

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
FIFTY-FIFTH DAY

Charleston, West Virginia, Monday, March 4, 2019

The Senate met at 11:07 a.m.

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

Prayer was offered by Pastor Jeff Davenport, First Baptist Church of Hurricane, Hurricane, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Eric J. Tarr, a senator from the fourth district.

Pending the reading of the Journal of Saturday, March 2, 2019,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 310, Establishing certain requirements for dental insurance.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Com. Sub. for Senate Bill 310—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to dental insurance plans; defining terms; prohibiting insurers from requiring dentists to provide a discount on noncovered services; prohibiting dentists from charging covered persons more for noncovered services than his or her customary or usual rate for the services; providing that

insurers may not provide for a nominal reimbursement for a service in order to claim that the service or material is covered; and providing an effective date.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 310, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 310) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 310) takes effect July 1, 2019.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 408, Determining indigency for public defender services.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section sixteen, lines twenty-eight through thirty, by striking out the following: In circuits in which a public defender office is in operation, all determinations of indigency shall be made by a public defender office employee designated by the executive director.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 408, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 408) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 641, Relating to Primary Care Support Program.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section two, after line nineteen, by inserting the following:

Additionally, the Secretary may use certain portions of funds within this account for activities in support of rural and primary care.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 641, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) takes effect from passage.

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

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

Eng. Com. Sub. for House Bill 2020—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 4th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 2036), Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park.

And,

(H. B. 2821), Updating provisions for command, clerical and other pay.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 48, Requesting study of eliminating use of minimum wage for people with intellectual, developmental or other disabilities.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

With amendments from the Committee on the Judiciary pending;

Now on second reading, having been referred to the Committee on Rules on February 20, 2019;

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

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 2420, Establishing the Mountaineer Trail Network Recreation Authority.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Economic Development.

At the request of Senator Takubo, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2420) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

Eng. House Bill 2515, Exempting the sale and installation of mobility enhancing equipment from the sales and use tax.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2515) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2617, Relating to the form for making offer of optional uninsured and underinsured coverage by insurers.

And has amended same.

And,

Eng. House Bill 2647, Self Storage Limited License Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 2617 and Eng. H. B. 2647) contained in the preceding report from the Committee

on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senators Baldwin, Mann, Hamilton, Lindsay, Hardesty, and Swope offered the following resolution:

Senate Resolution 67—Recognizing the West Virginia School of Osteopathic Medicine for excellence in medical education and its many contributions to the state of West Virginia.

Whereas, The West Virginia School of Osteopathic Medicine’s main campus is located in Lewisburg, West Virginia, and its statewide campus offices are located throughout the Mountain State; and

Whereas, The mission of the West Virginia School of Osteopathic Medicine is to educate students from diverse backgrounds as life-long learners in osteopathic medicine and complementary health-related programs; to support and develop graduate medical education training; to advance scientific knowledge through academic, clinical, and basic science research; and to promote patient-centered, evidence-based medicine; and

Whereas, The West Virginia School of Osteopathic Medicine is dedicated to serving, first and foremost, the state of West Virginia and the health care needs of its residents, emphasizing primary care in rural areas; and

Whereas, The West Virginia School of Osteopathic Medicine is a leader in producing graduates who practice in rural settings, has a nationally recognized faculty, and has developed innovative programs using funding from the Rural Health Initiative, such as the Green Coat Program; and

Whereas, U. S. News & World Report has ranked the West Virginia School of Osteopathic Medicine among the top medical schools in the nation in primary care, rural, and family medicine for the past 20 years, solidifying the school’s reputation as a place where scientific study and compassion are joined in one curriculum; and

Whereas, The West Virginia School of Osteopathic Medicine is known nationwide for its efforts in rural, family, and primary care medicine and has earned many accolades to support its efforts, including: First among all medical schools in the United States graduating physicians who practice in rural areas (Academic Medicine, 2010 Study); and fourth in the nation for percentage of medical school graduates entering primary care residency specialties (U. S. News & World Report, 2019); and

Whereas, Third- and fourth-year students from the West Virginia School of Osteopathic Medicine completed 1,434 rural clinical rotations in West Virginia this past academic year; and

Whereas, The West Virginia School of Osteopathic Medicine has been recognized by the Chronicle of Higher Education for seven consecutive years as a “great college to work for”, and has also been included on the Honor Roll, a distinction awarded to institutions that are cited most often across all recognition categories; and

Whereas, Graduates of the West Virginia School of Osteopathic Medicine practice medicine in 48 of West Virginia's 55 counties and in all 50 states and the District of Columbia, making a significant contribution to the health care needs of the citizens of West Virginia and the nation; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the West Virginia School of Osteopathic Medicine for excellence in medical education and its many contributions to the state of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia School of Osteopathic Medicine.

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

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Baldwin and Takubo regarding the adoption of Senate Resolution 67 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:31 a.m., the Senate recessed to present Senate Resolution 67.

The Senate reconvened at 11:35 a.m. and, at the request of Senator Boso, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the eighth order of business.

Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in regular order, with the right having been granted on Saturday, March 2, 2019, for amendments to be received on third reading, was reported by the Clerk.

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

Eng. Com. Sub. for House Bill 2183, Clarifying where a charge of DUI may be brought against an individual.

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, and Romano—9.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2183) passed.

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

Eng. Com. Sub. for House Bill 2183—A Bill to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, relating to driving a vehicle under the influence of alcohol, controlled substances, drugs, or a combination thereof; and clarifying that certain misdemeanor offenses of driving under the influence do not encompass or include operating a vehicle solely and exclusively on one's own property.

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

Eng. Com. Sub. for House Bill 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2531) passed with its title.

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

Eng. Com. Sub. for House Bill 2609, Relating to presumptions of abandonment and indication of ownership in property.

