

West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Fourth Legislature
First Regular Session

Held at Charleston
Published by the Clerk of the House



March 4, 2019
FIFTY-FIFTH DAY

Monday, March 4, 2019

FIFTY-FIFTH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Saturday, March 2, 2019, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 596, Adjusting voluntary contribution amounts on certain DMV forms,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 421, Relating to annual legislative review of economic development tax credit.

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 318, Transferring Medicaid Fraud Control Unit to Attorney General's office,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 4, Relating generally to Municipal Home Rule Program,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 238, Increasing certain penalties for passing stopped school bus,

Com. Sub. for S. B. 404, Relating generally to sediment control during commercial timber harvesting operations,

S. B. 493, Correcting terminology referring to racing vehicles illegally on street,

And,

Com. Sub. for S. B. 657, Providing consumer protection regarding self-propelled farm equipment,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 199, Authorizing certain miscellaneous agencies and boards promulgate legislative rules,

And,

Com. Sub. for S. B. 600, Relating to preservation of biological evidence obtained through criminal investigations and trials,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 485, Clarifying notification requirements for property insurance purposes,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 396, Waiving occupational licensing fees for low-income individuals and military families,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 396) was referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 615, Providing ongoing mechanism for county commissioners to allow compensation increases for elected officials every two years,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 615) was referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 658, Relating to motor vehicle salesperson licenses,

And,

S. B. 676, Relating to off-road vehicle recreation,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 357, Relating generally to Division of Administrative Services,

Com. Sub. for S. B. 392, Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work,

Com. Sub. for S. B. 511, Creating alternating wine proprietorships,

Com. Sub. for S. B. 597, Conforming state law to federal law for registration of appraisal management companies,

S. B. 625, Clarifying and defining authority of State Athletic Commission,

And,

S. B. 655, Relating to conservation districts generally,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 496, Transferring authority to regulate milk from DHHR to Department of Agriculture,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 233, Relating to age requirements for deputy sheriff,

Com. Sub. for S. B. 241, Permitting county court clerks scan certain documents in electronic form,

Com. Sub. for S. B. 317, Authorizing three or more adjacent counties form multicounty trail network authority,

Com. Sub. for S. B. 400, Allowing Board of Dentistry create specialty licenses,

Com. Sub. for S. B. 402, Authorizing Division of Forestry investigate and enforce timber theft violations,

Com. Sub. for S. B. 405, Increasing limit on additional expenses incurred in preparing notice list for redemption,

And,

S. B. 633, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Hamrick, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 605, Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries,

S. B. 672, Authorizing School Building Authority to promulgate legislative rules,

And,

S. B. 673, Relating to public higher education accountability and planning,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 90, Transferring Safety and Treatment Program from DHHR to DMV,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 566, Relating to compensation for State Athletic Commission members,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 3007, Authorizing the Commissioner of Agriculture to require background checks.

Delegate Summers moved that the House of Delegates concur, with further title amendment, in the following Senate title amendment:

Com. Sub. for H. B. 3007 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-3b, relating to authorizing the Commissioner of Agriculture to require background checks as a condition of employment; legislative finding; describing background check procedure; making background check results confidential; providing exception; designating background checks and related documents not to be considered public records under chapter 29B of said code; prohibiting disqualification of applicant for criminal conviction not bearing rational nexus to employment category; barring consideration of crimes of moral turpitude in hiring; allowing reapplication after disqualification from employment; establishing procedure for individual obtaining preapplication determination if criminal record will disqualify individual from employment; and requiring rulemaking.

On motion of Delegate Summers, the House concurred in the Senate title amendment with the following further title amendment:

Com. Sub. for H. B. 3007 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-3b, relating to authorizing the Commissioner of Agriculture to require background checks as a condition of employment; providing legislative findings; describing background check procedure; making background check results confidential; providing exceptions; designating background checks and related documents not to be considered public records under chapter 29B of said code; prohibiting disqualification of applicant for criminal conviction not bearing rational nexus to employment category; barring consideration of crimes of moral turpitude in hiring; allowing reapplication after disqualification from employment; establishing procedure for individual obtaining preapplication determination if criminal record will disqualify individual from employment; and requiring rulemaking."

The bill, as amended by the Senate, and further amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 415**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Estep-Burton, Pushkin and Rowe.

Absent and Not Voting: Malcolm, Rodighiero, R. Thompson and Tomblin.

So, a majority of the members elected and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3007) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates as follows:

H. B. 3140, Relating to the Division of Natural Resources Infrastructure.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page six, section seven, line one hundred twenty-two, after the word "state", by inserting the following: including, completing the feasibility study for the Beech Fork State Park Lodge as follows:

(A) The director shall convene, prior to October 1, 2019, two public hearings:

(i) An initial public hearing shall be for the purpose of seeking public input regarding options for the construction of a lodge and a conference center, including all available public, private, or public-private partnership (PPP) funding and financing options; and

(ii) A subsequent public hearing at which the feasibility study and any recommendation shall be available for public comment;

(B) The public hearings required by this subdivision must be held in a suitable location reasonably close to Beech Fork State Park so as to accommodate public participation from the citizens of Cabell, Lincoln, and Wayne counties; and

(C) Upon completion of the feasibility study it shall be submitted by the director to the Joint Committee on Government and Finance on or before December 1, 2019.

And,

By amending the title of the bill to read as follows:

H. B. 3140 - "A Bill to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-5-4 of said code, all related to the ability of the Director of the Division of Natural Resources to authorize repair, renovation and rehabilitation for existing facilities, buildings, amenities, and infrastructure and exempting these certain Division of Natural Resource's purchases from review and approval of the Division of Purchasing; adding state forests to the definition of recreational facilities; authorizing the completing the feasibility study for the Beech Fork State Park Lodge; requiring two public hearings; and requiring the completed feasibility study to be submitted to the Joint Committee on Government and Finance."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 416**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Rodighiero, R. Thompson and Tomblin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3140) passed.

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

On this question, the yeas and nays were taken (**Roll No. 417**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3140) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2359, Relating to exemptions to the commercial driver's license requirements.

Delegate Summers moved that the House of Delegates concur, with further amendment and title amendment, in the following amendment of the bill by the Senate:

On page one, section eight-a, line nine, by striking out the words "enumerated in 49 C.F.R. Part §383.3(f)" and inserting in lieu thereof the following: and restrictions set forth in 49 C.F.R. § 383.3(f), including any seasonal periods defined by the commissioner;

(c) The fee for the issuance of a restricted commercial driver's license pursuant to this section is \$10 per seasonal period.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2359 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-8a, relating to providing for a restricted commercial driver's license for employees of designated farm-related service industries; establishing fee for the issuance of such license; and authorizing the Commissioner of Motor Vehicles to define seasonal periods."

On motion of Delegate Summers, the House concurred in the Senate amendment with the following further amendment:

On page one, by striking out subdivision (c) in its entirety.

And,

By amending the title of the bill to read as follows:

Com. Sub for H. B. 2359 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-8a, relating to providing for a restricted commercial driver's license for employees of designated farm-related service industries; and authorizing the Commissioner of Motor Vehicles to define seasonal periods."

