donating edible agricultural products.

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

Senate Bill 435, Allowing farm winery enter alternating wine proprietorship agreements with farm owners.

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

On motion of Senator Walters, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page six, section three, line twenty-four, after the word “article” by changing the semicolon to a colon and inserting the following proviso: *Provided*, That notwithstanding any provision of this code to the contrary, the commissioner may issue a license to a wine specialty shop consistent with the provisions of section two, article eight, chapter six of this code that is located on the premises of an existing resort area in a county that has elected not to permit the sale of wine or alcoholic beverages. “Resort area” shall mean an area encompassing one or more resort hotels, and attachments of the resort hotels, and the traditional, immediate grounds of such resort hotels;

The bill (S. B. 435), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 594, Requiring State Auditor consider for payment claim submitted by electronically generated invoice.

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 596, Permitting natural gas companies enter upon real property in certain instances.

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

Senate Bill 626, Requiring DHHR secretary seek waiver within Supplemental Nutrition Assistance Program limiting purchases under WIC program.

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 637, Creating WV Uniform Fiduciary Access to Digital Assets Act of 2016.

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

Com. Sub. for Senate Bill 641, Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.

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

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

Senate Bill 670, Relating to filling vacancies in elected offices.

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

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

Senate Bill 700, Authorizing Berkeley County Council own or operate a drug treatment or drug rehabilitation facility.

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

Com. Sub. for Senate Joint Resolution 1, County Economic Development Amendment.

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

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

Eng. Com. Sub. for House Bill 2852, Relating to legalizing and regulating the sale and use of fireworks.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

That §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of the Code of West Virginia, 1931, as amended, be repealed; that said code be amended by adding a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12, §29-3E-13 and §29-3E-14; and that §61-3E-1 and §61-3E-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3E. FIREWORKS SAFETY.

§29-3E-1. Unlawful acts.

It is unlawful for a person to manufacture, wholesale, distribute, import, sell or store for the purpose of resale, consumer fireworks, sparkling devices, novelties or toy caps without a license, registration, certificate or permit from the State Fire Marshal.

§29-3E-2. Definitions.

As used in this article:

(1) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers and growers through a wildlife management program administered by the United States Department of the Interior or the Division of Natural Resources of this state;

(2) "Amusement park" means any person or organization which holds a permit for the operation of an amusement ride or amusement attraction under article ten, chapter twenty-one of this code;

(3) "APA Standard 87-1" means the APA Standard 87-1 published by the American Pyrotechnics Association, as amended, and incorporated by reference into Title 49 of the Code of Federal Regulations;

(4) "Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C. F. R. §172.101 (2014);

(5) "Consumer fireworks" means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C. F. R. Parts 1500 and 1507 (2014), and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;

(6) "Consumer fireworks certificate" means a certificate issued under section five of this article;

(7) "Display fireworks" means large fireworks to be used solely by professional pyro-technicians licensed by the State Fire Marshal and designed primarily to produce visible or audible effects by combustion, deflagration or detonation and includes, but is not limited to, salutes containing more than two grains (one hundred thirty milligrams) of explosive materials, aerial shells containing more than forty grams of pyrotechnic compositions and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 C. F. R. §172.101 (2014);

(8) "Distributor" means a person who sells fireworks to wholesalers and retailers for resale;

(9) "Division 1.3 explosive" means that term as defined in 49 C. F. R. §173.50 (2014);

(10) "Division 1.4 explosive" means that term as defined in 49 C. F. R. §173.50 (2014);

(11) "Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited;

(12) "Fire Marshal" means the State Fire Marshal;

(13) "Firework" or "fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparking devices, novelties, toy caps or model rockets;

(14) "Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks;

(15) "Model rocket" means that term as defined in National Fire Protection Association Standard 1122, "Code for Model Rocketry";

(16) "New explosive" means that term as defined in 49 C. F. R. §173.56 (2014);

(17) "NFPA 1123" means National Fire Protection Association Standard 1123, "Code for Fireworks Display;"

(18) "NFPA 1124" means National Fire Protection Association Standard 1124, "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles," 2006 Edition;

(19) "NFPA 1126" means National Fire Protection Association Standard 1126, "Standard for the Use of Pyrotechnics Before a Proximate Audience;"

(20) "Novelties" means that term as defined under APA standard 87-1, section 3.2; but shall not include toy pistols, toy caps, toy canes, toy guns or other similar devices;