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

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as a director of a community bank and this bill could have some effect upon banking operations.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2609) passed with its title.

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

Eng. Com. Sub. for House Bill 2907, Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2907) passed.

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

Eng. Com. Sub. for House Bill 2907—A Bill to amend and reenact §62-7-10 of the Code of West Virginia, 1931, as amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §62-7-10a, all relating to commitment order forms; providing forms for state correctional facility and jail commitments; requiring use of statutory forms after July 1, 2019; requiring magistrate court and circuit court clerks immediately provide judicially entered orders to the Division of Corrections and Rehabilitation; requiring that orders sent to prisons must be signed by the circuit judge with jurisdiction over the matter; requiring that orders sent to jails must be signed by the circuit court judge or magistrate with jurisdiction over the matter; acknowledging that the costs of incarceration in jail pending transfer to a state correctional facility shall be paid by the Commissioner from the calendar date following the date of the conviction forward as of July 1, 2019; clarifying the method of transmittal of commitment orders; and establishing an internal effective date.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2907) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2975, Relating to imposition of sexual acts on persons incarcerated.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2975) passed.

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

Eng. Com. Sub. for House Bill 2975—A Bill to amend and reenact §61-8B-2 and §61-8B-10 of the Code of West Virginia, 1931, as amended, all relating generally to protecting persons incarcerated or under corrections or court supervision from sexual exploitation by persons supervising them; clarifying that persons participating in community corrections programs lack consent to engage in sexual conduct with persons supervising them in such programs; clarifying that volunteers supervising incarcerated persons or persons under corrections or court supervision are prohibited from engaging in sexual acts with incarcerated persons, supervisees, or participants; updating agency and code references; and establishing criminal penalties.

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

Eng. House Bill 3083, Adding temporary work during the legislative session as exclusion to the term employment for purposes of unemployment compensation.

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

Pending discussion,

The question being “Shall Engrossed House Bill 3083 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo,

Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Facemire, Lindsay, and Romano—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3083) passed with its title.

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

Eng. House Bill 3148, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Baldwin and Lindsay—2.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3148) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Baldwin and Lindsay—2.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3148) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

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

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

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

ARTICLE 1. SUPERVISION.

§11-1-9. Holders of short-term permits and licenses to sell; rulemaking.

(a) Notwithstanding any provision of this chapter to the contrary, holders of short-term permits or licenses to sell specific items, e.g., fireworks, beer, food, or wine at festivals, may not be required to submit any information to the Tax Commissioner after the term of the permit or license has expired: *Provided*, That the permit or license holder has filed with the Tax Commissioner all necessary information specific to the time period the permit or license was authorized and remitted to the Tax Commissioner and the permit or license holder as remitted all taxes and fees that are due under this code. This section does not prevent the Tax Commissioner from auditing the books and records of the license or permit holder for compliance with the provisions of this code.

(b) The Tax Commissioner shall propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to implement this section.

The bill (Eng. H. B. 2311), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

Having been read a second time on Saturday, March 2, 2019, and now coming up in regular order with the Judiciary committee amendment to the bill (*as shown in the Senate Journal of that day, pages 16 to 19, inclusive*) pending, was reported by the Clerk.

The question being on the adoption of the Judiciary committee amendment to the bill.

On motions of Senators Stollings and Trump, the following amendment to the Judiciary committee amendment to the bill was reported by the Clerk:

On page three, section one, subsection (c), subdivision (3), after the word "physician" by inserting a comma and the words "physician's assistant, or advanced practice registered nurse".

Following discussion,

The question being on the adoption of the amendment offered by Senators Stollings and Trump to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2362), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

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

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On pages two through four, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

§11-27-3. Definitions.

(a) *General.* — When used in this article, words defined in subsection (b) of this section have the meaning ascribed to them in this section, except in those instances where a different meaning is distinctly expressed or the context in which the word is used clearly indicates that a different meaning is intended.

(b) *Definitions.* —

“Business” includes all health care activities engaged in, or caused to be engaged in, with the object of gain or economic benefit, direct or indirect, and whether engaged in for profit, or not for profit, or by a governmental entity. ~~Provided that~~ “Business” does not include services rendered by an employee within the scope of his or her contract of employment. Employee services, services by a partner on behalf of his or her partnership, and services by a member of any other business entity on behalf of that entity, are the business of the employer, or partnership, or other business entity, as the case may be, and reportable as such for purposes of the taxes imposed by this article.

“Broad-based health care related tax” means a broad-based health care related tax as defined in Section 1903 of the Social Security Act, including a health-care related tax for which a waiver from the broad-based or uniformity requirements has been granted and is in effect by the federal Centers for Medicare and Medicaid Services pursuant to the provisions of Section 1903 of the Social Security Act and implementing regulations.

“Corporation” includes associations, joint-stock companies and insurance companies. It also includes governmental entities when and to the extent such governmental entities engaged in activities taxable under this article.

“Department” means the West Virginia Department of Health and Human Resources.

“Includes” and “including” when used in a definition contained in this article shall not be deemed to exclude other things otherwise within the meaning of the term being defined.

“Partner” includes a member in a “partnership”, as defined in this section.

“Partnership” includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any privilege taxable under this article is exercised, and which is not within the meaning of this article a trust or estate or corporation. It includes a limited liability company when such company is treated as a partnership for federal income tax purposes.

“Person” means any individual, partnership, association, company, corporation or other entity engaging in a privilege taxed under this article.

“Secretary” means the Secretary of West Virginia Department of Health and Human Resources.

“Social Security Act” means the Social Security Act of the United States, as amended by ~~Public Law 102-234~~ Public Law 109-171, and codified in Title 42, Section 1396b of the United States Code.

