

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2017  
THIRTY-SEVENTH DAY

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Charleston, West Virginia, Thursday, March 16, 2017

The Senate met at 11 a.m.

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

Prayer was offered by Carl Kinder, Lay Pastor from Bible Center Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles H. Clements, a senator from the second district.

Pending the reading of the Journal of Wednesday, March 15, 2017,

At the request of Senator Miller, 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 Clerk presented the following communications from a state agency as required by the provisions of law:

Court of Claims

Annual Report (§14-2-25)

Crime Victims Compensation Fund (§14-2A-21)

The Senate proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, to take effect July 1, 2017, of

**Eng. Senate Bill 231**, Relating to State Board of Education and Medicaid-eligible children.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 2167**, Creating a Silver Alert program for senior citizens.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. Com. Sub. for House Bill 2301**, Relating to direct primary care.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. House Bill 2431**, Allowing influenza immunizations to be offered to patients and residents of specified facilities.

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 2618**—A Bill to amend and reenact §18-2-7a of the Code of West Virginia, 1931, as amended, all relating to body mass index.

Referred to the Committee on Health and Human Resources.

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 15th day of March, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for H. B. 2347)**, Allowing schools licensed to provide barber, cosmetology and related training to hold theory classes and clinical classes at different locations.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Roger Hanshaw,  
*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

**Com. Sub. for Senate Bill 290** (originating in the Committee on Economic Development), Authorizing operators of distillery or mini-distillery offer for purchase and consumption of liquor on Sundays.

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

**Com. Sub. for Com. Sub. for Senate Bill 290** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating to authorizing operators of a distillery or mini-distillery to offer products produced at the distillery or mini-distillery for retail sale to customers for consumption off the premises on Sundays beginning at one o'clock p.m.; and providing that a distillery or mini-distillery located on a farm shall be required to meet only such state and local building and fire regulations as apply to structures on parcels of land used primarily for agricultural purposes.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill 374**, Relating to computing retirement benefits for certain members of Legislature.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

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

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 608**, Clarifying lawful business structures are unaffected by enactment of prohibitory legislation.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the fifth order of business.

Senator Karnes, from the Select Committee on Tax Reform, submitted the following report, which was received:

Your Select Committee on Tax Reform has had under consideration

**Senate Bill 335**, Repealing consumers sales and service tax, use tax and personal income tax.

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

**Com. Sub. for Senate Bill 335** (originating in the Select Committee on Tax Reform)—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §8-13C-15; to amend said code by adding thereto two new sections, designated §11-13A-26 and §11-13A-27; to amend said code by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3 and §11-13DD-4; to amend said code by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, §11-13EE-3 and §11-13EE-4; to amend said code by adding thereto a new section, designated §11-15-34; to amend said code by adding thereto a new section, designated §11-15A-30; to amend said code by adding thereto a new article, designated §11-15C-1, §11-15C-2, §11-15C-3, §11-15C-4, §11-15C-5, §11-15C-6, §11-15C-7, §11-15C-8, §11-15C-9, §11-15C-10, §11-15C-11, §11-15C-12, §11-15C-13, §11-15C-14, §11-15C-15, §11-15C-16, §11-15C-17, §11-15C-18, §11-15C-19, §11-15C-20, §11-15C-21, §11-15C-22, §11-15C-23, §11-15C-24, §11-15C-25, §11-15C-26 and §11-15C-27; to amend and reenact §11-16-13 of said code; to amend and reenact §11-17-4b of said code; to amend and reenact §11-19-1 and §11-19-2 of said code; to amend said code by adding thereto a new section, designated §11-21-4g; to amend and reenact §11-21-8a of said code; to amend and reenact §11-21-12 of said code; to amend and reenact §11-24-4 of said code; to amend and reenact §11-24-23a of said code; and to amend and reenact §60-3A-17 of said code, all relating generally to creating the 2017 Tax Reform Act; preserving the municipal sales and use taxes; contingently reducing the rate of the severance tax on certain natural resource production; prospectively balancing of the rate of the severance tax on the production of coal; providing a refundable credit based on the earned income of low-income workers; providing a refundable credit based on the fixed income of low-income senior citizens; prospectively repealing the consumers sales and service tax and the use tax; prospectively increasing the rates of tax on sales of non-intoxicating beer; prospectively repealing the excise tax on e-cigarette liquids; prospectively increasing the rate of tax on sales of soft drinks; reducing, making uniform, contingently phasing down the rate of, and ultimately repealing, the personal income tax; prospectively increasing the personal income tax credit for qualified rehabilitated building investments; prospectively exempting from the personal income tax all social security retirement, survivors' and disability income, and all retirement income for military service; contingently phasing down the rate of, and ultimately repealing, the corporation net income tax; prospectively increasing the corporation net income tax credit for qualified rehabilitated building investments; prospectively increasing the state's profits on wholesale liquor sales and enacting the revised sales, service and use tax law; making findings; defining terms; imposing the tax; authorizing exemptions; providing compliance procedures; dedicating portions of the revenue; and establishing effective dates with respect thereto.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. 335), 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 and joint resolution were introduced, read by their titles and referred to the appropriate committees:

