

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
TWENTY-FOURTH DAY

Charleston, West Virginia, Friday, March 3, 2017

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Dean Chambers, Spring Hill Baptist Church, South Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Kenny Mann senator from the tenth district.

Pending the reading of the Journal of Thursday, March 2, 2017,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2329—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to prohibiting the manufacture, delivery, possession with intent to manufacture or deliver, and transport into state of fentanyl; defining terms; establishing increased penalties for manufacturing, delivering, possessing with intent to manufacture or deliver, and transporting into state with intent to deliver or manufacture in which fentanyl is a controlled substance involved in the offense; and establishing criminal penalties.

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 2620—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-9C-1, §15-9C-2, §15-9C-3 and §15-9C-4, all relating to the collection of data pertaining to the prosecutions and overdoses of controlled substances; establishing an office of drug control policy; establishing the purpose and responsibilities of the office; declaring the office to be a law enforcement entity capable of receiving and sharing law enforcement information; directing that the office be operated, supervised and controlled by the Director of the Division of Justice and Community Services; setting for the staffing of the office, including the availability of future staffing, resources and equipment upon obtaining grant funding, federal funds, or other funding; setting forth the executive and administrative responsibilities of the office of drug control policy; establishing a reporting program for collection of criminal statistics; setting forth legislative purpose for collection of data; requiring the prosecuting attorney for each county to compile data relating to the criminal matters involving a violation of the uniform controlled substances act; directing the Division of Justice and Community Services to establish a reporting form to allow for reporting of information; setting forth information required to be reported; providing for data collection and reporting to the Division of Justice and Community Services; requiring that certain personally identifiable information about a specific defendant not be reported; establishing a reporting program for collection of data on overdoses; setting forth legislative purpose for collection of data; establishing a reporting program for collection of fatal and nonfatal overdoses in the state; directing the office of drug control policy establish a central repository for collection of data; directing the office to consult with affected entities in implementing the data collection program; establishing information required to be reported; directing the Division of Justice and Community Services to establish a reporting form to allow for reporting of information; setting forth information required to be reported; setting forth the entities required to report information; providing for data collection and reporting to the Division of Justice and Community Services through legislative rule; requiring that certain personally identifiable information about a specific defendant not be reported; and providing for rule-making authority.

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 2646—A Bill to repeal §29-20-2, §29-20-3, §29-20-4, §29-20-5 and §29-20-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-20-1 of said code, all relating to termination of the Women's Commission.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 2740—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017 in the amount of \$15,300,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2017, organization 0221, by supplementing and amending the appropriation for the fiscal year ending June 30, 2017.

Referred to the Committee on Finance.

Executive Communications

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor:

Jim Justice
Governor of West Virginia
March 2, 2017

Senate Executive Message No. 3 Regular Session 2017

TO: The Honorable Members of the
West Virginia Senate

Ladies and Gentlemen:

I respectfully withdraw the following nomination from Senate Executive Message No. 3-T, Regular Session 2017, submitted by the Honorable Earl Ray Tomblin on January 13, 2017; the nominee was replaced on February 16, 2017:

- 13. For Member, West Virginia School of Osteopathic Medicine Board of Governors, David Rader, Gainesville, Florida, for the term ending June 30, 2019.

Thank you for correcting your records.

Sincerely,

Jim Justice
Governor

Cc: Secretary of State
Senate Clerk

Which communication was received and referred to the Committee on Confirmations.

The Senate proceeded to the fourth order of business.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 27, Permitting sale of home-based, micro-processed foods at farmers markets.

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

Com. Sub. for Senate Bill 27 (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-35-5, relating to microprocessor permit; establishing permit

requirements and limitations; clarifying types of microprocessor kitchens; requiring percentage from garden or farm; requiring recordkeeping and labeling; clarifying foods requiring permit and exempted foods; setting forth permit inspections and fees; allowing suspensions and recalls; and limiting sales.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Health and Human Resources.

Respectfully submitted,

Dave Sypolt,
Chair.