(21) "Permanent" means that term as defined in NFPA 1124;

(22) "Person" means an individual or the responsible person for an association, an organization, a partnership, a limited partnership, a limited liability company, a corporation or any other group or combination acting as a unit;

(23) "Public display of fireworks" means a public entertainment feature that is advertised to the general public or is on public property that includes the display or discharge of fireworks;

(24) "Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. A pyrotechnic composition will not explode upon ignition unless severely confined;

(25) "Retailer" means a person who purchases consumer fireworks for resale to consumers;

(26) "Sparkling devices" means "ground or handheld sparking devices" as that phrase is defined under APA 87-1, sections 3.1.1 and 3.5;

(27) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an

audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment;

(28) "Temporary" means that term as defined in NFPA 1124;

(29) "Toy caps" means that term as defined under APA 87-1, section 3.3; and

(30) "Wholesaler" means any person who sells consumer fireworks to a retailer or any other person for resale and any person who sells articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

§29-3E-3. Production or transportation of fireworks.

A person may produce or transport a firework that is a new explosive and that is either a division 1.3 explosive or division 1.4 explosive if the person first meets the requirements of 49 C. F. R. §173.56(2)(j) (2014).

§29-3E-4. Sparkling devices and novelties registration required.

(a) A person may not sell sparkling devices or novelties without being registered with the State Fire Marshal.

(b) To be registered with the State Fire Marshal, the person shall:

(1) Submit an application to the State Fire Marshal;

(2) Provide a copy of his or her current business registration certificate or his or her certificate to sell sparklers and novelties issued by the State Tax Commissioner;

(3) Pay the required fee; and

(4) Provide other information as the State Fire Marshal may require by legislative rule.

(c) A registration is valid for the calendar year or any fraction thereof and expires on December 31 of each year.

(d) A registration is not transferable.

(e) A person shall post the registration in a conspicuous place at the location of the business.

(f) A separate registration is required for each location.

(g) The fee required in subdivision (3), subsection (b) of this section shall be \$15.00 per retail location.

(h) The fee assessed by this section shall be retained by the State Fire Marshal and expended to offset costs incurred in performing the duties imposed by the provisions of this code.

§29-3E-5. Consumer fireworks certificate required.

(a) A retailer may not sell consumer fireworks unless the retailer is certified under this article.

(b) To be certified to sell consumer fireworks a retailer shall:

(1) Submit an application to the State Fire Marshal;

(2) Submit with the application a copy of his or her current business registration certificate;

(3) Pay a fee of \$500.00 for each temporary retail sales location and \$1000.00 for each permanent retail sales location to the State Fire Marshal;

(4) Provide the State Fire Marshal proof that the retailer maintains at all times public liability and product liability insurance with minimum coverage limits of \$1 million dollars to cover losses, damages or injuries that might result from selling consumer fireworks; and

(5) Provide other information as the State Fire Marshal may require by legislative rule.

(c) A consumer fireworks certificate is valid from April 1 through March 31 of the next calendar year.

(d) A consumer fireworks certificate is not transferable.

(e) A retailer shall post the certificate in a conspicuous place at the location of the business.

(f) A separate certificate is required for each location of the business.

(g) A certificate holder may also sell sparkling devices and novelties at the same location without additionally obtaining a sparkling devices and novelties registration.

(h) A retailer who sells consumer fireworks shall comply with the regulations provided in NFPA 1124.

(i) A retailer who sells consumer fireworks shall comply with all regulations provided in NFPA 1124. The State Fire Marshal may by legislative rule, promulgate rules to supplement those rules established in NFPA 1124.

(j) A retailer shall sell the consumer fireworks only from a permanent building or structure that meets the specifications in NFPA 1124 or a temporary facility or structure that meets the specifications of NFPA 1124.7.3.5.

(k) Any fees collected pursuant to this section shall be deposited in the State Fire Marshal Fees Fund established by the provisions of section twelve-b, article three, chapter twenty-nine of this code.

(l) Notwithstanding any provision of this article to the contrary, no retailer may offer consumer fireworks for sale before June 1, 2016.

29-3E-6. Required permit for public fireworks display.

(a) Any municipality, county, fair association, amusement park or other organization shall have a permit to present a public display of fireworks from the State Fire Marshal.