**By Senator Boso:**

**Senate Bill 621**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3B-13, relating to providing that at any point after a county board of education provides written notice to the state board that it is considering or in the process of closing or consolidating a school or schools, any revision or supplementation to certain rules is not applicable to the school closing or consolidation project described in the county board's notification to the state board.

Referred to the Committee on Education.

**By Senator Hall:**

**Senate Bill 622**—A Bill to amend and reenact §11-10-12 of the Code of West Virginia, 1931, as amended, relating generally to tax procedures and administration; providing for additional circumstances when the Tax Commissioner may withdraw tax liens; and providing for additional circumstances when the Tax Commissioner may issue a certificate of release of lien.

Referred to the Committee on Finance.

**By Senator Hall:**

**Senate Bill 623**—A Bill to amend and reenact §19-23-7 of the Code of West Virginia, 1931, as amended, relating to changing the license period for horse and dog racing from a calendar year to a fiscal year basis effective July 1, 2017; to terminate any horse or dog racing licenses issued by the Racing Commission for calendar year 2016 effective June 30, 2017; and removing the requirement that a license applicant apply for not less than two hundred racing dates.

Referred to the Committee on Finance.

**By Senator Hall:**

**Senate Bill 624**—A Bill to amend and reenact §19-23-12b of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-3 of said code; and to amend and reenact §29-22C-10 of said code, all relating to decreasing the minimum number of live racing days that a horse racing licensee must conduct in order to contract with any legal wagering entity in this state or in any other governmental jurisdiction to receive telecasts and accept wagers conducted by the legal wagering entity; allowing a license applicant to apply for fewer than the minimum number of live racing dates in certain circumstances and to establish the process to be used for determining such an application; allowing a racing licensee to request that it be permitted to reduce the number of live racing days that it conducts after its license has been granted if there are insufficient purse funds or other just cause; establishing that a person authorized to act upon behalf of the group

representing the majority of owners and trainers at the requesting track or a person authorized to act upon behalf of the majority of mutuel clerks at the requesting track has standing to file an objection with the Racing Commission to a request from a racing licensee to reduce the number of live racing days after its license has been granted; authorizing the Racing Commission to promulgate rules to govern hearings that it holds to determine the required number of live racing days under; reducing the number of live racing days which a racing licensee shall not be approved by the racing commission unless it meets certain criteria; and requiring a racing licensee to submit a current financial statement pertaining to its racing operations and its purse fund account if it makes a request to conduct fewer live racing days.

Referred to the Committee on Finance.

**By Senator Hall:**

**Senate Bill 625**—A Bill to amend and reenact §47-20-23 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-21-21 of said code, all relating generally to charitable bingo games and charitable raffles; and setting forth procedures for appealing administrative sanctions against charitable bingo or charitable raffle licensee by timely petitioning the Office of Tax Appeals.

Referred to the Committee on Finance.

**By Senator Maynard:**

**Senate Bill 626**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5A-7, relating to teachers posting online a required calendar of scheduled activities in their classes that can be viewed by the parents of their students.