“Tax” means any tax imposed by this article and, for purposes of administration and collection of such tax, includes any interest, additions to tax or penalties imposed with respect thereto under article 10 of this chapter.

“Taxable year” means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the tax imposed by this article is computed. In the case of a return made under this article, or regulations of the Tax Commissioner, for a fractional part of a year, the term “taxable year” means the period for which such return is made.

“Taxpayer” means any person subject to any tax imposed by this article.

“This code” means the Code of West Virginia, 1931, as amended.

“This state” means the State of West Virginia.;

And,

On pages four and five, section ten-a, lines five through twelve, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) *Rate and measure of tax.* — The tax imposed by this section shall be based on the following rates applied to each taxable health plan’s total Medicaid member months within tiers I, II and III, and to non-Medicaid member months within tiers IV and V:

- (1) Tier I — \$17.00 for each Medicaid member month under 250,000;
- (2) Tier II — \$15.00 for each Medicaid member month between 250,000 and 500,000;
- (3) Tier III — \$7.00 for each Medicaid member month greater than 500,000;
- (4) Tier IV — \$0.25 for each non-Medicaid member month under 150,000; and
- (5) Tier V — \$0.10 for each non-Medicaid member month of 150,000 or more.

The bill (Eng. Com. Sub. for H. B. 2405), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2439, Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies.

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

Eng. House Bill 2509, Clarifying that theft of a controlled substance is a felony.

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

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

Having been read a second time on Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section four, line one, by striking out the word “may” and inserting in lieu thereof the words “or designee shall”;

And,

On page three, section six, after line nineteen, by adding a new subsection, designated subsection (c), to read as follows:

(c) The Board of Pharmacy regulates a pharmacist who dispenses a tobacco cessation noncontrolled prescription medication, over-the-counter medication, or other professional service.

The bill (Eng. H. B. 2525), as amended, was then ordered to third reading.

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

Having been read a second time on Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

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

Eng. Com. Sub. for House Bill 2538, Providing banking services for medical cannabis.

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

Eng. Com. Sub. for House Bill 2600, Relating to publication of sample ballots.

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

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

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

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

(a) The board of ballot commissioners in counties using ballots upon which votes may be recorded by means of marking with electronically sensible ink or pencil and which marks are tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the electronic voting system for use in elections.

(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to §3-5-13 and §3-5-13a of this code.

(2) For the general election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to §3-6-2 of this code.

(3) Effective with the primary election held in 2016 and thereafter, the following nonpartisan elections are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under this chapter:

(A) Nonpartisan elections for judicial offices, by division, of:

(i) Justice of the Supreme Court of Appeals;

(ii) Judge of the circuit court;

(iii) Family court judge; and

(iv) Magistrate;

(B) Nonpartisan elections for board of education; and

(C) Any question to be voted upon.

(4) Beginning in the primary election to be held in the year 2020 and in each election thereafter, the nonpartisan judicial elections described in subparagraphs (i) through (iv), paragraph (A), subdivision (3), of this subsection shall appear immediately after the state ticket and shall immediately precede the county ticket, in the same manner prescribed in §3-5-13a of this code.

~~(4)~~ (5) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

~~(5)~~ (6) The arrangement of candidates within each office is to be determined in the same manner as for other electronic voting systems, as prescribed in this chapter. On the general election ballot for all offices, and on the primary election ballot only for those offices to be filled by election, except delegate to national convention, lines for entering write-in votes are to be provided below the names of candidates for each office, and the number of lines provided for any office shall equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be opposite a position to mark the vote.

(c) Except for electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in the color of ink specified by the Secretary of State for the various political parties, and the general election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the general election ballot are to be printed in black ink. All ballots are to be printed, where applicable, on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as provided in §3-5-13 of this code, or are to be displayed on the screens of the electronic voting system upon which votes are recorded by means of a stylus or touch. The number of ballots printed and the packaging of ballots for the precincts are to conform to the requirements for paper ballots provided in this chapter.

(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

§3-4A-15. Instructions and help to voters; vote-recording device models; facsimile diagrams; sample ballots; legal ballot advertisements.

(a) For the instruction of the voters on any election day in counties utilizing an electronic voting system that uses a screen upon which votes may be recorded by means of a stylus or by means of touch, the ballot commissioners shall provide for each polling place a sample ballot with each screen as it will appear on the devices, together with written instructions regarding the operation of the devices. Upon request, the election officers shall offer instruction to each voter, before voting, in the operation of the vote-recording device.

(b) The ballot commissioners shall also provide facsimile ballots, at least two of which, or complete sets of which, are to be posted on the walls of each polling place. The facsimile diagrams are exact diagrams of the ballots or screens so that the voter may become familiar with the location of the parties, offices, candidates, and questions as they appear on the ballot to be used in his or her precinct.

(c) The ballot commissioners may, with the consent of the county commission, or the county commission may, prepare and mail to each qualified voter at the address shown on the registration books a facsimile sample of the ballot or screens for his or her precinct.

(d) In counties where an electronic voting system has been adopted, the legal ballot advertisements required by §3-5-1 *et seq.* and §3-6-1 *et seq.*, which specify the publication of a facsimile sample ballot, are to consist of a facsimile of the absentee ballot, or a facsimile of each of the electronic voting system screens or screens with the names of the candidates and the offices for which they are running shown in their proper positions: *Provided, That when the sample ballots for the precincts within the county contain different senatorial, delegate, magisterial, or executive committee districts or when the sample ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided between more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.*

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-10. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official primary ballot for each party and, as the case may be, for the nonpartisan candidates to be voted for at the primary election, according to the provisions of this article ~~§3-4-1 et seq.~~, and §3-4A-1 *et seq.* of this code, as appropriate to the voting system. If any ballot issue is to be voted on in the primary election, the ballot commissioners shall likewise prepare a sample official ballot for that issue according to the provisions of law authorizing the election.