(b) To receive a permit, a municipality, fair association, amusement park, or other organization shall:

(1) Submit an application to the State Fire Marshal;

(2) Pay the required fee not to exceed \$50.00;

(3) Furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the person or an employee thereof, in the amount, character and form as the State Fire Marshal determines to be necessary for the protection of the public; and

(4) Provide any other information as the State Fire Marshal may require by legislative rule.

(c) The State Fire Marshal shall require the municipality, county, fair association, amusement park and other organizations to give written notice to the local police and fire authorities at least five days prior to the display for which the permit is sought.

(d) A permit is not transferable.

(e) The display shall be operated by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition, character, and so located, discharged or fired so as to be safe in the opinion of the chief of the fire department serving the community or area where such display is being held.

(f) The permittee shall require a bond from the licensee in a sum not less than \$1,000 conditioned on compliance with the provisions of this article and the rules of the State Fire Marshal except where the licensee is an insured government entity.

(g) Any fees collected pursuant to this section shall be deposited in the State Fire Marshal Fees Fund established by the provisions of section twelve-b, article three, chapter twenty-nine of this code.

§29-3E-7. Fireworks safety fee; administration; tax crimes; collections; remittances; deposits; distributions; rules.

(a) In addition to the sales tax, a fireworks safety fee of twelve percent of all sales is levied on retail sales of consumer fireworks in this state. The fee shall be distributed pursuant to the provisions of this subsection. The fee computation under this subsection shall be carried to the third decimal place, and the fee rounded up to the next whole cent whenever the third decimal place is greater than four, and rounded down to the lower whole cent whenever the third decimal place is four or less.

The State Tax Commissioner shall disburse all proceeds of the fireworks safety fee into the state treasury each month in the following manner:

(1) Seventy-five percent shall be deposited into a special account in the State Treasury, designated the Veterans' Facility Support Fund established by the provisions of section eleven, article one, chapter nine-a for expenditure on veterans' programs.

(2) Twenty-five percent shall be deposited into a special account in the State Treasury, designated the Fire Protection Fund established in section thirty-three, article three, chapter thirty-three of this code and distributed in accordance with that section to each volunteer fire company or department on an equal share basis by the State Treasurer.

(b) A person who purchases consumer fireworks in a retail transaction shall pay to the retailer the amount of the fee levied by this section, which fee is added to and constitutes a part of the sale price, and is collectible by the retailer who shall account to the state for all fees paid by a purchaser. If the retailer fails to collect the fee, or fails to account to the state for the fees paid by a purchaser, then the retailer is liable for the payment of the fee to the state.

(c) A retailer shall remit to the State Tax Commissioner no later than thirty days after the end of each preceding month all moneys collected for such preceding month, pursuant to the requirements of this section, and shall report such collections on forms and in the manner prescribed by the State Tax Commissioner.

(d) All moneys so remitted, net of refunds and adjustments, shall be paid by the State Tax Commissioner into the funds specified in this section.

(e) Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in article nine, chapter eleven of this code applies to the fees imposed pursuant to this article, with like effect

as if that act were applicable only to the fees imposed by this article and were set forth in extenso in this article.

(f) The State Tax Commissioner shall propose legislative rules and may promulgate such emergency rules as are necessary to implement the provisions of this article.

(g) Notwithstanding any other provision of this code to the contrary, the State Tax Commissioner may deduct and retain one percent from each payment into the General Revenue Fund, as provided in this section, for the benefit of his or her office for general tax administration, from which expenditures are permitted from collections without appropriation by the Legislature.

§29-3E-8. State Fire Marshal's Rule-making Authority.

(a) The State Fire Marshal may promulgate emergency rules and shall propose legislative rules for promulgation, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

(1) Adopting by reference the most recent edition of APA Standard 87-1;

(2) Adopting by reference the most recent edition of NFPA 1123, Code for Fireworks Display;

(3) Adopting by reference NFPA 1124, code for the manufacture, transportation, storage and retail sales of fireworks and pyrotechnic articles;

(4) Adopting by reference the most recent edition of NFPA 1126, standard for the use of pyrotechnics before a proximate audience;

(5) Procedures for the issuance and renewal of a registration, certificate and permit;

(6) A fee schedule;

(7) Establishing insurance or bond requirements;

(8) Establishing additional criteria for the granting of a registration, certificate, or permit under this article; and

(9) Registration of manufacturers, wholesalers and distributors.