Referred to the Committee on Education.

**By Senators Karnes and Facemire:**

**Senate Bill 627**—A Bill to amend and reenact §17C-6-2 of the Code of West Virginia, 1931, as amended, relating to the establishment of an eighty-mile per hour speed limit on interstate highways and four-lane limited access highways in this state; and providing an exception for those highways passing through city limits.

Referred to the Committee on Transportation and Infrastructure.

**By Senators Rucker, Boso, Sypolt, Trump and Cline:**

**Senate Bill 628**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-29; to amend and reenact §50-3-2 of said code; and to amend and reenact §62-5-10 of said code, all relating to providing funding for the Statewide Interoperable Radio Network through additional court costs to be imposed in criminal cases.

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

**By Senator Boso:**

**Senate Bill 629**—A Bill to amend and reenact §15-5A-5 of the Code of West Virginia, 1931, as amended, relating to collection of Tier II fees for chemical inventories.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Mann, Hall and Sypolt:**

**Senate Bill 630**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4 and §18-5F-5, all relating to establishing the Accessibility and Equity in Public Education Enhancement Act; setting forth legislative findings and purpose; defining terms; allowing a county board or a multicounty consortium to create a virtual instruction program for one or more schools serving any composition of grades kindergarten through twelve by adopting a policy creating the program and contracting with virtual school providers; requiring students to be counted in the net enrollment of the school district for the purposes of calculating state aid, be subject to the same state assessment requirements as other students in the school district and receive a diploma upon completing the virtual instruction program requirements; exempting, to a limited extent, certain students, parents and school districts from certain laws and state board policies that pertain to requiring the student to be in a school building receiving instruction for any set period of time; providing that a participating student be considered to be attending a certain school; allowing the student to participate in any cocurricular and extracurricular activities of the school under the same requirements imposed on traditional students attending the school; exempting a county board from certain provisions of law or state board rule to the extent any conflict with the delivery of the program; exempting a county board from certain online course restrictions; requiring coursework offered through a program be aligned to certain academic standards; and requiring the assessment results of a student be included in the assessment results of the school in which the student is considered to be enrolled and the school district for purposes of accountability.

Referred to the Committee on Education.

**By Senator Karnes:**

**Senate Joint Resolution 8**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by adding thereto a new section, designated section thirteen, relating to fair and simple tax reform; repealing sections of article X; repealing the personal property tax; limitations on the personal income tax; authorizing new classes of real property taxes; creating a state infrastructure and equalization fund; providing for block grants to local schools and governments for education and infrastructure; establishing exemptions to the real property tax; limiting the excise tax, sales and use tax, corporate net income tax and other taxes; redirecting bond revenue; limiting reinstatement of taxes; grandfathering tax benefits earned prior to the ratification of this amendment; establishing a supremacy clause; providing for general law implementation; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Select Committee on Tax Reform; and then to the Committee on the Judiciary.

Senators Boso, Stollings and Beach offered the following resolution:

**Senate Concurrent Resolution 42**—Requesting the Division of Highways to name bridge number 12-48-1.74, EB-WB (12A120,12A121), (39.21219, -79.26886), locally known as US 48 over Stony River Bridge, carrying US 48 over the Stony River in Grant County, the “Five Champ Brothers Bridge”.

Whereas, The five sons of Quinten and Bessie Champ, were born in Medley, Grant County and each served in the armed forces of the United States. Carl E. Champ, P.O. Box 62, Old Fields, West Virginia, 26845, Date of Service: 1964 to 10/16/1968, Discharge Rank E4. Awards: Combat Infantry Badge, Parachute Badge, Bronze Star Vietnam: 1 Tour. Gary Dean Champ, Purgisville, West Virginia, Date of Service: 2/18/65 to 1/23/67, 5 years Active Reserves, Discharge