The bill, as amended by the Senate, and further amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 418**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2359) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2476, Relating to the valuation of a motor vehicle involved in an insurance claim.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section thirty-three, line eight, after the word "code", by changing the comma to a period and striking out the remainder of the bill.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 419**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Fast.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2476) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 2547, Relating to the election prohibition zone.

On motion of Delegate Summers, the House of Delegates refused to concur in the following amendment of the bill by the Senate, and the Senate was requested to recede therefrom:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-37. Restrictions on presence and conduct at polls.

(a) Except as otherwise provided in this section, no person, other than the election officers and voters going to the election room to vote and returning therefrom, may be or remain within ~~one hundred~~ 200 feet of the outside entrance to the building housing the polling place while the polls are open. This subsection does not apply to persons who reside or conduct business within such distance of the entrance to the building housing the polling place, while in the discharge of their legitimate business, or to persons whose business requires them to pass and repass within ~~one hundred~~ 200 feet of such entrance.

(b) A person who is delivering a voter to a polling place by motor vehicle may drive such vehicle to a convenient and accessible location to discharge the voter, notwithstanding that the location is within ~~one hundred~~ 200 feet of the outside entrance to the building housing the polling place. Upon discharging such voter from the vehicle, the person shall remove the vehicle from within ~~one hundred~~ 200 feet of the entrance until such time as the voter is to be transported from the polling place or another voter delivered: *Provided*, That vehicles delivering voters who require assistance by reason of blindness, disability, or advanced age may remain within ~~one hundred~~ 200 feet of the entrance until such time as the voter is to be transported from the polling place.

(c) The election commissions shall limit the number of voters in the election room so as to preserve order. No person may approach nearer than five feet to any booth or compartment while the election is being held, except the voters to prepare their ballots, or the poll clerks when called on by a voter to assist in the preparation of his or her ballot, and no person, other than election officers and voters engaged in receiving, preparing and depositing their ballots, may be permitted to be within five feet of any ballot box, except by authority of the board of election commissioners, and then only for the purpose of keeping order and enforcing the law.

(d) Not more than one person may be permitted to occupy any booth or compartment at one time. No person may remain in or occupy a booth or compartment longer than may be necessary to prepare his or her ballot, and in no event longer than five minutes, except that any person who claims a disability pursuant to §3-1-34 of this code shall have additional time, up to 10 additional minutes, to

prepare his or her ballot. No voter, or person offering to vote, may hold any conversation or communication with any person other than the poll clerks or commissioners of election, while in the election room.

(e) The provisions of this section do not apply to persons rendering assistance to blind voters as provided in §3-1-34 of this code or to any child 14 years of age or younger who accompanies a parent, grandparent, or legal guardian who is voting. Any dispute concerning the age of a child accompanying a parent, grandparent, or legal guardian who is voting shall be determined by the election commissioners.

ARTICLE 9. OFFENSES AND PENALTIES.

§3-9-6. Unauthorized presence in election room; ~~three hundred~~ 200 foot limit; penalties.

If any person, not herein authorized so to do, enters or attempts to enter the election room, except upon a lawful errand and for a proper purpose, or remains within ~~three hundred~~ 200 feet of the outside entrance to the building housing the polling place, contrary to the provisions of this chapter, ~~he~~ the person shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than \$50 nor more than \$500, or confined in the county jail for not more than 30 days.

Excepting those individuals provided for expressly in this or other sections of the code, only full-time employees of the Secretary of State's office or full-time employees of the respective county offices of the county clerk or the county prosecutor may enter or otherwise disturb the polling place.

§3-9-9. Electioneering defined; unlawful acts at polling places; exceptions; penalties.

(a) As used in this section, "electioneering" means the displaying of signs or other campaign paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question. "Electioneering" does not include exit polling, so long as persons conducting exit polling are not otherwise engaging in electioneering activities described above, or bumper stickers or signs affixed to a person's vehicle which is parked within or passing through a distance of ~~one hundred~~ 200 feet of the entrance to a polling place while such person is voting or transporting any voter to the polls.

(b) No officer of election may disclose to any person the name of any candidate for whom a voter has voted. No officer of election may do any electioneering on election day.

(c) No person may do any electioneering on election day within any polling place, or within ~~one hundred~~ 200 feet of the outside entrance to the building housing the polling place. No person may do any electioneering in the polling place or within ~~one hundred~~ 200 feet of the outside entrance of any polling place where early voting is conducted during the period in which early voting is offered during the hours while such early voting is actually taking place. Nothing in this subsection shall prohibit a citizen from doing any electioneering upon his or her own private property, regardless of distance from the polling place, so long as that electioneering conforms to other existing laws and ordinances.

(d) No person may apply for or receive any ballot in any polling place, other than that in which the person is entitled to vote, nor may any person examine a ballot which any voter has prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement, directly or indirectly, with any voter, to vote an open ballot. No person, except a commissioner of election, may receive from any voter a ballot prepared by him or her for voting. No voter may receive a ballot from any person other than one of the poll clerks; nor may any person other than a poll clerk deliver a ballot to

a commissioner of election to be voted by such commissioner. No voter may deliver any ballot to a commissioner of election to be voted, except the one he or she receives from the poll clerk. No voter may place any mark upon his or her ballot or suffer or permit any other person to do so, by which it may be afterward identified as the ballot voted by him or her.

(e) Whoever violates any provision of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail for not more than one year, or both fined and confined.”

And,

By amending the title of the bill to read as follows:

H. B. 2547 - “A Bill to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-9-6 and §3-9-9 of said code, all relating to restrictions on presence and conduct at or within 200 feet of polling places; prohibiting persons other than voters and election officials from being or remaining within 200 feet of entrance of polling place while polls are open; permitting person delivering voter to polling place to discharge voter within 200 feet of entrance of polling place; requiring person delivering voter to remove vehicle 200 feet until the voter with is to be transported from polling place or another voter delivered; permitting vehicles delivering voters who require assistance to remain within 200 feet of entrance until voter is to be transported from polling place; providing that a person violating restrictions on remaining within 200 feet of a polling place is guilty of a misdemeanor and subject to criminal penalties; prohibiting electioneering in or within 200 feet of polling place on election day; prohibiting electioneering in or within 200 feet of early voting polling places during early voting periods; and providing that person electioneering within 200 feet of polling places or early voting polling places is guilty of a misdemeanor and is subject to criminal penalties.”

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 2691, Providing that a license to carry a concealed deadly weapon expires on the holder’s birthday.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in §61-7-4(h) of this code, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code. Concealed weapons license may only be issued for pistols and revolvers. Each applicant shall file

with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U.S.C. § 922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this subsection in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33), or a misdemeanor offense of assault or battery either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing, or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. § 922(g) or (n).