§29-3E-9. Exemptions.

This article does not prohibit any of the following:

(1) The use of fireworks by railroads or other transportation agencies for signaling purposes or illumination;

(2) The use of agricultural and wildlife fireworks;

(3) The sale or use of blank cartridges for a theatrical performance, use by military organizations or signal or ceremonial purposes in athletics or sports; or

(4) The possession, sale or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who have a permit to possess, store and sell explosives from the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice and the State Fire Marshal.

§29-3E-10. Local municipalities' regulation of consumer fireworks.

This article does not affect the authority of the governing body of a municipality to prohibit or regulate the use of consumer fireworks within its boundaries.

§29-3E-11. Violations of this article; penalties.

(a) A person may not intentionally ignite, discharge or use consumer fireworks on public or private property without the express permission of the owner to do so.

(b) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices within or throw the same from a motor vehicle or building.

(c) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices into or at a motor vehicle or building, or at any person or group of people.

(d) A person may not intentionally ignite or discharge any consumer fireworks or sparkling device while the person:

(1) Is under the influence of alcohol;

(2) Is under the influence of any controlled substance;

(3) Is under the influence of any other drug; or

(4) Is under the combined influence of alcohol and any controlled substance or any other drug.

(e) A person who is less than eighteen years of age may not purchase, nor offer for sale, consumer fireworks.

(f) The provisions of this section shall be effective June 1, 2016.

§29-3E-12. Miscellaneous offenses; penalties.

Any person who violates a provision of this article for which a penalty is not expressly set forth is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$500.00. The provisions of this section shall be effective June 1, 2016.

§29-3E-13. Seizures by the State Fire Marshal; enforcement of law.

(a) The State Fire Marshal shall seize, take, remove and dispose of at public auction or destroy, or cause to be seized, taken or removed and disposed of at public auction, or destroyed at the expense of the owner, all stocks of fireworks or combustibles offered for sale, stored or held in violation of this article or an emergency or legislative rule promulgated hereunder.

(b) The West Virginia State Police, deputy sheriffs, municipal police officers and other law-enforcement officers shall assist in the enforcement of this article.

§29-3E-14. Reporting requirements; duration of reporting requirements.

Annually, on or before the fifteenth day of January 2017, 2018 and 2019:

(1) The State Treasurer shall submit to the President of the Senate and the Speaker of the House of Delegates a report detailing the amount of revenue received and deposited from the Fireworks Safety Fee into the Fire Safety Fund authorized by section seven of this article and the distribution of said funds;

(2) The Secretary of Veterans' Assistance shall supply the President of the Senate and Speaker of the House of Delegates with a report detailing the revenue received from the Fireworks Safety Fee and deposited in the Veterans' Facility Support Fund and the purposes for which the money was expended;

(3) The State Tax Commissioner shall provide to the President of the Senate and Speaker of the House of Delegates a report detailing the revenue received from the sales tax received from the sale of fireworks authorized by the provisions of the article and revenue received from the Fireworks Safety Fee authorized by section seven of this article; and

(4) The State Fire Marshal shall submit to the President of the Senate and Speaker of the House of Delegates a report detailing the amounts of revenue received from the registration fees imposed pursuant to the provisions of section five of this article, the purposes for which the fees were expended and the adequacy of the fees received in relation to the duties required of the office.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 3E. OFFENSES INVOLVING EXPLOSIVES.

§61-3E-1. Definitions.

As used in this article, unless the context otherwise requires:

(a) "Destructive device" means any bomb, grenade, mine, rocket, missile, pipebomb or similar device containing an explosive, incendiary, explosive gas or expanding gas which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts, either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled.

"Destructive device" does not include a firearm as such is defined in section two, article seven of this chapter, or sparkling devices, novelties, toy caps, model rockets and their components ~~twenty-three, article three, chapter twenty-nine of this code~~ or fireworks as these terms are defined in section two, article three-e, chapter twenty-nine of this code, or high power rockets and their components, as defined in this section.

(b) "Explosive material" means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packaging that an ignition by fire, by friction, by concussion, by percussion, by detonator or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, powders for blasting, high or low explosives, blasting materials, blasting agents, blasting emulsions, blasting fuses other than electric circuit breakers, detonators, blasting caps and other detonating agents and black or smokeless powders not manufactured or used for lawful sporting purposes. ~~or fireworks defined in section twenty-three, article three, chapter twenty-nine of this code which are not used in violation of this article.~~ Also included are all explosive materials listed annually by the office of the State Fire Marshal and published in the State Register, said publication being hereby mandated.