(b) The facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish each sample official primary election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish the sample official primary election ballot as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages and shall be printed in a size no less than 65 percent of the actual size of the ballot, at the discretion of the ballot commissioners: Provided, That in counties where an electronic voting system has been adopted, the facsimile sample ballot may be a photographic reproduction of the absentee ballot: Provided, however, That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the Secretary of State, an official list of offices and candidates for each office which will appear on the primary election ballot for each party and, as the case may be, for the nonpartisan candidates to be voted for at the primary election. All information which appears on the ballot, including instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as his or her residence and magisterial district or presidential preference, shall be included in the list in the same order in which it appears on the ballot. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the official list of candidates and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(3) The publication of the official list of candidates for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows: (A) The words "official list of candidates", the name of the county, the words "primary election", the date of the election, the name of the political party or the designation of nonpartisan candidates shall be printed in all capital letters and in bold type no smaller than fourteen point. The designation of the national, state, district or other tickets shall be printed in all capital letters in type no smaller than 14 point; (B) the title of the office shall be printed in bold type no smaller than 12 point and any voting instructions or other language printed below the title shall be printed in bold type no smaller than 10 point; and (C) the names of the candidates shall be printed in all capital letters in bold type no smaller than 10 point and the residence information shall be printed in type no smaller than 10 point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than 14 point. The text of the ballot issue shall appear in no smaller than eight point type. The ballot commissioners may require the publication of the ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, beginning with the primary election to be held in the year 2000, the ballot commissioners of any county may choose to publish a facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues instead of the official list of offices and candidates for each office for purposes of the last publication required before any primary election.

§3-5-13. Form and contents of ballots.

The following provisions apply to the form and contents of election ballots:

(1) The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

(2) The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words "Primary Election" and the month, day and year of the election. The ballot title of the political party ballots is to contain the words "Official Ballot of the (Name) Party" and the official symbol of the political party may be included in the heading.

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officers shall commence with the words "Nonpartisan Ballot of Election of Judicial Officers" and each such office shall be listed in the following order:

(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all justices of the Supreme Court of Appeals shall contain the words "Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia". The names of the candidates for the Supreme Court of Appeals shall be printed by division without references to political party affiliation or registration.

(ii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Circuit Court Judge(s)". The names of the candidates for the respective circuit court judge office shall be printed by division without references to political party affiliation or registration.

(iii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Family Court Judge(s)". The names of the candidates for the respective family court judge office shall be printed by division without references to political party affiliation or registration.

(iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Magistrate(s)". The names of the candidates for the respective magistrate office shall be printed by division without references to political party affiliation or registration.

(B) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Board of Education is to contain the words "Nonpartisan Ballot of Election of Members of the _____ County Board of Education". The districts for which ~~less~~ fewer than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed without reference to political party affiliation and without designation as to a particular term of office.

(C) Any other ballot or portion of a ballot on a question is to have a heading which clearly states the purpose of the election according to the statutory requirements for that question.

(3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the ballot by heavy lines and the offices shall be arranged in columns with the following headings, from left to right across the ballot: "National Ticket", "State Ticket", "Nonpartisan Judicial Ballot", "County Ticket", "Nonpartisan Ballot" and, ~~in a presidential election year, "National Convention"~~ or, in a nonpresidential election year, "District Ticket" or, in a presidential election year, "National Convention". The columns are to be separated by heavy lines. Within the columns, the offices are to be arranged in the order prescribed in §3-5-13a of this code.

(B) For voting machines, electronic voting devices and any ballot tabulated by electronic means, the offices are to appear in the same sequence as prescribed in §3-5-13a of this code and under the same headings as prescribed in paragraph (A) of this subdivision. The number of pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and composition requirements subject to approval by the Secretary of State.

(C) The title of each office is to be separated from preceding offices or candidates by a line and is to be printed in bold type no smaller than eight point. Below the office is to be printed the number of the district, if any, the number of the division, if any, and the words "Vote for _____" with the number to be nominated or elected or "Vote For Not More Than _____" in multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words "Vote for One" printed below the name of the office: *Provided*, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

(D) The location for indicating the voter's choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot is to contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are to be printed in lower case letters beneath the names of the candidates.

(C) The arrangement of names within each office must be determined as prescribed in §3-5-13a of this code.

(D) If the number of candidates for an office exceeds the space available on a column or ballot page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages are to be nearly equal and clear instructions given the voter that the candidates for the office are continued on the following column or page.

(5) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office or for the voters to elect sufficient members to the Board of Education or to executive committees, the vacant positions on the ballot shall be filled with the words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to be made directly on the ballot, a blank line shall be placed in any vacant position in the office of Board of Education or for election to any party executive committee. A line shall separate each candidate from every other candidate for the same office. Notwithstanding any other provision of

this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed description, approved by the Secretary of State, indicating that there are no candidates listed for the vacant positions.

(6) In presidential election years, the words "For election in accordance with the plan adopted by the party and filed with the Secretary of State" is to be printed following the names of all candidates for delegate to national convention.

(7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.

(8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with unique sequential numbers from one to the highest number representing the total number of ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

(9) On the back of every official ballot or ballot card the words "Official Ballot" with the name of the county and the date of the election are to be printed. Beneath the date of the election there are to be two blank lines followed by the words "Poll Clerks".

(10) The face of sample paper ballots and sample ballot labels are to be like other official ballots or ballot labels except that the word "sample" is to be prominently printed across the front of the ballot in a manner that ensures the names of candidates are not obscured and the word "sample" may be printed in red ink. No printing may be placed on the back of the sample.