(c) Sixty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course includes the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States military, reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States military, reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature and NRA or state instructor identification number, if applicable.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application constitutes false swearing and is punishable under §61-5-2 of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue, or deny the license within 45 days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within 30 days of receipt. ~~The license is valid for five years throughout the state, unless sooner revoked~~ A license in effect as of the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid until the licensee's birthday during the fifth year from the date of issuance or five years from the date of issuance, whichever is later in time. Renewals of such licenses and licenses newly issued after the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid for a period of five years from the licensees' most recent birthday.

(h) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties in size, appearance and information and shall feature a photograph of the licensee.

(i) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within 30 days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed weapon license moves from the address named in the application to another county within the state, the license remains valid for

the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding subsection (a) of this section, with respect to application by a former law-enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code; §8-14-1 *et seq.* of this code; §15-2-1 *et seq.* of this code; and §20-7-1 *et seq.* of this code, an honorably retired officer is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals or any other information that would identify an applicant for or holder of a concealed weapon license, is confidential: *Provided*, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.

(s) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.”

And,

By amending the title of the bill to read as follows:

H. B. 2691 - “A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to providing that a license to carry a concealed deadly weapon currently in effect expires on the holder's birthday occurring during the fifth year of licensure or five years from the date of issuance, whichever is later in time; providing that renewals of such licenses and licenses newly

issued after the effective date of the amendments to this section are valid for five years from the licensee's birthday, and maintaining provisions making licenses subject to revocation for cause."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 420**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2691) passed.

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

On this question, the yeas and nays were taken (**Roll No. 421**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2691) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

S. B. 545, Relating to HIV testing.

Special Calendar

Third Reading

Com. Sub. for S. B. 3, Establishing WV Small Wireless Facilities Deployment Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 422**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Capito.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 3) passed.

An amendment to the title of the bill, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 3 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6L-1, §11-6L-2, §11-6L-3, §11-6L-4, and §11-6L-5, to amend said code by adding thereto three new sections, designated §31G-4-4, §31G-4-5, and §31G-4-6, and to amend said code by adding thereto a new chapter, designated §31H-1-1, §31H-1-2, §31H-2-1,

§31H-2-2, §31H-2-3, and §31H-2-4, all relating to wireless telecommunication technology facilities generally; providing a special method for valuation of certain wireless technology property for property taxes; defining terms; providing mandated salvage valuation of certain wireless businesses' property; specifying method for valuation of certain property; requiring initial determination and specifying procedure for protest and appeal of determination; establishing and delineating Public Service Commission jurisdiction over make-ready pole access within the state; relating to the determination of the feasibility of electric utilities constructing and operating middle-mile broadband internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in the determination of the feasibility of certain proposed middle-mile broadband development projects; requiring that the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband internet projects within a certain period of time; requiring certain reports be submitted to certain officials and committees; and providing for severability; the establishment of the West Virginia Small Wireless Facilities Deployment Act; making legislative findings; defining terms; providing for access to public rights-of-way for the collocation of small wireless facilities; providing for certain permit requirements; authorizing and limiting access to collocation sites, structures and equipment; requiring permits to be issued on a nondiscriminatory basis; providing for the collection of fees and setting the amount of fees; and providing for certain zoning, indemnification, insurance, and bonding requirements.”

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

On this question, the yeas and nays were taken (**Roll No. 423**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer and Steele.

Absent and Not Voting: Capito.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 3) takes effect from its passage.

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

Com. Sub. for S. B. 72, Creating Sexual Assault Victims' Bill of Rights; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Criss asked and obtained unanimous consent to amend the bill on third reading, and the rule was suspended to permit the offering and consideration of such.

On motion of Delegate Criss, the bill was amended on page one, after the enacting clause, by inserting the following:

“PREAMBLE: This act shall be known as Hazel’s Law.”

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 424**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Capito.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 72) passed.

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

Com. Sub. for S. B. 393, Protecting right to farm; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 425**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Robinson.

Absent and Not Voting: S. Brown and Capito.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 393) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 393 - “A Bill to amend and reenact §19-19-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §19-19-7 and §19-19-8, all relating to the right to farm; providing for amended definitions of “agriculture” and “agricultural land”; defining the term “agricultural operation”; limiting persons who may file a nuisance action against an agricultural operation; providing for protections to agricultural operations from nuisance actions under certain circumstances; prohibiting state and local agencies from bringing actions against agricultural operations for activities that are in material compliance with applicable state and federal laws, regulations, and permits; exempting agricultural operations from municipal requirements under certain circumstances; providing that protections from nuisance actions do not apply under certain circumstances; permitting that the protected status of an agricultural operation is assignable, alienable, and inheritable; making a person who brings a nuisance action against a protected agricultural operation liable for the costs and expenses of the agricultural operation in defending the action; limiting total damages to the diminished value of the subject property; providing for the exclusive compensatory damages that may be awarded to a claimant where the alleged nuisance originates from an agricultural operation; providing that the combined recovery of any claimant or claimant’s successor in interest against an agricultural operation shall not exceed the fair market value of his or her property; and prohibiting punitive damages being awarded to a claimant for nuisance actions originating from an agricultural operation.”

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

Com. Sub. for S. B. 441, Relating to higher education campus police officers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 426**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Capito and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 441) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 520, Requiring entities report drug overdoses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 427**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Boggs and Capito.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 520) passed.

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

S. B. 635, Relating generally to coal mining activities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 428**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Capito.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 635) passed.

On motion of Delegate Anderson, the title of the bill was amended to read as follows:

S. B. 635 - "A Bill to amend and reenact §5B-2A-5, §5B-2A-6, §5B-2A-8, and §5B-2A-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-14 of said code; to amend and reenact §22-11-10 of said code; to amend and reenact §22-30-3 and §22-30-24 of said code; to amend and reenact §22A-1-21 and §22A-1-35 of said code; to amend said code by adding thereto two new sections, designated §22A-1-43 and §22A-1-44; to amend and reenact §22A-1A-1 and §22A-1A-2 of said code; to amend and reenact §22A-2-2, §22A-2-12, and §22A-2-13 of said code; to amend said code by adding thereto a new section, designated, §22A-2-80; to amend and reenact §22A-8-5 of said code; to amend said code by adding thereto a new section, designated §22A-8-10; to amend and reenact §61-3-12 of said code; and to amend said code by adding thereto a new section, designated §61-3B-6, all relating generally to coal mining activities; eliminating the requirement for submission of the community impact statement; requiring review of new mining activity for submission to the Office of Coalfield Community Development; eliminating requirements for submission of certain additional information; requiring the submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development; requiring and authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to mine subsidence protection for dwelling owners; authorizing the Secretary of the Department of Environmental Protection to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act;

authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act; requiring a miner who was issued an assessment to either pay the fine or appeal a violation within 30 days; requiring the Office of Miners' Health, Safety, and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive; permitting employers to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property; requiring miners testing positive for drug use to undergo a mandatory minimum six-month suspension; eliminating timing requirements for submission of a detailed mine ventilation plan to the Director of the Office of Miners' Health, Safety, and Training; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate emergency rules for establishing a course of instruction for apprentice miners; requiring apprentice miners to work 90 days in a mine within sight and sound of a mine foreman or assistant foreman; permitting the Director of the Office of Miners' Health, Safety, and Training to decertify miners who fail to perform daily examinations; allowing the Director of the Office of Miners' Health, Safety, and Training to use the employer's tracking data of the designated daily examiner; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate rules generally; allowing certified competent miners to supervise up to two apprentice miners; holding mine owners, the state, and person or entities engaged in rescue operations harmless for injury or death; authorizing a temporary exemption from environmental regulations during rescue operations; revoking certifications of persons convicted of mine trespass; removing underground coal mines from those places subject to the crime of unlawful entry of building other than a dwelling; creating the new criminal misdemeanor and felony offenses of mine trespass; establishing penalties for mine trespass including enhanced penalties for bodily injury or death during rescue operations; authorizing increased liability for damages caused during a mine trespass; and exempting lawful activities under the West Virginia and United States Constitutions, and state and federal law from the operation of the mine trespass criminal statute."