(c) "High power rocket" means the term as defined in National Fire Protection Association Standard 1127, "Code for High Power Rocketry".

~~(e)~~ (d) "Hoax bomb" means any device or object that by its design, construction, content or characteristics appears to be, or is represented to be or to contain a destructive device, explosive

material or incendiary device as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a destructive device, explosive material or incendiary device.

~~(d)~~ (e) "Incendiary device" means a container containing gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material: *Provided*, That no similar device commercially manufactured and used solely for the purpose of illumination shall be deemed to be an incendiary device.

~~(e)~~ (f) "Legal authority" means that right as expressly stated by statute or law.

(g) "Model rocket" means the term as defined in National Fire Protection Association Standard 1122, "Code for Model Rocketry".

~~(f)~~ (h) "Person" ~~shall mean~~ means an individual, corporation, company, association, firm, partnership, society or joint stock company.

~~(g)~~ (i) "Storage magazine" is defined to mean any building or structure, other than an explosives manufacturing building, approved by the legal authority for the storage of explosive materials.

§61-3E-11. Exemptions.

(a) Unless specifically prohibited by any provision of this code or the laws of the United States, nothing in this article ~~shall prohibit~~ prohibits the authorized manufacture, sale, transportation, distribution, use or possession of any explosive material by any person holding a permit for such issued by the office of the State Fire Marshal. Any person performing a lawful activity pursuant to or regulated by the terms of a permit issued by the Division of Environmental Protection, or any office thereof, ~~shall be~~ is exempt from the provisions of this article.

(b) Unless specifically prohibited by any other provision of this code or the laws of the United States, nothing in this section ~~shall prohibit~~ prohibits the authorized manufacture, transportation, distribution, use or possession of any explosive, destructive device or incendiary device by a member of the armed forces or law-enforcement officers whenever such persons are acting lawfully and in the line of duty; nor shall it prohibit the manufacture, transportation, distribution, use or possession of any explosive material, destructive device or incendiary device to be used solely for lawful scientific research or lawful educational purposes. Any person engaged in otherwise lawful blasting activities failing to obtain a permit or in possession of an expired permit issued by the office of the ~~state fire marshal~~ State Fire Marshal ~~shall not be construed to be~~ is not in violation of the article.

(c) Nothing contained in this article applies to sparkling devices or novelties or to the sale, purchase, possession, use, transportation or storage of fireworks as regulated in article three-e, chapter twenty-nine of this code.

The bill (Eng. Com. Sub. for H. B. 2852), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4366, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

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

The Senate proceeded to the tenth order of business.

Com. Sub. for Com. Sub. for Senate Bill 12, Relating to County Local Powers Act.

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

Com. Sub. for Senate Bill 534, Relating to procedures for driver's license suspension and revocation in criminal proceedings.

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

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

Com. Sub. for Senate Bill 545, Relating to asbestos abatement on oil and gas pipelines.

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

Com. Sub. for Senate Bill 602, Relating to Patient Injury Compensation Fund.

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

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

Com. Sub. for Senate Bill 635, Limiting action to recover unpaid balance on contract made by consumer purchase.

On first 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 691, Modifying certain air pollution standards.

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

Eng. Com. Sub. for House Bill 4228, Relating to transportation network companies.

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

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Snyder and Stollings.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Sunday, February 28, 2016, at 5 p.m.

SENATE CALENDAR

Sunday, February 28, 2016
5:00 PM

UNFINISHED BUSINESS

- S. C. R. 51 - Requesting interim study of structure of Regional Educational Service Agencies.
- S. C. R. 52 - Requesting study of feasibility of home modification tax credit to make homes more accessible for older adults and disabled.
- S. C. R. 53 - Harry C. "Buck" Markley, Jr. Memorial Bridge.