The bill (Com. Sub. for S. B. 27), under the original double committee reference, was then referred to the Committee on Health and Human Resources.

Senator Takubo, 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 193, Prohibiting smoking of tobacco products in motor vehicle when person 16 years old or younger is present.

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

Com. Sub. for Senate Bill 193 (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 §16-9A-11, relating to prohibiting smoking of tobacco products in a motor vehicle while an individual sixteen years of age or less is present; defining terms; violation of section a secondary misdemeanor offense; providing penalties; and providing exceptions for local ordinances or regulations.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Tom Takubo,
Chair.

The bill (Com. Sub. for S. B. 193), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Takubo, 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 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas.

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

Respectfully submitted,

Tom Takubo,
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 280, Moving administration of Civil Air Patrol to Adjutant General.

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

Com. Sub. for Senate Bill 280 (originating in the Committee on Government Organization)—A Bill to repeal §29-2A-3a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §15-1K-1, §15-1K-2, §15-1K-3, §15-1K-4, §15-1K-5, §15-1K-6, §15-1K-7, §15-1K-8 and §15-1K-9, all relating to the West Virginia Wing of the Civil Air Patrol; eliminating the State Aeronautics Commission's authority to expend funds to support the West Virginia Wing of the Civil Air Patrol; providing for legislative findings and intent; defining terms; providing for the Adjutant General to administer the West Virginia Wing of the Civil Air Patrol; providing the Adjutant General the authority to expend appropriated funds to provide certain support to the West Virginia Wing of the Civil Air Patrol; providing for unpaid Civil Air Patrol leave and the protection of employees performing Civil Air Patrol missions; providing that employers may not discriminate based on an employee's membership in the Civil Air Patrol; and providing that an employee may bring a civil action to enforce the provisions of this article but shall not recover monetary damages.

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 338, Relating to medical professional liability.

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

Com. Sub. for Senate Bill 338 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-7B-2, §55-7B-4, §55-7B-6, §55-7B-10 and §55-7B-11 of the Code of West Virginia, 1931, as amended, all relating to medical professional liability; defining the term "occurrence" in medical professional liability causes of action; providing for statute of limitations on certain actions for medical professional liability; establishing venue in claims against certain

health care providers; addressing screening certificates of merit in certain medical professional liability causes of action; tolling the statute of limitations under certain circumstances; establishing the effective date; and providing for severability.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Takubo, 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 339, Creating Legislative Coalition on Chronic Pain Management.

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

Com. Sub. for Senate Bill 339 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-52-1, §16-52-2, §16-52-3, §16-52-4, §16-52-5 and §16-52-6, all relating to creating a legislative coalition on chronic pain management; setting forth findings and purpose; providing for administrative functions of the coalition to be performed by legislative staff; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate and the Speaker of the House of Delegates; setting forth powers and duties of the coalition; setting forth required reporting; setting forth reporting data elements; providing for compensation of members; and providing a sunset date.

And,

Senate Bill 360, Creating Legislative Coalition on Diabetes Management.

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

Com. Sub. for Senate Bill 360 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4, §16-5Z-5 and §16-5Z-6, all relating to creating the Legislative Coalition on Diabetes Management; setting forth findings and purpose; providing for administrative functions of the coalition to be performed by legislative staff; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate and the Speaker of the House of Delegates; setting forth powers and duties of the coalition; setting forth required reporting; setting forth reporting data elements; requiring state entities to cooperate with the coalition in its duties; providing for compensation of members; and providing a sunset date.

With the recommendation that the two committee substitutes do pass; but under the original double committee references first be referred to the Committee on Government Organization.

Respectfully submitted,

Tom Takubo,
Chair.

The bills (Com. Sub. for S. B. 339 and 360), under the original double committee references, were then referred to the Committee on Government Organization.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 358, Allowing timeshare entity to foreclose upon its statutory lien.