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

On this question, the yeas and nays were taken (**Roll No. 429**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Capito.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 635) takes effect from its passage.

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

S. B. 636, Authorizing legislative rules for Higher Education Policy Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 430**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Capito.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 636) passed.

Delegate Summers moved that the bill take effect its passage.

On this question, the yeas and nays were taken (**Roll No. 431**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Capito.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 636) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 668, Relating to physician assistants collaborating with physicians in hospitals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 432**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Capito.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 668) passed.

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

Second Reading

Com. Sub. for S. B. 100, Increasing court fees to fund law-enforcement standards training and expenses; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 101, Equalizing penalties for intimidating and retaliating against certain public officers and other persons; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 154, Using school facilities for funeral and memorial services for certain community members; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 163, Authorizing DEP promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

Delegates Hansen, Fleischauer, S. Brown, Estep-Burton, Williams, Walker, Rowe, Pyles, Doyle and Pushkin moved to amend the bill on page three, section one, lines twenty-seven through thirty-eight, by striking out subsection (h) in its entirety, and inserting in lieu thereof the following:

“(h) The legislative rule filed in the State Register on July 27, 2018, authorized under the authority of §22-11-4 of this code, relating to the Department of Environmental Protection (requirements governing water quality standards, 47 CSR 2), is authorized.”

Delegate J. Jeffries requested to be excused from voting on S. B. 163 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

On the adoption of the amendment, Delegate Fleischauer demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 433**), and there were—yeas 34, nays 64, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pushkin, Pyles, Rodighiero, Rohrbach, Rowe, Sponaugle, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett and Capito.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 175, Authorizing DHHR promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, line sixteen, by inserting the following:

On page twenty-two, by adding a new subsection 4.11 to read as follows:

“4.11 For the purposes of substance use disorder services, if a provider is enrolled to accept West Virginia Medicaid and is authorized to provide behavioral health services in its state, the Office of Health Facility Licensure and Certification may through reciprocity authorize it as a West Virginia Behavioral Health Center under this rule.”

And,

On page three, section one, line forty-six, by removing the period and inserting “with the following amendments:

On page thirty-nine, by inserting a subsection, 22.9 to read as follows, “Each OBMAT program shall provide or make referrals for each patient to obtain contraceptive drugs, devices or procedures.”

The bill was then ordered to third reading.

S. B. 190, DOH rule relating to employment procedures; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 223, Authorizing Department of Commerce promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page three, section three, line five, after the word “authorized”, by striking out the period and inserting in lieu thereof “with the following amendment:

On page nineteen, after subsection 14.6.1., by striking out all of section fifteen, and renumbering the remaining sections accordingly.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 237, Improving ability of law enforcement to locate and return missing persons; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 316, Preserving previously approved state Municipal Policemen’s or Firemen’s pensions; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 330, Requiring contact information be listed on agency’s online directory and website; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 344, Relating to operation of state-owned farms; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 360, Relating to third-party litigation financing; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 6N. CONSUMER LITIGATION FUNDING.

§46A-6N-1. Definitions.

For purposes of this article:

(1) ‘Consumer’ means any natural person who resides, is present, or is domiciled in this state;

(2) ‘Litigation financier’ means a person, entity, or partnership engaged in the business of litigation financing; and

(3) ‘Litigation financing’ or ‘litigation financing transaction’:

(A) Means a nonrecourse transaction in which financing is provided to a consumer in return for a consumer’s assigning to the litigation financier a contingent right to receive an amount of the potential proceeds of the consumer’s judgment, award, settlement, or verdict obtained with respect to the consumer’s legal claim; and

(B) Does not include:

(i) Legal services provided on a contingency fee basis, or advanced legal costs, where such services or costs are provided to or on behalf of a consumer by an attorney representing the consumer in the dispute and in accordance with the West Virginia Rules of Professional Conduct;

(ii) A consumer loan, as defined by §46A-1-102 of this code;

(iii) A commercial tort claim, as defined by §46-9-102 of this code;

(iv) A claim under the Workers' Compensation Law, compiled in chapter 23 of this code; or

(v) Normal or course of business lending or financing arrangements between an attorney or law firm and a lending institution.

§46A-6N-2. Litigation financier; registration; bond; public record; rules.

(a)(1) No litigation financier shall engage in a litigation financing transaction in this state unless it is registered as a litigation financier in this state.

(2) A litigation financier that is a business entity or partnership is registered in this state if:

(A) It is in compliance with the bond requirements of §46A-6N-2(b) of this code;

(B) It has a status of active and is in good standing as reflected in the records of the Secretary of State; and

(C) Its charter, articles of organization, certificate of limited partnership, or other organizational document, or, if a foreign entity, its West Virginia application for a certificate of authority, contains a statement that it shall be designated as a litigation financier pursuant to this article.

(3) A litigation financier that is not a business entity or partnership is registered in this state if:

(A) It is in compliance with the bond requirements of §46A-6N-2(b) of this code; and

(B) It files an application for registration as a litigation financier on a form prescribed by the Secretary of State that contains the following:

(i) Applicant's full legal name;

(ii) Business name of applicant, if any;

(iii) Physical street address and mailing address of the applicant;

(iv) A telephone number through which the applicant can be reached;

(v) The name, physical street address, mailing address, and telephone number for a West Virginia registered agent appointed to accept service of process on behalf of the applicant;

(vi) A statement that the applicant shall be designated as a litigation financier pursuant to this article; and

(vii) Any other information the Secretary of State deems necessary.

(b)(1) Each litigation financier shall file with the Secretary of State and have approved by the Office of the West Virginia Attorney General a surety bond or irrevocable letter of credit issued and confirmed by a financial institution authorized by law to transact business in the State of West Virginia in an amount not less than \$50,000.

(2) Such bond shall be payable to this state for the use of the Attorney General and any person who may have a cause of action against the obligor of the bond for any violation of this article. The

bond shall continue in effect so long as a litigation financier is designated as a litigation financier in the records of the Secretary of State.

(c) A litigation financier shall amend its registration with the Secretary of State within 30 days whenever the information contained in such record changes or becomes inaccurate or incomplete in any respect.