THIRD READING

- Eng. Com. Sub. for Com. Sub. for S. B. 47 - Rewriting licensing requirements for practice of medicine and surgery and podiatry.
- Eng. Com. Sub. for S. B. 287 - Creating West Virginia Safer Workplaces Act.
- Eng. Com. Sub. for Com. Sub. for S. B. 303 - Providing for 5-day resident fishing license.
- Eng. Com. Sub. for S. B. 344 - Clarifying composition and chairmanship of Commission on Special Investigations (original similar to HB4302).
- Eng. S. B. 384 - Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation.
- Eng. Com. Sub. for S. B. 399 - Establishing personal and corporate income tax credits for farmers donating edible agricultural products (original similar to SB418).
- Eng. S. B. 435 - Allowing farm winery enter alternating wine proprietorship agreements with farm owners (original similar to HB4539).
- Eng. Com. Sub. for S. B. 594 - Requiring State Auditor consider for payment claim submitted by electronically generated invoice (original similar to HB4608, SB174).
- Eng. Com. Sub. for S. B. 596 - Permitting natural gas companies enter upon real property in certain instances (original similar to SB698).
- Eng. S. B. 618 - Allowing Economic Development Authority to make loans to certain whitewater outfitters (original similar to SB622).
- Eng. S. B. 626 - Requiring DHHR secretary seek waiver within Supplemental Nutrition Assistance Program limiting purchases under WIC program.
- Eng. Com. Sub. for S. B. 637 - Creating WV Uniform Fiduciary Access to Digital Assets Act of 2016.

- Eng. S. B. 700 - Authorizing Berkeley County Council own or operate a drug treatment or drug rehabilitation facility.
- Eng. Com. Sub. for H. B. 2852 - Relating to legalizing and regulating the sale and use of fireworks - (Com. title amend. pending).
- Eng. Com. Sub. for H. B. 4366 - Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

SECOND READING

- Com. Sub. for Com. Sub. for S. B. 12 - Relating to County Local Powers Act (original similar to HB4009, SB135).
- Com. Sub. for S. B. 545 - Relating to asbestos abatement on oil and gas pipelines.
- Com. Sub. for S. B. 641 - Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.
- S. B. 670 - Relating to filling vacancies in elected offices - (Com. amend. and title amend. pending).
- Com. Sub. for S. B. 691 - Modifying certain air pollution standards.
- Com. Sub. for S. J. R. 1 - County Economic Development Amendment.
- Eng. Com. Sub. for H. B. 4228 - Relating to transportation network companies - (Com. amend. and title amend. pending) (original similar to SB324).

FIRST READING

- Com. Sub. for S. B. 104 - Classifying Marshall University Forensic Science Center as a criminal justice agency (original similar to HB4443).
- Com. Sub. for S. B. 363 - Creating exemption for autocycles (original similar to SB19).
- S. B. 398 - Revocation of certificate of authority to conduct business (original similar to HB4354).
- Com. Sub. for Com. Sub. for S. B. 460 - Repealing regulation of opioid treatment programs and creating licenses for all medication-assisted programs (original similar to HB4395).
- S. B. 494 - Creating Legislative Oversight Commission on Department of Transportation Accountability.
- Com. Sub. for S. B. 534 - Relating to procedures for driver's license suspension and revocation in criminal proceedings.
- Com. Sub. for S. B. 539 - Relating to condemnation proceedings.
- Com. Sub. for S. B. 602 - Relating to Patient Injury Compensation Fund.

Com. Sub. for S. B. 614 -	Conforming statute with court interpretation by replacing “unconscionable” with “fraudulent” when referring to conduct (original similar to HB4603).
Com. Sub. for S. B. 622 -	Composition of PEIA Finance Board.
Com. Sub. for S. B. 625 -	Revising exceptions from FOIA provided for in Aboveground Storage Tank Act.
Com. Sub. for S. B. 628 -	Permitting treating physician direct palliative or emergent treatment for patients.
S. B. 644 -	Authorizing counties to offer license plates customized to county.
S. B. 648 -	Allowing local authorities permit flashing traffic signals during low traffic times.
S. B. 657 -	Relating to damages for medical monitoring - (Com. amend. and title amend. pending).
S. B. 658 -	Allowing licensed professionals donate time to care of indigent and needy in clinical setting.
Com. Sub. for S. J. R. 14 -	Right to Farm and Ranch Amendment.
Eng. Com. Sub. for H. B. 4012 -	West Virginia Religious Freedom Restoration Act - (Com. amend. and title amend. pending) (original similar to SB11).

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Sunday, February 28, 2016

3 p.m. Judiciary (Room 208W)

Monday, February 29, 2016

2 p.m. Banking & Insurance (Room 208W)