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

Com. Sub. for Senate Bill 358 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §36-9-15 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-9-15a, all relating to the trustee sale of timeshare estates generally; providing that a managing entity may cause a trustee sale of the timeshare estate if the owner is delinquent to the managing entity for more than one year for assessments against the timeshare estate; requiring notice of a trustee sale be recorded; requiring that notice of a trustee sale be sent to the delinquent owner; requiring notice of trustee sale by publication; providing for a trustee sale at public auction if the delinquency is not cured within thirty days of notice of trustee sale; providing that a trustee sale may include multiple timeshare estates; providing that a trustee sale is prohibited if timeshare instrument expressly mandates judicial foreclosure; requiring a trustee to cause trustee's deed and disclosure to be recorded with the clerk of the county commission; and providing for a statute of limitations.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Takubo, 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 486, Relating to health care provider taxes.

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

Com. Sub. for Senate Bill 486 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating to health care provider taxes; making conforming amendments consistent with federal law; changing the rate of tax on eligible acute care hospitals for fiscal year 2018; specifying purposes for which funds may be collected; providing for distribution of remaining funds at the end of fiscal year; providing for an effective date; and extending the expiration date for the tax.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Tom Takubo,
Chair.

The bill (Com. Sub. for S. B. 486), under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

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

By Senators Gaunch and Stollings:

Senate Bill 501—A Bill to amend and reenact §31-15-3 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Economic Development Authority; and creating a minority economic development advisory team to assist the Director of the Economic Development Authority in developing and implementing a procedure to address employment and economic development problems of minority populations of West Virginia.

Referred to the Committee on Economic Development; and then to the Committee on Government Organization.

By Senators Jeffries, Beach, Boso, Facemire, Karnes, Mann, Miller, Ojeda, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Unger, Weld, Plymale and Cline:

Senate Bill 502—A Bill to amend and reenact §15-1J-2 and §15-1J-4 of the Code of West Virginia, 1931, as amended, all relating to authorizing the West Virginia National Guard to contract out and hire persons to perform specialized technical services; and authorizing the West Virginia Military Authority to hire persons for specialized technical services to support specific activities related to national security, homeland security and other military-related programs.

Referred to the Committee on Government Organization.

By Senators Plymale and Stollings:

Senate Bill 503—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-23, relating to establishing Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects; setting forth general structure of fund and distribution of funds; and providing for rulemaking.

Referred to the Committee on Finance.

By Senators Hall, Boso, Prezioso, Facemire, Mann, Romano, Smith, Sypolt, Stollings and Plymale:

Senate Bill 504—A Bill to amend and reenact §11-6H-2 of the Code of West Virginia, 1931, as amended, relating to defining “special aircraft property” to include certain parts, materials or items used in the construction or repair of aircraft, aircraft engines or components of aircraft.

Referred to the Committee on Finance.

By Senators Smith and Sypolt:

Senate Bill 505—A Bill to amend and reenact §22-6A-14 of the Code of West Virginia, 1931, as amended, relating to providing a five-year reclamation period following completion of the construction of a well pad for well pads designed for multiple horizontal wells.

Referred to the Committee on Energy, Industry and Mining.

By Senators Weld, Boso, Takubo and Stollings:

Senate Bill 506—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-1 of said code, all relating to pension benefits exempt from state income taxation; and including Division of Natural Resources police into the class of law-enforcement officers exempted.

Referred to the Committee on Finance.

By Senators Cline, Maynard, Ojeda, Rucker, Smith, Swope, Takubo and Stollings:

Senate Bill 507—A Bill to amend and reenact §30-5-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-5-12c, all relating to permitting pharmacists to inform customers about lower cost alternatives to prescribed drugs; and limiting the ability of pharmacists and pharmacy benefit managers to charge retail prices for drugs in excess of the price paid for the drugs by said pharmacists or pharmacy benefit managers.

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

By Senators Romano, Facemire, Jeffries, Miller, Ojeda and Stollings:

Senate Bill 508—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-22l; and to amend said code by adding thereto a new section, designated §18-7A-26w, all relating to a \$1,000 cost-of-living adjustment to certain retirees of the Public Employees Retirement System and the State Teachers Retirement System by June 30, 2018; and providing for the pro rata distribution of the cost-of-living adjustment to certain beneficiaries.