(d) The Secretary of State, as appropriate, may promulgate rules in implementing this article, including, but not limited to, the adoption of fees to cover any administrative costs relating to administering this article.

§46A-6N-3. Litigation financier requirements.

A litigation financier shall fulfill each of the following requirements when engaged in litigation financing:

(1) The terms of the litigation financing transaction shall be set forth in a written contract that is completely filled in with no incomplete sections when the contract is offered or presented to the consumer:

(2) The litigation financing contract shall contain a right of rescission, allowing the consumer to cancel the litigation financing contract without penalty or further obligation if, within five business days following the consumer's receipt of the funds, or execution of the litigation financing contract, whichever is later, the consumer gives notice of the rescission and returns any money already provided to the consumer by the litigation financier;

(3) The litigation financing contract shall contain a written acknowledgment by the consumer of whether the consumer is represented by an attorney in the dispute;

(4) If the consumer acknowledges that the consumer is represented by an attorney in the dispute, the litigation financing contract shall include a written acknowledgment executed by the consumer's attorney in the dispute in which the attorney acknowledges all of the following:

(A) The attorney has had the opportunity to review the litigation financing contract on behalf of the consumer;

(B) The attorney is representing the consumer with regard to the dispute that is the subject of the litigation financing contract;

(C) The attorney has neither received nor paid a referral fee or any other consideration from or to the litigation financier, nor will the attorney in the future; and

(D) In the event that proceeds are paid into a settlement fund or trust, the litigation financier shall notify the administrator of the fund or trust of any outstanding liens arising from the litigation financing contract.

§46A-6N-4. Litigation financier prohibitions.

A litigation financier shall not:

(1) Pay or offer to pay commissions, referral fees, or other forms of consideration to any attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees for referring a consumer to a litigation financier;

(2) Accept any commissions, referral fees, rebates, or other forms of consideration from an attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees;

(3) Advertise false or misleading information regarding its products or services;

(4) Refer a consumer or potential consumer to a specific attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees: *Provided*, That if a consumer does not have legal representation, the provider may refer the consumer to a local or state bar referral service operated by a bar association;

(5) Fail to promptly supply copies of any and all complete litigation financing contracts to the consumer and the attorney representing the consumer in the dispute;

(6) Attempt to obtain in the litigation for which the litigation financing transaction exists, a waiver of any remedy, including, but not limited to, compensatory, statutory, or punitive damages, that the consumer might otherwise have;

(7) Attempt to effect in the litigation for which the litigation financing transaction exists mandatory arbitration or otherwise effect waiver of a consumer's right;

(8) Offer or provide legal advice to the consumer regarding the litigation financing or the underlying dispute;

(9) Assign, which includes securitizing, a litigation financing contract, in whole or in part, to a third party; however:

(A) §46A-6N-4(9) of this code does not prevent a litigation financier that retains responsibility for collecting payment, administering, or otherwise enforcing the litigation financing contract from making an assignment that is:

(i) To a wholly owned subsidiary of the litigation financier;

(ii) To an affiliate of the litigation financier that is under common control with the litigation financier;

or

(iii) A grant of a security interest that is pursuant to §46-9-1 *et seq.* of this code or is otherwise permitted by law; and

(B) If an assignment is authorized and made pursuant to §46A-6N-4(9) of this code, for purposes of this section, "litigation financier" includes a successor-in-interest to a litigation financing contract;

(10) Report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds to repay the company;

(11) An attorney or law firm retained by a consumer shall not have a financial interest in a company offering litigation funding to the consumer and shall not receive a referral fee or other consideration from the company, its employees, or its affiliates;

(12) A personal injury attorney or law firm, practicing in the State of West Virginia, retained by a consumer shall not have a financial interest in a company offering litigation financing to consumers and shall not receive a referral fee or other consideration from the company, its employees, or its affiliates; or

(13) Receive any right to, nor make any decisions with respect to, the conduct of the consumer's legal claim or any settlement or resolution. The right to make such decisions shall remain solely with the consumer and his or her attorney.

§46A-6N-5. Litigation financing contracts; disclosures.

(a) Litigation financing contracts shall contain the disclosures specified in this section, which shall constitute material terms of the litigation financing contract.

(b) Unless otherwise specified, the disclosures shall be typed in at least 14-point, bold font and be placed clearly and conspicuously within the litigation financing contract, as follows:

(1) Each contract shall include consumer disclosures on the first two pages, to the extent possible. The consumer disclosures shall include:

(A) Notification that some or all of the funded amount may be taxable;

(B) A description of the consumer's right of rescission;

(C) The total funded amount provided to the consumer under the contract;

(D) An itemization of charges; and

(E) The total amount due from the consumer, in six-month intervals for 36 months, including all charges and fees;

(i) A statement that there are no charges or fees to be paid by the consumer other than what is disclosed on the disclosure form;

(ii) In the event the consumer seeks more than one litigation financing contract, a disclosure providing the cumulative amount due from the consumer for all transactions, including charges under all contracts, if repayment is made any time after the contracts are executed;

(F) A statement that if there is no recovery of any money from the consumer's legal claim, the consumer shall owe nothing to the company; and

(G) A statement that if the net proceeds of the claim are insufficient to repay the consumer's indebtedness to the company, defined as the complete funded amount and charges, the company shall accept as full payment of its funded amount and charges a reduced sum;

(H) The following:

Consumer's Right to Cancellation: You may cancel this contract without penalty or further obligation within five (5) business days from the date you signed this contract or received financing from [insert name of the litigation financier] by: returning the funds to [insert name, office address, and office hours of the litigation financier] or by U. S. mail [insert name and mailing address of litigation financier]. For purposes of the return deadline by U. S. mail, the postmark date on the returned funds or, if mailed by registered or certified mail, the date of the return receipt requested shall be considered the date of return.

(2) Within the body of the litigation financing contract, the following:

The litigation financier agrees that it has no right to and will not make any decisions about the conduct of your lawsuit or dispute and that the right to make those decisions remains solely with you and your attorney;

(3) Within the body of the litigation financing contract, in all capital letters contained within a box the following:

THE FUNDED AMOUNT AND AGREED-TO CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION FUNDER) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS AGREEMENT OR YOU HAVE COMMITTED FRAUD AGAINST THE CONSUMER LITIGATION FUNDER.

(4) Located immediately above the place on the litigation financing contract where the consumer's signature is required, the litigation financing contract shall include the following:

DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT COMPLETELY. IF THIS CONTRACT CONTAINS ANY INCOMPLETE SECTIONS, YOU ARE ENTITLED TO A COMPLETELY FILLED-IN COPY OF THE CONTRACT PRIOR TO SIGNING IT. BEFORE YOU SIGN THIS CONTRACT, YOU SHOULD OBTAIN THE ADVICE OF AN ATTORNEY. DEPENDING ON THE CIRCUMSTANCES YOU MAY WANT TO CONSULT A TAX ADVISOR, A FINANCIAL PROFESSIONAL, OR AN ACCOUNTANT.

§46A-6N-6. Third-party agreements.