§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.

(a) The order of offices for state and county elections on all ballots within the state shall be as prescribed herein. When the office does not appear on the ballot in an election, then it shall be omitted from the sequence. When an unexpired term for an office appears on the ballot along with a full term, the unexpired term shall appear immediately below the full term.

NATIONAL TICKET: President (and Vice President in the general election), United States Senator, member of the United States House of Representatives.

STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, Attorney General, State Senator, member of the House of Delegates, any other multicounty office, state executive committee.

NONPARTISAN JUDICIAL BALLOT: Justice of the Supreme Court of Appeals, judge of the circuit court, family judge, magistrate.

COUNTY TICKET: Clerk of the circuit court, county commissioner, clerk of the county commission, prosecuting attorney, sheriff, assessor, surveyor, congressional district executive

committee, senatorial district executive committee in multicounty districts, delegate district executive committee in multicounty districts.

NONPARTISAN BALLOT: Nonpartisan elections for board of education, conservation district supervisor, any question to be voted upon.

~~NATIONAL CONVENTION: Delegate to the national convention — at-large, Delegate to the national convention — congressional district.~~

DISTRICT TICKET: County executive committee.

NATIONAL CONVENTION: Delegate to the national convention — congressional district, delegate to the national convention — at-large.

(b) Except for office divisions in which no more than one person has filed a certificate of announcement, the arrangement of names for all offices shall be determined by lot according to the following provisions:

(1) On the fourth Tuesday following the close of the candidate filing, beginning at 9:00 a.m., a drawing by lot shall be conducted in the office of the clerk of the county commission in each county. Notice of the drawing shall be given on the form for the certificate of announcement and no further notice shall be required. The clerk of the county commission shall superintend and conduct the drawing and the method of conducting the drawing shall be prescribed by the Secretary of State.

(2) Except as provided herein, the position of each candidate within each office division shall be determined by the position drawn for that candidate individually: *Provided*, That if fewer candidates file for an office division than the total number to be nominated or elected, the vacant positions shall appear following the names of all candidates for the office.

(3) Candidates for delegate to national convention who have filed a commitment to a candidate for president shall be listed alphabetically within the group of candidates committed to the same candidate for president and uncommitted candidates shall be listed alphabetically in an uncommitted category. The position of each group of committed candidates and uncommitted candidates shall be determined by lot by drawing the names of the presidential candidates and for an uncommitted category.

(4) A candidate or the candidate's representative may attend the drawings.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-3. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official general election ballot for all political party or nominees with no party affiliation unless those persons have actually been nominated by an independent party, nonpartisan candidates for election, if any, and all ballot issues to be voted for at the general election, according to the provisions of §3-4A-1 *et seq.* of this code, and for any ballot issue, according to the provisions of law authorizing the election.

(b) The facsimile sample general election ballot shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than 26 nor less than 20 days preceding the general election, the ballot commissioners shall publish the sample official general election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish the sample official general election ballot as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages and shall be printed in a size no less than 65 percent of the actual size of the ballot, at the discretion of the ballot commissioners: Provided, That in counties where an electronic voting system has been adopted, the facsimile sample ballot may be a photographic reproduction of the absentee ballot: *Provided, however,* That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the Secretary of State, an official list of offices and nominees for each office which will appear on the general election ballot for each political party or as nominees with no party affiliation unless those persons have actually been nominated by an independent party and, as the case may be, for the nonpartisan candidates to be voted for at the general election:

(1) All information which appears on the ballot, including instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as his or her residence and magisterial district or presidential preference. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(2) The order of the offices and candidates for each office and the manner of designating the parties shall be as follows:

(A) The offices shall be listed in the same order in which they appear on the ballot;

(B) The candidates within each office for which one is to be elected shall be listed in the order they appear on the ballot, from left to right or from top to bottom, as the case may be, and the candidate's political party affiliation or independent status shall be indicated by the one- or two-letter initial specifying the affiliation, placed in parenthesis to the right of the candidate's name; and

(C) The candidates within each office for which more than one is to be elected shall be arranged by political party groups in the order they appear on the ballot and the candidate's affiliation shall be indicated as provided in paragraph (B) of this subdivision.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the official list of nominees and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily paper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(3) The publication of the official list of nominees for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows:

(A) The words "official list of nominees and issues", the name of the county, the words "General Election" and the date of the election shall be printed in all capital letters and in bold type no smaller than 14 point; and

(B) The names of the candidates and the initial within parenthesis designating the candidate's affiliation shall be printed in all capital letters in bold type no smaller than 10 point and the residence information shall be printed in type no smaller than 10 point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than 12 point. The text of the ballot issue shall appear in no smaller than eight point type. The ballot commissioners may require the publication of the ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, the ballot commissioners of any county may choose to publish a facsimile sample general election ballot, instead of the official list of candidates and issues, for purposes of the last publication required before any general election.

The bill (Eng. Com. Sub. for H. B. 2600), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2734, Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

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

Eng. House Bill 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

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

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

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

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12. Powers and duties of State Fire Marshal.

(a) *Enforcement of laws.* — The State Fire Marshal and any other person authorized to enforce the provisions of this article under the supervision and direction of the State Fire Marshal ~~has the authority to~~ may enforce all laws of the state having to do with:

(1) Prevention of fire;

(2) The storage, sale, and use of any explosive, combustible, or other dangerous article or articles in solid, flammable liquid, or gas form;

(3) The installation and maintenance of equipment of all sorts intended to extinguish, detect, and control fires;

(4) The means and adequacy of exit, in case of fire, from buildings and all other places in which persons work, live, or congregate, from time to time, for any purpose, except buildings used wholly as dwelling houses for no more than two families;

(5) The suppression of arson; and

(6) Any other thing necessary to carry into effect the provisions of this article including, but not limited to, confiscating any materials, chemicals, items, or personal property owned, possessed, or used in direct violation of the State Fire Code.