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

By Senator Weld:

Senate Bill 509—A Bill to amend and reenact §32-2-202 of the Code of West Virginia, 1931, as amended; to amend and reenact §32-3-305 of said code; and to amend and reenact §32-4-406 and §32-4-413 of said code, all relating to updating fee structure provisions for broker-dealers, agents and investment advisers; certain securities offerings and opinions; and increasing the fund cap associated with the fees.

Referred to the Committee on Finance.

By Senators Hall and Stollings:

Senate Bill 510—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to removing the requirement that a person have no other prior or subsequent convictions, other than minor traffic violations, before seeking to have certain criminal convictions expunged; and correcting a typographical error.

Referred to the Committee on the Judiciary.

By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):

Senate Bill 511—A Bill to repeal §18B-1-5a, §18B-1-8b and §18B-1-10 of the Code of West Virginia, 1931, as amended; to repeal §18B-1A-3 and §18B-1A-5 of said code; to repeal §18B-1B-10 and §18B-1B-13 of said code; to repeal §18B-2-5 and §18B-2-7 of said code; to repeal §18B-5-2a of said code; to amend and reenact §18B-1-2 and §18B-1-6 of said code; to amend and reenact §18B-1B-1, §18B-1B-2, §18B-1B-4, §18B-1B-5 and §18B-1B-6 of said code; to amend and reenact §18B-1D-2, §18B-1D-4 and §18B-1D-7 of said code; to amend and reenact §18B-2A-3 and §18B-2A-4 of said code; to amend and reenact §18B-3-1 of said code; to amend and reenact §18B-4-7 of said code; to amend and reenact §18B-5-4 and §18B-5-9 of said code; to amend and reenact §18B-10-1, §18B-10-1c, §18B-10-8 and §18B-10-16 of said code; to amend and reenact §18B-19-4, §18B-19-5, §18B-19-6, §18B-19-7, §18B-19-10, §18B-19-13 and §18B-19-14 of said code; and to amend said code by adding thereto two new sections, designated §18B-19-19 and §18B-19-20, all relating generally to higher education governance; defining terms; repealing obsolete provisions of code; clarifying scope of rule-making authority of Higher Education Policy Commission, Council for Community and Technical College Education and certain institutions of higher education; providing for rule-making procedures; providing for shorter time period for the commission and council to review and comment on rules proposed by governing boards of institutions of higher education; providing legislative intent; providing for composition of the commission; providing for primary responsibility of the commission; updating and clarifying powers of the commission; limiting authority of the commission over certain institutions of higher education; eliminating authority of the commission to assess institutions for payment of expenses of commission and for funding of statewide higher education services, obligations or initiatives on and after July 1, 2018; eliminating outdated language; eliminating authority of the commission with respect to certain financial and budget reviews and approvals; providing for updated authority and powers of the chancellor of the commission; expanding authority of certain governing boards over appointment of presidents of certain higher education institutions; eliminating requirement for approval by the commission of appointment of presidents for certain institutions of higher education; eliminating jurisdiction of the commission relative to the accountability system over certain institutions of higher education; providing for updated responsibility of the commission in development and advancement of public policy agenda and collection of data for certain institutions of higher education; eliminating certain reporting responsibilities for certain institutions of higher education; eliminating authority of the commission over institutional compacts of certain institutions of higher education; eliminating requirement for certain institutions of higher education to prepare an institutional compact for submission to the commission; eliminating application of certain data-based measures on certain institutions of higher education; eliminating commission approval of institutional compacts of certain institutions of higher education; eliminating authority of the chancellor over coordination of policies, purposes and rules of governing boards of certain institutions of higher education; eliminating requirement for governing boards to cooperate with West Virginia Network for Educational Telecomputing on certain matters; eliminating requirement for WVNET to generate certain reports; updating powers of governing boards; eliminating requirement of commission approval of master plans for certain institutions of higher education; providing that rules of the commission and the council related to administering a system for the management of personnel matters do not apply to certain institutions of higher education; providing for legislative findings and purposes; clarifying authority of certain governing boards to delegate authority to their presidents; clarifying authority of commission and governing boards of certain institutions of higher education with respect to development of rules for accreditation and determination of minimum standards for conferring degrees; eliminating authority of the commission and the council to revoke an institution's authority to confer degrees when the governing board or its chief executive officer does not