Except as otherwise stipulated or ordered by the court, a party shall, without awaiting a discovery request, provide to the other parties any agreement under which any litigation financier, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive compensation that is contingent on and sourced from any proceeds of the civil action, by settlement, judgment, or otherwise.

§46A-6N-7. Violation; enforcement.

(a) Any violation of this article shall make the litigation financing contract unenforceable by the litigation financier, the consumer, or any successor-in-interest to the litigation financing contract. The court may, in the event that judgment is awarded to the plaintiff, assess costs of the action, including reasonable attorneys' fees, against the defendant.

(b) Nothing in this article shall be construed to limit the exercise of powers or the performance of the duties of the Attorney General, including those provided by the West Virginia Consumer Credit and Protection Act, which the Attorney General is otherwise authorized or required to exercise or perform by law.

§46A-6N-8. Contingency rights; assignments; priority of lien, subrogation interest, or right of reimbursement.

(a) The contingent right to receive an amount of the potential proceeds of a legal claim may be assigned by a consumer, and that assignment is valid for the purposes of obtaining litigation financing from a litigation financier.

(b) The lien of a litigation financier on a consumer's legal claim has priority over liens that attach and take effect subsequent to the attachment of the litigation financier's lien to the consumer's legal claim, except for the following:

(1) Attorney liens, insurance carrier liens, medical provider liens, or liens based upon subrogation interests or rights of reimbursement related to the consumer's legal claim; and

(2) Child support, Medicare, tax, or any other statutory or governmental lien.

§46A-6N-9. Fees; terms; incorporation of obligations in agreement.

(a) A litigation financier may not charge the consumer an annual fee of more than 18 percent of the original amount of money provided to the consumer for the litigation financing transaction.

(b) Litigation financiers shall not charge a consumer the annual fee authorized by §46A-6N-9(a) of this code more than one time each year with regard to any single legal claim regardless of the number of litigation financing transactions that the litigation financier enters into with the consumer with respect to such legal claim.

(c) Fees assessed by a litigation funding provider may compound semiannually but may not compound based on any lesser time period.

(d) In calculating the annual percentage fee or rate of return, a litigation funding provider must include all charges payable directly or indirectly by the consumer, and must compute the rate based only on amounts actually received and retained by a consumer.

(e) A litigation funding provider may not assess fees for any period exceeding 42 months from the date of the contract with the civil litigant.

(f) Litigation financiers shall not enter into an agreement with a consumer that has the effect of incorporating the consumer's obligations to the litigation financier that are contained in the original litigation financing transaction into a subsequent litigation financing transaction.

(g) Litigation financiers shall not knowingly provide funding to a consumer who has previously assigned and/or sold a portion of the consumer's right to proceeds from his or her legal claim without first making payment to and/or purchasing a prior unsatisfied litigation financing company's entire funded amount and contracted charges unless a lesser amount is otherwise expressly agreed to in writing by the litigation financing companies; except multiple companies may agree to contemporaneously provide funding to a consumer provided that the consumer and the consumer's attorney consent to the agreement in writing."

Delegate Malcolm moved to amend the strike and insert amendment on page one, section one, line seven, following the words "financing is", by adding the following language: "used to pay for attorney's fees, costs and litigation expenses to prosecute the civil action or claim, and is".

On the adoption of the amendment to the amendment, Delegate Malcolm demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 434**), and there were—yeas 11, nays 87, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Butler, Cadle, D. Jeffries, Jennings, Kump, Malcolm, C. Martin, P. Martin, McGeehan, Paynter and Porterfield.

Absent and Not Voting: Capito and Nelson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

The Judiciary Committee amendment was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 373, Relating to financial responsibility of inmates; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 481, Relating to Judicial Vacancy Advisory Commission; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section three-a, line thirty, by striking out subdivision (1) in its entirety and inserting in lieu thereof the following:

“(1) No more than three appointed members of the commission may be residents of the same congressional district: *Provided, That, if the number of congressional districts in the state is reduced to two, then no more than four appointed members of the commission may be residents of the same congressional district.*”

The bill was then ordered to third reading.

Com. Sub. for S. B. 491, Extending effective date for voter registration in conjunction with driver licensing; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, immediately following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-11. Registration in conjunction with driver licensing.

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver licensing services shall obtain as an integral and simultaneous part of every process of application for the issuance, renewal, or change of address of a motor vehicle driver’s license, or official identification card pursuant to the provisions of §17B-2-1 *et seq.* of this code, when the division’s regional offices are open for regular business, the following information from each qualified registrant:

- (1) Full name, including first, middle, last, and any premarital names;
- (2) Date of birth;
- (3) Residence address and mailing address, if different;
- (4) The applicant’s electronic signature;
- (5) Telephone number, if available;

(6) Email address, if available;

(7) Political party membership, if any;

(8) Driver's license number and last four digits of Social Security number;

(9) A notation that the applicant has attested that he or she meets all voter eligibility requirements; ~~including United States citizenship;~~

(10) United States citizenship status;

~~(10)~~ (11) Whether the applicant affirmatively declined to become registered to vote during the transaction with the Division of Motor Vehicles;

~~(11)~~ (12) Date of application; and

~~(12)~~ (13) Any other information specified in rules adopted to implement this section.

(b) Unless the applicant affirmatively declines to become registered to vote or update their voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to the Secretary of State, who shall forward the information to the county clerk for the relevant county to process the newly registered voter or updated information for the already-registered voter pursuant to law. The Division of Motor Vehicles shall notify ~~that~~ the applicant that by submitting his or her signature, the applicant grants written consent for the submission of the information obtained and required to be submitted to the Secretary of State pursuant to this section.

(c) By no later than January 1, 2020, the Division of Motor Vehicles shall create a regular process that allows the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this code to confirm that persons who are non-citizens of the United States have not and cannot register to vote via the Online Voter Registration portal.

~~(c)~~ (d) Information regarding a person's failure to sign the voter registration application is confidential and may not be used for any purpose other than to determine voter registration.

~~(d)~~ (e) A qualified voter who submits the required information or update to his or her voter registration, pursuant to the provisions of subsection (a) of this section, in person at a driver licensing facility at the time of applying for, obtaining, renewing, or transferring his or her driver's license or official identification card and who presents identification and proof of age at that time is not required to make his or her first vote in person or to again present identification in order to make that registration valid.

~~(e)~~ (f) A qualified voter, who submits by mail or by delivery by a third party an application for registration on the form used in conjunction with driver licensing, is required to make his or her first vote in person and present identification as required for other mail registration in accordance with the provisions of §3-2-10(g) of this code. If the applicant has been previously registered in the jurisdiction and the application is for a change of address, change of name, change of political party affiliation, or other correction, the presentation of identification and first vote in person is not required.

~~(f)~~ (g) An application for voter registration submitted pursuant to the provisions of this section updates a previous voter registration by the applicant and authorizes the cancellation of registration in any other county or state in which the applicant was previously registered.

~~(g)~~ (h) A change of address from one residence to another within the same county which is submitted for driver licensing or nonoperator's identification purposes in accordance with applicable law serves as a notice of change of address for voter registration purposes if requested by the applicant after notice and written consent of the applicant.