(b) *Assistance upon request.* — Upon request, the State Fire Marshal shall assist any chief of any recognized fire company or department. Upon the request of any federal law-enforcement officer, state police officer, Natural Resources police officer, or any county or municipal law-enforcement officer, the State Fire Marshal, any deputy state fire marshal, or assistant state fire marshal employed pursuant to §29-3-11 of this code and any person deputized pursuant to subsection (j) of this section may assist in the lawful execution of the requesting officer's official duties: *Provided*, That the State Fire Marshal, or other person authorized to act under this subsection, shall at all times work under the direct supervision of the requesting officer.

(c) *Enforcement of rules.* — The State Fire Marshal shall enforce the rules promulgated by the State Fire Commission as authorized by this article.

(d) *Inspections generally.* — The State Fire Marshal shall inspect all structures and facilities, other than one- and two-family dwelling houses, subject to the State Fire Code and this article, including, but not limited to, state, county, and municipally owned institutions, all public and private schools, health care facilities, theaters, churches, and other places of public assembly to determine whether the structures or facilities are in compliance with the State Fire Code.

(e) *Right of entry.* — The State Fire Marshal may, at all reasonable hours, enter any building or premises, other than dwelling houses, for the purpose of making an inspection which he or she may consider necessary under the provisions of this article. The State Fire Marshal and any deputy state fire marshal or assistant state fire marshal approved by the State Fire Marshal may enter upon any property, or enter any building, structure or premises, including dwelling houses during construction and prior to occupancy, for the purpose of ascertaining compliance with the conditions set forth in any permit or license issued by the office of the State Fire Marshal pursuant to §29-3-12b(A)(1) ~~of this code~~ or §29-3B-1 *et seq.* of this code.

(f) *Investigations.* — The State Fire Marshal may, at any time, investigate as to the origin or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the state. The State Fire Marshal has the authority at all times of the day or night, in performance of the duties imposed by the provisions of this article, to investigate where any fires or explosions or attempt to cause fires or explosions may have occurred, or which at the time may be burning. Notwithstanding the above provisions of this subsection, prior to entering any building or premises for the purposes of the investigation, the State Fire Marshal shall obtain a proper search warrant: *Provided*, That a search warrant is not necessary where there is permissive waiver or the State Fire Marshal is an invitee of the individual having legal custody and control of the property, building or premises to be searched.

(g) *Testimony.* — The State Fire Marshal, in making an inspection or investigation when in his or her judgment the proceedings are necessary, may take the statements or testimony under oath of all persons who may be cognizant of any facts or have any knowledge about the matter to be examined and inquired into and may have the statements or testimony reduced to writing; and shall transmit a copy of the statements or testimony so taken to the prosecuting attorney for the county wherein the fire or explosion or attempt to cause a fire or explosion occurred. Notwithstanding the above, no person may be compelled to testify or give any statement under this subsection.

(h) *Arrests; warrants.* — The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal pursuant to §29-3-11 of this code is hereby authorized and empowered and any person deputized pursuant to §29-3-11 of this code may be authorized and empowered by the State Fire Marshal:

(1) To arrest any person anywhere within the confines of the State of West Virginia, or have him or her arrested, for any violation of the arson-related offenses of §61-3-1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of said code: *Provided*, That any and all persons so arrested shall be forthwith brought before the magistrate or circuit court; *Provided, however, that the State Fire Marshal, any full-time deputy fire marshal or any full-time assistant fire marshal is authorized to arrest persons for violations of §61-5-17 of this code.*

(2) To make complaint in writing before any court or officer having jurisdiction and obtain, serve, and execute an arrest warrant when knowing or having reason to believe that anyone has committed an offense under any provision of this article, of the arson-related offenses of §61-3-1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of this code. Proper return shall be made on all arrest warrants before the tribunal having jurisdiction over the violation.

(3) To make complaint in writing before any court or officer having jurisdiction and obtain, serve, and execute a warrant for the search of any premises that may possess evidence or unlawful contraband relating to violations of this article, of the arson-related offenses of §61-3-1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of said code. Proper

return shall be made on all search warrants before the tribunal having jurisdiction over the violation.

(4) Any member of the West Virginia State Police, Natural Resources Police Officer, or any county or municipal law-enforcement officer may assist, upon request, the State Fire Marshal or any of his or her employees authorized to enforce the provisions of this section in any duties for which the State Fire Marshal has jurisdiction.

(i) *Witnesses and oaths.* — The State Fire Marshal ~~is empowered and authorized to~~ may issue subpoenas and subpoenas duces tecum to compel the attendance of persons before him or her to testify in relation to any matter which is, by the provision of this article, a subject of inquiry and investigation by the State Fire Marshal and cause to be produced before him or her such papers as he or she may require in making the examination. The State Fire Marshal ~~is hereby authorized to~~ may administer oaths and affirmations to persons appearing as witnesses before him or her. False swearing in any matter or proceeding ~~aforesaid~~ is considered perjury and is punishable as perjury.

(j) *Deputizing members of fire departments in this state.* — The State Fire Marshal may deputize a member of any fire department, duly organized and operating in this state, who is approved by the chief of his or her department and who is properly qualified to act as his or her assistant for the purpose of making inspections with the consent of the property owner or the person in control of the property and the investigations as may be directed by the State Fire Marshal, and the carrying out of orders as may be prescribed by him or her, to enforce and make effective the provisions of this article and any and all rules promulgated by the State Fire Commission under authority of this article: *Provided*, That in the case of a volunteer fire department, only the chief thereof or his or her single designated assistant may be so deputized.