provide certain information to the commission or the council; eliminating applicability of certain commission and council rules on certain institutions of higher education; requiring certain governing boards to promulgate and adopt rules related to acquisitions and purchases; clarifying authority of certain governing boards over certain purchasing activities; authorizing prepayment by the commission, council or governing boards in certain instances; expanding scope of authorized purchasers of certain purchase contracts; updating power of the Joint Committee over performance audits of purchasing; updating authority of the commission, the council and governing boards over purchase card procedures; requiring certain governing boards to establish purchasing card procedures; updating certain best practices applicable to ensuring fiscal integrity of institutions of higher education; authorizing additional situations where emergency purchase card use is permitted; updating time frame for payment of fees by students; updating applicability of rule by commission and council for tuition and deferred payment plans; authorizing certain governing boards to propose a rule related to tuition and fee deferred payment plans; authorizing certain governing boards to authorize a mandatory auxiliary fee without commission approval; updating tuition and fee increase percentage that requires commission or council approval; updating conditions commission or council are required to consider in determining whether to approve a tuition or fee increase; revising requirements and parameters for certain revenue bonds issued by certain governing boards; updating approvals required for issuance of certain revenue bonds by state institutions of higher education; providing for deposit of certain fees by certain governing boards into single special revenue account; requiring each governing board to adopt a campus development plan; updating time frame for reporting to the commission and the council of campus development plans; eliminating requirement for commission approval of campus development plans of certain governing boards; eliminating commission approval over certain capital and maintenance project lists; authorizing certain governing boards to undertake projects not contained in campus development plans; eliminating certain commission and council approvals related to capital improvements; updating conditions to be met for certain institutions to be responsible for capital project management; updating requirements for capital project management rule to be promulgated and adopted by certain governing board; eliminating certain requirements related to leasing of real property by the commission, the council and governing boards; expanding permitted uses of proceeds from sale, lease, conveyance or other disposal of real property received by the commission, the council or a governing board; eliminating requirement of commission approval for certain real estate and construction transactions; authorizing conveyance of real property or any interest therein from governing board to a real estate foundation; providing for procedures related to a real estate foundation; providing for conditions associated with transfer of real property to a real estate foundation by governing board; providing the purpose of real estate foundations; clarifying that real estate foundation provisions do not waive or abrogate sovereign immunity; clarifying that obligations of real estate foundations do not constitute debts or obligations of institution of higher education; setting forth the conditions for a conveyance of property; permitting the governing boards of exempted schools to take certain actions without commission approval; and requiring certain governing boards to provide notice of actions to the commission and, if requested, provide certain information to the commission.

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

By Senators Romano, Facemire, Jeffries, Miller and Ojeda:

Senate Bill 512—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22B-1-7a; and to amend said code by adding thereto a new section, designated §24-1-7a, all relating to requiring disclosure of attorney source payment in certain administrative hearings; requiring a person involved in a proceeding before the environmental boards to disclose who is paying the person's attorney's fees; and requiring a

person involved in a proceeding before the Public Service Commission to disclose who is paying the person's attorney's fees.

Referred to the Committee on the Judiciary.

By Senators Romano, Facemire, Jeffries, Miller, Ojeda and Stollings:

Senate Bill 513—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-2a, relating to increasing pay to state employees over a two-year period.

Referred to the Committee on Finance.

By Senators Cline, Maynard, Ojeda, Rucker, Smith, Swope and Sypolt:

Senate Bill 514—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to providing a special license plate for realtors.

Referred to the Committee on Transportation and Infrastructure.