~~(h)~~ (i) Completed applications for voter registration or change of address for voting purposes received by an office providing driver licensing services shall be forwarded to the Secretary of State within five days of receipt unless other means are available for a more expedited transmission. The Secretary of State shall remove and file any forms which have not been signed by the applicant and shall forward completed, signed applications to the clerk of the appropriate county commission within five days of receipt.

~~(i)~~ (j) Voter registration application forms containing voter information which are returned to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted to the Secretary of State, and maintained by the Secretary of State's office according to the retention policy adopted by the Secretary of State.

~~(j)~~ (k) The Secretary of State shall establish procedures to protect the confidentiality of the information obtained from the Division of Motor Vehicles, including any information otherwise required to be confidential by other provisions of this code.

~~(k)~~ (l) A person registered to vote pursuant to this section may cancel his or her voter registration at any time by any method available to any other registered voter.

~~(l)~~ (m) This section shall not be construed as requiring does not require the Division of Motor Vehicles to determine eligibility for voter registration and voting.

~~(m)~~ (n) ~~The changes made to this section during the 2016 Regular Legislative Session shall become effective on July 1, 2019, and any costs associated therewith shall be paid by the Division of Motor Vehicles. If the Division of Motor Vehicles is unable to meet the requirements of this section by February 1, 2019, it shall make a presentation to the Joint Committee on Government and Finance explaining any resources necessary to meet the requirements or any changes to the code that it recommends immediately prior to the 2019 Regular Legislative Session: *Provided*, That the Division of Motor Vehicles shall report to the Joint Committee on Government and Finance by January 1, 2018 with a full and complete list of all infrastructure they require to achieve the purposes of this section.~~

Except for the changes made to subsection (b) of this section during the 2017 regular legislative session, the changes made to this section during the 2016 regular legislative session become effective on July 1, 2021, and any costs associated therewith shall be paid by the Division of Motor Vehicles. The Commissioner of the Division of Motor Vehicles, the Secretary of the Department of Transportation, and the Secretary of State shall each appear before the Joint Committee on Government and Finance and the Joint Standing Committee on the Judiciary, during the first interim meetings of such committees occurring after September 1, 2019, to present written reports containing a full and complete list of any infrastructure each agency requires to achieve the purposes of this section. Along with the report required by this subsection, the Division of Motor Vehicles shall submit a written schedule to both committees outlining how the Division will implement the requirements of this section by July 1, 2021.

~~(n)~~ (o) The Secretary of State shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code ~~in order~~ to implement the requirements of this section."

Delegate Robinson moved to amend the amendment, on page three, section eleven, lines eighty-four and ninety-two, by striking out the number "2021" and inserting in lieu thereof, the number "2020".

On the adoption of the amendment to the amendment, Delegate Robinson demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 435**), and there were—yeas 44, nays 56, absent and not voting none, with the yeas being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Kump, Lavender-Bowe, Longstreth, Lovejoy, P. Martin, McGeehan, Miley, Miller, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the Judiciary Committee amendment was rejected.

The amendment recommended by the Committee on the Judiciary was then adopted.

The bill was then ordered to third reading.

S. B. 519, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 531, Relating generally to workers' compensation claims; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 624, Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Hamrick, the bill was amended on page five, section five, line one hundred five, after the word "Act", by striking out the remainder of the paragraph and inserting in lieu thereof the following:

"The department shall negotiate reasonable per student costs for the delivery and administration of the alternative assessment that is equal to the per-student assessment cost as determined by the statewide assessment contract. The department shall be responsible for the costs of collecting and submitting the evidence needed to satisfy the requirements specified in 20 U.S.C. § 6311 (b)(2)(H) and 34 CFR 200.3. If the U.S. Department of Education determines that an alignment study is needed, the department shall ensure that a holistic alignment approach is used to evaluate the degree of alignment between the assessment and the state academic standards and the study shall include at least three test forms."

The bill was then ordered to third reading.

S. B. 664, Authorizing certain members of federal judiciary perform marriages; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 667, Creating WV Motorsport Committee; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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 S. B. 1, Increasing access to career education and workforce training,

Com. Sub. for S. B. 187, Authorizing Department of Revenue to promulgate legislative rules,

Com. Sub. for S. B. 285, Relating to sale of homemade food items,

Com. Sub. for S. B. 537, Creating workgroup to review hospice need standards,

Com. Sub. for S. B. 546, Relating to health care provider taxes,

S. B. 587, Relating to PEIA reimbursement of air ambulance providers,

S. B. 617, Relating to method of payment to Municipal Pensions Security Fund,

Com. Sub. for S. B. 653, Relating generally to practice of medical corporations,

And,

S. B. 675, Requiring DEP create and implement Adopt-A-Stream Program.

Miscellaneous Business

Delegate R. Thompson announced that he was absent on today when the vote was taken on Roll No. 416, and that had he been present, he would have voted "Yea" thereon.

Delegate Linville announced that he was absent on today when the vote was taken on Roll No. 427, and that had he been present, he would have voted "Yea" thereon.

Delegate Boggs announced that he was absent on today when the votes were taken on Roll Nos. 426 and 427, and that had he been present, he would have voted "Yea" thereon.

At 3:56 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 5, 2019.

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

SPECIAL CALENDAR

Tuesday, March 5, 2019

56th Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 100 - Increasing court fees to fund law-enforcement standards training and expenses (FINANCE COMMITTEE TITLE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 101 - Equalizing penalties for intimidating and retaliating against certain public officers and other persons (SHOTT) (REGULAR)
- Com. Sub. for S. B. 154 - Using school facilities for funeral and memorial services for certain community members (HAMRICK) (REGULAR)
- Com. Sub. for S. B. 163 - Authorizing DEP promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 175 - Authorizing DHHR promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 190 - DOH rule relating to employment procedures (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 223 - Authorizing Department of Commerce promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 237 - Improving ability of law enforcement to locate and return missing persons (SHOTT) (REGULAR)
- Com. Sub. for S. B. 316 - Preserving previously approved state Municipal Policemen's or Firemen's pensions (FINANCE COMMITTEE TITLE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 330 - Requiring contact information be listed on agency's online directory and website (HOWELL) (REGULAR)
- Com. Sub. for S. B. 344 - Relating to operation of state-owned farms (HOWELL) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 360 - Relating to third-party litigation financing (SHOTT) (REGULAR)

- Com. Sub. for S. B. 373 - Relating to financial responsibility of inmates (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 481 - Relating to Judicial Vacancy Advisory Commission (SHOTT) (REGULAR)
- Com. Sub. for S. B. 491 - Extending effective date for voter registration in conjunction with driver licensing (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 519 - Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation (HOUSEHOLDER) (REGULAR)
- S. B. 531 - Relating generally to workers' compensation claims (SHOTT) (REGULAR)
- Com. Sub. for S. B. 624 - Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act (HAMRICK) (JULY 1, 2019)
- S. B. 664 - Authorizing certain members of federal judiciary perform marriages (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 667 - Creating WV Motorsport Committee (HOWELL) (REGULAR)