Date 2/10/71 from Reserves, Discharge Rank: E5. Roger D. Champ, P.O. Box 395, Moorefield, West Virginia, 26836, Date of Service: 3/12/64 to 2/25/66 and 8/23/68 to 1971, Vietnam, served two tours, 1969 to 1971. Awards: Silver Star for Gallantry in Action and Bronze Star Wounded in Vietnam. John Champ, Purgisville, West Virginia, Dates of Service: 9/21/67 to 7/05/68 Medical Discharge, Discharge Rank: E5O; and Charles E. Champ, Old Fields, West Virginia, Date of Service: 7/1961 to 10/1964, Stations: Fort Knox, Kentucky; Fort Riley, Kansas; and Germany, Rank: E4; and

Whereas, Naming this bridge is an appropriate recognition of the five Champ brothers and their service to their country and state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 12-48-1.74, EB-WB (12A120, 12A121), (39.21219, -79.26886), locally known as US 48 over Stony River Bridge, carrying US 48 over the Stony River in Grant County, the "Five Champ Brothers Bridge"; and, be it

*Further Resolved,* That the Division of Highways is requested to have made and be placed signs identifying the bridge as the "Five Champ Brothers 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.

Which, under the rules, lies over one day.

Senators Palumbo, Stollings, Beach, Facemire and Plymale offered the following resolution:

**Senate Resolution 38**—Recognizing Karen Donathan for her exemplary service to West Virginia in computer science education and congratulating her for winning the Award for Teaching Excellence in Computer Science.

Whereas, Founded in 2004, the Computer Science Teachers Association has grown into a dynamic and vibrant organization of professionals interested in supporting computer science education in K-12. Today, their membership consists of more than 25,000 members from more than 145 countries; and

Whereas, The Computer Science Teachers Association's mission is to empower, engage and advocate for K-12 computer science teachers worldwide; and

Whereas, Karen Donathan is a member of the Computer Science Teachers Association and is a computer science teacher at George Washington High School in Charleston, West Virginia; and

Whereas, Computer science teachers shoulder a tremendous responsibility as stewards of our children's computer science education that will influence and shape our digital future; and

Whereas, For her innovative and enthusiastic approach to teaching computer science at George Washington High School, Karen Donathan was one of only 10 teachers from around the world to be named a winner of the Award for Teaching Excellence in Computer Science; therefore be it



*Resolved by the Senate:*

That the Senate hereby recognizes Karen Donathan for her exemplary service to West Virginia in computer science education and congratulates her for winning the Award for Teaching Excellence in Computer Science; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to Karen Donathan for her dedicated public service to the children of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Karen Donathan.

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with and adopted.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Palumbo regarding the adoption of Senate Resolution 38 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Palumbo, Stollings, Beach, Facemire, Plymale, Unger, Cline and Prezioso offered the following resolution:

**Senate Resolution 39**—Designating March 16, 2017, as Innovation and Entrepreneurship Day at the Capitol.

Whereas, Research and innovation continue to be bedrocks of the nation's economic strength and vitality, and facilitating innovation-based economic development and the growth of entrepreneurial companies are critical to our state's future and prosperity; and

Whereas, Entrepreneurs and small businesses create the vast majority of the new jobs in the United States; and

Whereas, Research and development activities being done in both federally funded, university and private laboratories in our state are important for new discoveries, scientific and engineering solutions and potential commercialization opportunities; and

Whereas, Innovations in manufacturing, such as 3D printing, are opening new opportunities for West Virginia's small manufacturing firms to develop new products and processes to improve their bottom lines; and

Whereas, Improving access to early stage, seed and risk capital remains a critical need that is being addressed by various programs, such as the West Virginia Capital Access Program, the INNOVA Commercialization Fund, the West Virginia Jobs Investment Trust and other vital lending programs; and

Whereas, More than 130 organizations, agencies and companies are working together to help advance the state's innovation and entrepreneurship potential and capacity; and

Whereas, West Virginia has developed an integrated ecosystem of public and private organizations, agencies and financial firms working collaboratively to spur entrepreneurship, innovation enterprises and job creation; and

Whereas, Many of these innovation drivers are here at the Capitol today as part of the Innovation and Entrepreneurship Day hosted by TechConnect West Virginia and TransTech Energy Business Development Program; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates March 16, 2017, as Innovation and Entrepreneurship Day at the Capitol; and, be it

*Further Resolved,* That the Senate acknowledges the long-term economic opportunities that an innovation-based economy and entrepreneurial culture can provide our state's citizens; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the representatives of TechConnect West Virginia and TransTech Energy Business Development Program.