By Senator Trump:

Senate Bill 515—A Bill to amend and reenact §62-12-13 and §62-12-23 of the Code of West Virginia, 1931, as amended, all relating to parole; and modifying notice requirements for hearings and release.

Referred to the Committee on the Judiciary.

By Senators Trump and Cline:

Senate Bill 516—A Bill to amend and reenact §31-20-10a of the Code of West Virginia, 1931, as amended, relating to establishing that the Division of Corrections is responsible for the costs of housing and maintaining an inmate the day following an inmate's conviction.

Referred to the Committee on the Judiciary.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

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

At the request of Senator Takubo, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page nine, section fifteen, line fifty-five, after the word "any" by inserting the words "dentist or";

And,

On page twenty-four, section twelve-b, line sixty-two, by striking out the word "assistant" and inserting in lieu thereof the word "physician".

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 4 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—31.

The nays were: Romano—1.

Absent: Boso and Sypolt—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 4) 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 190, Eliminating preferences for vendors bidding on state contracts for commodities or printing.

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

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

Com. Sub. for Senate Bill 236, Relating to damages for medical monitoring.

On third reading, coming up in regular order, with the right having been granted on Tuesday, February 28, 2017, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

Eng. Com. Sub. for Senate Bill 410, Relating to marking traps with DNR identification tag.

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: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Sypolt—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 410) 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 439, Relating to venue for civil and criminal actions at Salem Correctional Center.

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: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Sypolt—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 439) passed with its title.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 209, Defining term “veteran” as it relates to veteran-owned business.

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 221, Relating to composition of PEIA Finance Board.

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 224, Repealing requirement for employer’s bond for wages and benefits.

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

On motion of Senator Jeffries, the following amendment to the bill was reported by the Clerk:

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

That §21-5-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.**§21-5-14. Employer's bond for wages and benefits.**

(a) *Bond required.* — With the exception of those who have been doing business in this state actively and actually engaged in construction work, or the severance, production or transportation of minerals for at least ~~five~~ three consecutive years next preceding the posting of the bond required by this section, every employer, person, firm or corporation engaged in or about to engage in construction work, or the severance, production or transportation (excluding railroads and water transporters) of minerals, shall, prior to engaging in any construction work, or the severance, production or transportation of minerals, furnish a bond on a form prescribed by the commissioner, payable to the State of West Virginia, with the condition that the person, firm or corporation pay the wages and fringe benefits of his or her or its employees when due. The amount of the bond shall be equal to the total of the employer's gross payroll for four weeks at full capacity or production, plus fifteen percent of the said total of employer's gross payroll for four weeks at full capacity or production. The amount of the bond shall increase or decrease as the employer's payroll increases or decreases: *Provided*, That the amount of the bond shall not be decreased, except with the commissioner's approval and determination that there are not outstanding claims against the bond.

(b) *Waiver.* — The commissioner shall waive the posting of any bond required by subsection (a) of this section upon his or her determination that an employer is of sufficient financial responsibility to pay wages and fringe benefits. The commissioner shall promulgate rules and regulations according to the provisions of chapter twenty-nine-a of this code which prescribe standards for the granting of such waivers.

(c) *Form of bond; filing in office of circuit clerk.* — The bond may include, with the approval of the commissioner, surety bonding, collateral bonding (including cash and securities), letters of credit, establishment of an escrow account or a combination of these methods. The commissioner shall accept an irrevocable letter of credit in lieu of any other bonding requirement. If collateral bonding is used, the employer may deposit cash, or collateral securities or certificates as follows: Bonds of the United States or its possessions, or of the federal land bank, or of the homeowner's loan corporation; full faith and credit general obligation bonds of the State of West Virginia or other states, and of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the state. The cash deposit or market value of such securities or certificates shall be equal to or greater than the sum of the bond. The commissioner shall, upon receipt of any such deposit of cash, securities or certificates, promptly place the same with the State Treasurer whose duty it shall be to receive and hold the same in the name of the state in trust for the purpose for which such deposit is made. The employer making the deposit shall be entitled from time to time to receive from the State Treasurer, upon the written approval of the commissioner, the whole or any portion of any cash, securities or certificates so deposited, upon depositing with him or her in lieu thereof, cash or other securities or certificates of the classes herein specified having value equal to or greater than the sum of the bond. The commissioner shall cause a copy of the bond to be filed in the office of the clerk of the county commission of the county wherein the person, firm or corporation is doing business to be available for public inspection.