(k) *Written report of examinations.* — The State Fire Marshal shall, at the request of the county commission of any county or the municipal authorities of any incorporated municipality in this state, make to them a written report of the examination made by him or her regarding any fire happening within their respective jurisdictions.

(l) *Report of losses by insurance companies.* — ~~It is the duty of each~~ Each fire insurance company or association doing business in this state, within 10 days after the adjustment of any loss sustained by it that exceeds \$1,500, ~~to~~ shall report to the State Fire Marshal information regarding the amount of insurance, the value of the property insured, and the amount of claim as adjusted. This report is in addition to any information required by the State Insurance Commissioner. Upon the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall report in writing to the owner or insurer the result of the examination regarding the property.

(m) *Issuance of permits and licenses.* — The State Fire Marshal ~~is authorized to~~ may issue permits, documents, and licenses in accordance with the provisions of this article or §29-3B-1 *et seq.* of this code: *Provided*, That unless otherwise provided, the State Fire Marshall shall take final action upon any completed permit applications within 30 days of receipt if the application is uncontested, or within 90 days if the application is contested. The State Fire Marshal may require any person who applies for a permit to use explosives, other than an applicant for a license to be a pyrotechnic operator under ~~§29-3-24~~ §29-3E-6 of this code, to be fingerprinted and to authorize the State Fire Marshal to conduct a criminal records check through the criminal identification bureau of the West Virginia State Police and a national criminal history check through the Federal

Bureau of Investigation. The results of any criminal records or criminal history check shall be sent to the State Fire Marshal.

(n) *Issuance of citations for fire and life safety violations.* — The State Fire Marshal, any deputy fire marshal, and any assistant fire marshal employed pursuant to §29-3-11 of this code ~~are hereby authorized~~, and any person deputized pursuant to subsection (j) of this section may be authorized by the State Fire Marshal to issue citations, in his or her jurisdiction, for fire and life safety violations of the State Fire Code and as provided for by the rules promulgated by the State Fire Commission in accordance with §29-3-1 *et seq.* of this code: *Provided*, That a summary report of all citations issued pursuant to this section by persons deputized under subsection (j) of this section shall be forwarded monthly to the State Fire Marshal in the form and containing information as he or she may by rule require, including the violation for which the citation was issued, the date of issuance, the name of the person issuing the citation, and the person to whom the citation was issued. The State Fire Marshal may at any time revoke the authorization of a person deputized pursuant to subsection (j) of this section to issue citations, if in the opinion of the State Fire Marshal, the exercise of authority by the person is inappropriate.

Violations for which citations may be issued include, but are not limited to:

- (1) Overcrowding places of public assembly;
- (2) Locked or blocked exits in public areas;
- (3) Failure to abate a fire hazard;
- (4) Blocking of fire lanes or fire department connections; and
- (5) Tampering with, or rendering inoperable except during necessary maintenance or repairs, on-premise firefighting equipment, fire detection equipment, and fire alarm systems.

(o) *Required training; liability coverage.* — No person deputized pursuant to subsection (j) of this section may be authorized to issue a citation unless that person has satisfactorily completed a law-enforcement officer training course designed specifically for fire marshals. The course shall be approved by the Law-enforcement Training Subcommittee of the Governor's Committee on Criminal Justice and Highway Safety and the State Fire Commission. In addition, no person deputized pursuant to subsection (j) of this section may be authorized to issue a citation until evidence of liability coverage of the person has been provided, in the case of a paid municipal fire department, by the municipality wherein the fire department is located, or in the case of a volunteer fire department, by the county commission of the county wherein the fire department is located or by the municipality served by the volunteer fire department and that evidence of liability coverage has been filed with the State Fire Marshal.

(p) *Statewide contracts.* — The State Fire Marshal may cooperate with the Department of Administration, Purchasing Division, to establish one or more statewide contracts for equipment and supplies utilized by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

- (1) Any statewide contract established hereunder shall be made available to any fire company and department in this state, as well as any other state agency or political subdivision that has a need for the equipment or supplies included in those contracts.

(2) The State Fire Marshal may develop uniform standards for equipment and supplies used by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

(3) The State Fire Commission shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this subsection.

(q) *Penalties for violations.* — Any person who violates any fire and life safety rule of the State Fire Code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail not more than 90 days, or both fined and confined. ~~Each and every~~ Every day during which any violation of the provisions of this article continues after knowledge or official notice that ~~same~~ it is illegal is a separate offense.

(r) The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal pursuant to §29-3-11 of this code may carry a firearm while acting in the course of his or her official duties, if he or she has successfully completed a firearms training and certification program equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy. The person shall thereafter successfully complete an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule. The State Fire Marshal may reimburse the person for the cost of the training and requalification.

The bill (Eng. H. B. 2872), as amended, was then ordered to third reading.

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

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

The following amendments to the bill, from the Committee on Government Organization, were reported by the Clerk and considered simultaneously:

On page one, section seven-a, line three, by striking out the words “should be so” and inserting in lieu thereof the words “shall be”;

And,

On page one, section seven-a, line six, by striking out the word “that” and inserting in lieu thereof the words “the five-year”.

Following discussion,

The question being on the adoption of the Government Organization committee amendments to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2958), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3021, Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

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

Eng. House Bill 3045, Exempting certain complimentary hotel rooms from hotel occupancy tax.

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

Eng. House Bill 3095, Establishing a minimum monthly retirement annuity for certain retirants.

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

The Senate proceeded to the tenth order of business.