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with and adopted.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Palumbo regarding the adoption of Senate Resolution 39 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Plymale, unanimous consent being granted, returned to the second order of business and the introduction of guests.

Thereafter, at the request of Senator Ojeda, and by unanimous consent, the remarks by Senators Plymale and Woelfel as to the introduction of the Spring Valley High School football team were ordered printed in the Appendix to the Journal.

The Senate again proceeded to the sixth order of business.

### **Petitions**

Senator Ojeda presented a petition from Margaret Vance and three hundred sixty West Virginia residents, requesting the continuation of the JROTC program in Logan County schools.

Referred to the Committee on Education.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 39**, US Army PFC Kelva H. Justice Memorial Road.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution 40**, Requesting study on available funds for improvements at Beech Fork State Park and Cacapon Resort State Park.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Finance.

**Senate Concurrent Resolution 41**, US Army PV2 Mandvial S. “Bunker” Bias Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Com. Sub. for Senate Bill 186**, Adjusting date when children become eligible for certain school programs and school attendance requirements.

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

Pending discussion,

Senator Unger moved that Engrossed Committee Substitute for Committee Substitute for Senate Bill 186 be referred to the Committee on Rules.

Following discussion,

The question being on the adoption of Senator Unger’s aforestated motion, the same was put and did not prevail.

Pending further discussion,

The question now being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 186 pass?”

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

The nays were: Unger and Woelfel—2.

Absent: Mullins—1.

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. 186) 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 192**, Relating generally to licensed surveyors.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 192 pass?”

Senator Sypolt requested a ruling from the Chair as to whether he should be excused from voting under Senate Rule 43.

The Chair replied that any impact on Senator Sypolt would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Miller, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—28.

The nays were: Beach, Facemire, Jeffries, Ojeda and Romano—5.

Absent: Mullins—1.

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. 192) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Miller, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—28.

The nays were: Beach, Facemire, Jeffries, Ojeda and Romano—5.

Absent: Mullins—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 192) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill 413**, Relating to bids on government construction contracts.

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, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

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. 413) 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 Senate Bill 413**—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, relating to the solicitation for bids for government construction contracts; submitting bids on government construction contracts; defining the term “alternates”; limiting the number of alternates that may be included on any solicitation of bids for government construction contracts; providing that a bid proposal for an alternate shall expire one hundred fifty days after the date of the opening of bids for review; establishing procedures for acceptance of alternate bids and determination of the lowest qualified responsible bidder; and providing procedures for the required submission of a list of subcontractors who will perform more than \$25,000 of work on certain projects.

*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 471**, Relating to state ownership of wildlife.

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 471 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

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. 471) 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 474**, Exempting names of licensed hunters from public disclosure.

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, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

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. 474) 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 495**, Relating to regulation of events by State Athletic Commission.

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 Senate Bill 495 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 495) 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 531**, Relating to renewal date for apiary certificates of registration.

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, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: Romano—1.

Absent: Mullins—1.

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. 531) 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 536**, Authorizing tracking of wounded or injured bear or deer.

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, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mullins—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 536) 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 575**, Limiting nuisance actions against shooting ranges for noise.

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 575 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Prezioso, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld and Carmichael (Mr. President)—22.

The nays were: Beach, Facemire, Jeffries, Miller, Ojeda, Palumbo, Plymale, Romano, Stollings, Takubo and Woelfel—11.

Absent: Mullins—1.

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. 575) 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 255**, Relating to filling vacancies on county commissions and other county offices.