(d) *Employee cause of action.* — Notwithstanding any other provision in this article, any employee, whose wages and fringe benefits are secured by the bond, as specified in subsection (c) of this section, has a direct cause of action against the bond for wages and fringe benefits that are due and unpaid.

(e) *Action of commissioner.* — Any employee having wages and fringe benefits unpaid may inform the commissioner of the claim for unpaid wages and fringe benefits and request certification thereof. If the commissioner, upon notice to the employer and investigation, finds that such wages and fringe benefits or a portion thereof are unpaid, he or she shall make demand of such employer for the payment of such wages and fringe benefits. If payment for such wages and fringe benefits is not forthcoming within the time specified by the commissioner, not to exceed thirty days, the commissioner shall certify such claim or portion thereof, and forward the certification to the bonding company or the State Treasurer, who shall provide payment to the affected employee within fourteen days of receipt of such certification. The bonding company, or any person, firm or corporation posting a bond, thereafter shall have the right to proceed against a defaulting employer for that part of the claim the employee paid. The procedure specified herein shall not be construed to preclude other actions by the commissioner or employee to seek enforcement of the provisions of this article by any civil proceedings for the payment of wages and fringe benefits or by criminal proceedings as may be determined appropriate.

(f) *Posting and reporting by employer.* — With the exception of those exempt under subsection (a) of this section, any employer who is engaged in construction work or the severance, production or transportation (excluding railroad and water transporters) of minerals shall post the following in a place accessible to his or her or its employees:

(1) A copy of the bond or other evidence of surety specifying the number of employees covered as provided under subsection (a) of this section, or notification that the posting of a bond has been waived by the commissioner; and

(2) A copy of the notice in the form prescribed by the commissioner regarding the duties of employers under this section. During the first two years that any person, firm or corporation is doing business in this state in construction work, or in the severance, production or transportation of minerals, such person, firm or corporation shall on or before February 1, May, August and November of each calendar year file with the department a verified statement of the number of employees, or a copy of the quarterly report filed with the Bureau of Employment Programs showing the accurate number of employees, unless the commissioner waives the filing of the report upon his or her determination that the person, firm or corporation is of sufficient stability that the reporting is unnecessary.

(g) *Termination of bond.* — The bond may be terminated, with the approval of the commissioner, after an employer submits a statement, under oath or affirmation lawfully administered, to the commissioner that the following has occurred: The employer has ceased doing business and all wages and fringe benefits have been paid, or the employer has been doing business in this state for at least ~~five~~ three consecutive years and has paid all wages and fringe benefits. The approval of the commissioner will be granted only after the commissioner has determined that the wages and fringe benefits of all employees have been paid. The bond may also be terminated upon a determination by the commissioner that an employer is of sufficient financial responsibility to pay wages and fringe benefits.

Following discussion.

The question being on the adoption of the amendment offered by Senator Jeffries to the bill (Com. Sub. for S. B. 224), and on this question, Senator Jeffries demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Gaunch, Jeffries, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—12.

The nays were: Azinger, Blair, Boley, Clements, Cline, Facemire, Ferns, Hall, Karnes, Mann, Maroney, Maynard, Mullins, Rucker, Smith, Swope, Takubo, Trump, Weld and Carmichael (Mr. President)—20.

Absent: Boso and Sypolt—2.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senator Jeffries to the bill rejected.

Thereafter, the bill (Com. Sub. for S. B. 224) was then ordered to engrossment and third reading.

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senators Jeffries, Romano, Trump, Facemire and Ojeda regarding the adoption of the amendment offered by Senator Jeffries to Committee Substitute for Senate Bill 224 were ordered printed in the Appendix to the Journal.