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Blair.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the consideration of

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

Having been read a second time, amended, and advanced to third reading in earlier proceedings today,

The following amendment to the bill, from the Committee on Government Organization, was next reported by the Clerk:

On page one, section seven-a, line ten, after the word "company" by changing the period to a colon and inserting the following proviso: *Provided, however*, That the State Auditor shall implement internal policies to ensure that any costs associated with an audit under this section of the code may be carried by the State Auditor or may be recouped by the volunteer fire company.

Following discussion,

The question being on the adoption of the Government Organization committee amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2958), as just amended, was again ordered to third reading.

The Senate again proceeded to the twelfth order of business.

Remarks were made by Senators Smith and Takubo.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Takubo, at 12:26 p.m., the Senate recessed until 5:30 p.m. today.

The Senate reconvened at 5:46 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2001, Relating to exempting social security benefits from personal income tax.

And has amended same.

Eng. House Bill 3135, Expiring funds to the balance of the Department of Commerce, Development Office.

And has amended same.

And,

Eng. Com. Sub. for House Bill 3144, North Central Appalachian Coal Severance Tax Rebate Act.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2452, Creating the West Virginia Cybersecurity Office.

Eng. Com. Sub. for House Bill 2579, Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

And,

Eng. House Bill 2667, Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. House Bill 2480, Relating to the regulation of an internationally active insurance group.

And has amended same.

And,

Eng. House Bill 2954, Defining certain terms used in insurance.

And has amended same.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2550, Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

With amendments from the Committee on Economic Development pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2019;

And reports the same back with the recommendation that it do pass as amended by the Committee on Economic Development to which the bill was first referred.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2703, Relating to refunds of excise taxes collected from dealers of petroleum products.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. Com. Sub. for House Bill 2807, Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

And has amended same.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2807) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Banking and Insurance pending.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. House Bill 2968, Adding remote service unit to the definition of customer bank communications terminals.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2968) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Finance has had under consideration

Eng. House Bill 2992, Relating to governmental websites.

With an amendment from the Committee on Government Organization pending;

And has also amended the same.

And reports the same back with the recommendation that it do pass as amended by the Committee on Government Organization to which the bill was first referred; and as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,
Chair.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 5:52 p.m., the Senate adjourned until tomorrow, Tuesday, March 5, 2019, at 11 a.m.

SENATE CALENDAR

**Tuesday, March 05, 2019
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 48 - Requesting study of eliminating use of minimum wage for people with intellectual, developmental or other disabilities

THIRD READING

Com. Sub. for S. B. 150 - Budget Bill - (With right to amend)

Eng. H. B. 2311 - Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired

Eng. Com. Sub. for H. B. 2362 - Ardala Miller Memorial Act - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2405 - Imposing a healthcare related provider tax on certain health care organizations

Eng. Com. Sub. for H. B. 2439 - Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies

Eng. H. B. 2509 - Clarifying that theft of a controlled substance is a felony - (Com. title amend. pending)

Eng. H. B. 2525 - Tobacco Cessation Therapy Access Act

Eng. Com. Sub. for H. B. 2538 - Providing banking services for medical cannabis

Eng. Com. Sub. for H. B. 2600 - Relating to publication of sample ballots - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2734 - Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities

Eng. H. B. 2872 - Authorizing law-enforcement officers to assist the State Fire Marshal - (Com. title amend. pending)

Eng. H. B. 2958 - Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies

Eng. Com. Sub. for H. B. 3021 - Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees

Eng. H. B. 3045 - Exempting certain complimentary hotel rooms from hotel occupancy tax

Eng. H. B. 3095 - Establishing a minimum monthly retirement annuity for certain retirants

SECOND READING

Eng. H. B. 2009 - Creating a new category of Innovation in Education grant program - (Com. amends. pending)

- Eng. Com. Sub. for H. B. 2020 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution
- Eng. Com. Sub. for H. B. 2083 - Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2420 - Establishing the Mountaineer Trail Network Recreation Authority - (Com. amend. and title amend. pending)
- Eng. H. B. 2515 - Exempting the sale and installation of mobility enhancing equipment from the sales and use tax
- Eng. H. B. 2530 - Creating a voluntary certification for recovery residences - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2550 - Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program - (Com. amends. pending) (original similar to SB602)
- Eng. Com. Sub. for H. B. 2617 - Relating to the form for making offer of optional uninsured and underinsured coverage by insurers - (Com. amend. and title amend. pending)
- Eng. H. B. 2647 - Self Storage Limited License Act - (Com. amend. and title amend. pending)

FIRST READING

- Eng. Com. Sub. for H. B. 2001 - Relating to exempting social security benefits from personal income tax - (Com. amends. and title amend. pending)
- Eng. Com. Sub. for H. B. 2452 - Creating the West Virginia Cybersecurity Office
- Eng. H. B. 2480 - Relating to the regulation of an internationally active insurance group - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2579 - Relating to the collection of tax and the priority of distribution of an estate or property in receivership (original similar to SB406)
- Eng. H. B. 2667 - Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections
- Eng. Com. Sub. for H. B. 2703 - Relating to refunds of excise taxes collected from dealers of petroleum products - (Com. amend. pending)
- Eng. H. B. 2954 - Defining certain terms used in insurance - (Com. amend. and title amend. pending) (original similar to SB591)
- Eng. H. B. 2992 - Relating to governmental websites - (Com. amend. pending)
- Eng. H. B. 3135 - Expiring funds to the balance of the Department of Commerce, Development Office - (Com. amend. and title amend. pending)
- Eng. H. B. 3144 - North Central Appalachian Coal Severance Tax Rebate Act - (Com. amend. and title amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2019

Tuesday, March 5, 2019

9 a.m.	Natural Resources	(Room 208W)
9:30 a.m.	Agriculture & Rural Development	(Room 208W)
10 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Military	(Room 208W)
1 p.m.	Health & Human Resources	(Room 451M)
2 p.m.	Education	(Room 451M)