SECOND READING

- Com. Sub. for S. B. 1 - Increasing access to career education and workforce training (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 187 - Authorizing Department of Revenue to promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 285 - Relating to sale of homemade food items (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (REGULAR)
- Com. Sub. for S. B. 537 - Creating workgroup to review hospice need standards (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING) (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 546 - Relating to health care provider taxes (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING) (ELLINGTON) (JULY 1, 2019)
- S. B. 587 - Relating to PEIA reimbursement of air ambulance providers (HOUSEHOLDER) (REGULAR)

- S. B. 617 - Relating to method of payment to Municipal Pensions Security Fund (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 653 - Relating generally to practice of medical corporations (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING) (ELLINGTON) (REGULAR)
- S. B. 675 - Requiring DEP create and implement Adopt-A-Stream Program (SHOTT) (EFFECTIVE FROM PASSAGE)

FIRST READING

- Com. Sub. for S. B. 4 - Relating generally to Municipal Home Rule Program (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- Com. Sub. for S. B. 90 - Transferring Safety and Treatment Program from DHHR to DMV (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (REGULAR)
- Com. Sub. for S. B. 199 - Authorizing certain miscellaneous agencies and boards promulgate legislative rules (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 233 - Relating to age requirements for deputy sheriff (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- Com. Sub. for S. B. 238 - Increasing certain penalties for passing stopped school bus (SHOTT) (REGULAR)
- Com. Sub. for S. B. 241 - Permitting county court clerks scan certain documents in electronic form (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- Com. Sub. for S. B. 317 - Authorizing three or more adjacent counties form multicounty trail network authority (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- Com. Sub. for S. B. 318 - Transferring Medicaid Fraud Control Unit to Attorney General's office (HOUSEHOLDER) (OCTOBER 1, 2019)
- Com. Sub. for S. B. 357 - Relating generally to Division of Administrative Services (HOWELL) (REGULAR)

- Com. Sub. for S. B. 392 - Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work (HOWELL) (REGULAR)
- Com. Sub. for S. B. 400 - Allowing Board of Dentistry create specialty licenses (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- Com. Sub. for S. B. 402 - Authorizing Division of Forestry investigate and enforce timber theft violations (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- Com. Sub. for S. B. 404 - Relating generally to sediment control during commercial timber harvesting operations (SHOTT) (REGULAR)
- Com. Sub. for S. B. 405 - Increasing limit on additional expenses incurred in preparing notice list for redemption (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- S. B. 421 - Relating to annual legislative review of economic development tax credit (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 485 - Clarifying notification requirements for property insurance purposes (SHOTT) (REGULAR)
- S. B. 493 - Correcting terminology referring to racing vehicles illegally on street (SHOTT) (REGULAR)
- Com. Sub. for S. B. 496 - Transferring authority to regulate milk from DHHR to Department of Agriculture (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 511 - Creating alternating wine proprietorships (HOWELL) (REGULAR)
- S. B. 566 - Relating to compensation for State Athletic Commission members (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- S. B. 596 - Adjusting voluntary contribution amounts on certain DMV forms (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 597 - Conforming state law to federal law for registration of appraisal management companies (HOWELL) (REGULAR)

- Com. Sub. for S. B. 600 - Relating to preservation of biological evidence obtained through criminal investigations and trials (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 605 - Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries (HAMRICK) (REGULAR)
- S. B. 625 - Clarifying and defining authority of State Athletic Commission (HOWELL) (REGULAR)
- S. B. 633 - Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses (GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING) (HOWELL) (REGULAR)
- S. B. 655 - Relating to conservation districts generally (HOWELL) (REGULAR)
- Com. Sub. for S. B. 657 - Providing consumer protection regarding self-propelled farm equipment (SHOTT) (REGULAR)
- S. B. 658 - Relating to motor vehicle salesperson licenses (HOWELL) (EFFECTIVE FROM PASSAGE)
- S. B. 672 - Authorizing School Building Authority to promulgate legislative rules (HAMRICK) (EFFECTIVE FROM PASSAGE)
- S. B. 673 - Relating to public higher education accountability and planning (HAMRICK) (REGULAR)
- S. B. 676 - Relating to off-road vehicle recreation (HOWELL) (EFFECTIVE FROM PASSAGE)

HOUSE CALENDAR

Tuesday, March 5, 2019

56th Day

11:00 A. M.

THIRD READING

- H. B. 2729 - Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2931 - Clarifying that the State Lottery Commission has no authority over nonlottery games (SHOTT) (REGULAR)
- Com. Sub. for H. B. 3105 - Permitting the Alcohol Beverage Control Administration to request the assistance of law enforcement (HOWELL) (REGULAR)
- H. B. 3136 - Relating to the Centers for Medicare and Medicaid Services (HOUSEHOLDER) (REGULAR)
- H. B. 3137 - Relating to the personal income tax fund (HOUSEHOLDER) (REGULAR)

SECOND READING

- Com. Sub. for S. B. 529 - Clarifying provisions of Nonintoxicating Beer Act (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2008 - Relating to nonpartisan election of justices of the Supreme Court of Appeals (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2433 - Modifying the school calendar to begin not earlier than Labor Day and end prior to Memorial Day (HAMRICK) (REGULAR)
- Com. Sub. for H. B. 2441 - Removing certain requirements related to wages for construction of public improvements (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2597 - Creating a hunting permit to safely accommodate visually impaired hunters (SHOTT) (REGULAR)
- H. B. 2692 - Relating to primary elections and procedures (HOWELL) (REGULAR)
- H. B. 2732 - Defend the Guard Act (MCGEEHAN) (REGULAR)

- H. B. 2819 - Relating generally to contractors (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- H. B. 2953 - Permitting a critical access hospital to become a community outpatient medical center (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2976 - Economic Diversification Act of 2019 (CRISS) (REGULAR)
- Com. Sub. for H. B. 2980 - Mine Trespass Act (SHOTT) (REGULAR)
- Com. Sub. for H. B. 3100 - Clarifying certain provisions of the Nonintoxicating Beer Act (HOWELL) (REGULAR)
- Com. Sub. for H. B. 3103 - Authorizing operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises (HOWELL) (REGULAR)
- Com. Sub. for H. B. 3116 - Removing current limitations on sales of nonintoxicating beer and nonintoxicating craft beer growlers (HOWELL) (REGULAR)
- H. B. 3147 - Requiring the Board of Insurance and Risk Management purchase life insurance products from state resident agents (HOWELL) (REGULAR)

FIRST READING

- Com. Sub. for H. B. 2179 - Allowing nonmembers of a political party to request that party's partisan ballot at a primary election (SHOTT) (REGULAR)

WEST VIRGINIA HOUSE OF DELEGATES

TUESDAY, MARCH 5, 2019

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 418M**

**COMMITTEE ON FINANCE
9:00 A.M. – ROOM 460M**

**COMMITTEE ON RULES
10:45 A.M. – BEHIND CHAMBER**

**COMMITTEE ON ENERGY
2:00 P.M. – ROOM 418M**

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