Senate Bill 263, Creating exemption from certain contract and common carrier laws for vehicles used exclusively for transportation of railroad personnel.

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

Senate Bill 400, Regarding appointments to WV Infrastructure and Jobs Development Council.

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 429, Relating to monitoring inmate communications.

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

Com. Sub. for Senate Bill 436, Permitting investigators from Attorney General's office carry firearms.

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 445, Amending definition of "abused child".

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

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for Senate Bill 239, Limiting use of wages by employers and labor organizations for political activities.

Senate Bill 392, Relating to Municipal Police Officers and Firefighters Retirement System.

Com. Sub. for Senate Bill 442, Relating generally to crimes against persons.

Com. Sub. for Senate Bill 456, Relating to standards for termination of parental rights in child abuse and neglect cases.

And,

Eng. Com. Sub. for House Bill 2318, Relating generally to human trafficking.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Karnes and Jeffries.

The Senate proceeded to the thirteenth order of business.

Senator Stollings called attention to today being the birthday of the senator from Tucker and on behalf of the Senate extended felicitations and good wishes to Senator Smith, with Senator Stollings leading members in singing "Happy Birthday".

On motion of Senator Ferns, leaves of absence for the day were granted Senators Sypolt and Boso.

Following a point of inquiry to the President, with resultant response thereto,

Pending announcement of meetings of standing and select committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until Monday, March 6, 2017, at 11 a.m.

SENATE CALENDAR

**Monday, March 06, 2017
11:00 AM**

SPECIAL ORDER OF BUSINESS Thursday, March 09, 2017 – 11:00 AM

Consideration of executive nominations

THIRD READING

- Eng. Com. Sub. for S. B. 190 - Eliminating preferences for vendors bidding on state contracts for commodities or printing
- Eng. Com. Sub. for S. B. 209 - Defining term “veteran” as it relates to veteran-owned business
- Eng. Com. Sub. for S. B. 221 - Relating to composition of PEIA Finance Board
- Eng. Com. Sub. for S. B. 224 - Repealing requirement for employer’s bond for wages and benefits
- Com. Sub. for S. B. 236 - Relating to damages for medical monitoring - (With right to amend) (original similar to HB2580)
- Eng. S. B. 263 - Creating exemption from certain contract and common carrier laws for vehicles used exclusively for transportation of railroad personnel
- Eng. S. B. 400 - Regarding appointments to WV Infrastructure and Jobs Development Council
- Eng. Com. Sub. for S. B. 429 - Relating to monitoring inmate communications
- Eng. Com. Sub. for S. B. 436 - Permitting investigators from Attorney General’s office carry firearms
- Eng. Com. Sub. for S. B. 445 - Amending definition of “abused child” (original similar to HB2758)

SECOND READING

- Com. Sub. for S. B. 239 - Limiting use of wages by employers and labor organizations for political activities (original similar to HB2583)
- S. B. 392 - Relating to Municipal Police Officers and Firefighters Retirement System
- Com. Sub. for S. B. 442 - Relating generally to crimes against persons

Com. Sub. for S. B. 456 - Relating to standards for termination of parental rights in child abuse and neglect cases (original similar to HB2732)

Eng. Com. Sub. for H. B. 2318 - Relating generally to human trafficking - (Com. amend. and title amend. pending)

FIRST READING

S. B. 198 - Expanding Health Sciences Program to allow certain medical practitioners in underserved areas

Com. Sub. for S. B. 280 - Moving administration of Civil Air Patrol to Adjutant General

Com. Sub. for S. B. 338 - Relating to medical professional liability (original similar to HB2682, HB2757)

Com. Sub. for S. B. 358 - Relating generally to trustee sale of timeshare estates (original similar to HB2782)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Monday, March 6, 2017

9 a.m.	Select Committee on Tax Reform	(Room 451M)
10 a.m.	Confirmations	(Room 208W)
3 p.m.	Judiciary	(Room 208W)