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

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

On page two, section three, line seven, by striking out the words “the vacancy occurred” and inserting in lieu thereof the words “of his or her election or, if not elected, at the time of his or her appointment”;

On page four, section five, line four, by striking out the words “the vacancy occurred” and inserting in lieu thereof the words “of his or her election or, if not elected, at the time of his or her appointment”;

On page four, section five, line eleven, by striking out the words “the vacancy occurred” and inserting in lieu thereof the words “of his or her election or, if not elected, at the time of his or her appointment”;

On page five, section seven, line sixteen, by striking out the words “the vacancy occurred” and inserting in lieu thereof the words “of his or her election or, if not elected, at the time of his or her appointment”;

And,

On page five, section seven, line twenty-eight, by striking out the words “the vacancy occurred” and inserting in lieu thereof the words “of his or her election or, if not elected, at the time of his or her appointment”.

Following discussion,

The question being on the adoption of Senator Palumbo’s amendments to the bill, the same was put.

The result of the voice vote being inconclusive, Senator Palumbo demanded a division of the vote.

A standing vote being taken, there were fourteen “yeas” and nineteen “nays”.

Whereupon, Senator Carmichael (Mr. President) declared Senator Palumbo’s amendments to the bill rejected.

The bill (Com. Sub. for S. B. 255) was then ordered to engrossment and third reading.

**Senate Bill 443**, Establishing Adult Drug Court Participation Fund.

On second 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.



**Senate Bill 444**, Establishing Court Advanced Technology Subscription Fund.

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 522**, Relating to pharmacy audits.

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

**Senate Bill 524**, Relating to WV academic standards.

On second 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.

**Eng. Com. Sub. for House Bill 2678**, Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions.

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.

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 16**, Repealing section related to wind power projects.

**Com. Sub. for Com. Sub. for Senate Bill 308**, Clarifying administrative and law-enforcement activities of DNR police officers are important to conservation and management of state's fish and wildlife.

**Com. Sub. for Senate Bill 500**, Relating to Medicaid fraud and abuse.

**Senate Bill 554**, Relating to false swearing in legislative proceeding.

**Com. Sub. for Senate Bill 559**, Relating to limited video lottery.

**Com. Sub. for Senate Bill 581**, Relating generally to administration of trusts.

**Senate Bill 620**, Relating to traffic regulations.

And,

**Eng. Com. Sub. for House Bill 2028**, Relating to the venue for suits and other actions against the state.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Woelfel, Mann and Plymale.

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senators Mann and Plymale were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Friday, March 17, 2017, at 11 a.m.

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## **SENATE CALENDAR**

**Friday, March 17, 2017  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 42 - Five Champ Brothers Bridge

### **THIRD READING**

Eng. Com. Sub. for S. B. 255 - Relating to filling vacancies on county commissions and other county offices

Eng. S. B. 444 - Establishing Court Advanced Technology Subscription Fund (original similar to HB2765)

Eng. Com. Sub. for S. B. 522 - Relating to pharmacy audits

Eng. Com. Sub. for H. B. 2678 - Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions

### **SECOND READING**

Com. Sub. for S. B. 16 - Repealing section related to wind power projects

Com. Sub. for Com. Sub. for S. B. 308 - Clarifying administrative and law-enforcement activities of DNR police officers are important to conservation and management of state's fish and wildlife

S. B. 443 - Establishing Adult Drug Court Participation Fund (original similar to HB2766)

Com. Sub. for S. B. 500 - Relating to Medicaid fraud and abuse

S. B. 524 - Relating to WV academic standards

S. B. 554 - Relating to false swearing in legislative proceeding

Com. Sub. for S. B. 559 - Relating to limited video lottery

Com. Sub. for S. B. 581 - Relating generally to administration of trusts (original similar to HB2978)

S. B. 620 - Relating to traffic regulations

Eng. Com. Sub. for H. B. 2028 - Relating to the venue for suits and other actions against the state - (Com. amend. and title amend. pending)

### **FIRST READING**

Com. Sub. for Com. Sub. for S. B. 290 - Authorizing operators of distillery or mini-distillery offer for purchase and consumption of liquor on Sundays

S. B. 608 - Clarifying lawful business structures are unaffected by enactment of prohibitory legislation

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2017**

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**Friday, March 17, 2017**

2:30 p.m.

Transportation & Infrastructure

(Room 451M)