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SIXTEENTH DAY

Thursday, February 25, 2021

SIXTEENTH DAY

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

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Wednesday, February 24, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Rowan, Chair of the Committee on Senior, Children, and Family Issues, submitted the following report, which was received:

Your Committee on Senior, Children, and Family Issues has had under consideration:

H. B. 2671, Relating to financial exploitation of elderly persons, protected persons or incapacitated adults,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2671) was referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2628, Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2628 - "A Bill to amend and reenact §29-22A-9 of the Code of West Virginia, 1931, as amended, relating to removing the prohibition on having automated teller machines in the area where racetrack video lottery machines are located; prohibiting use of a check from a player for exchange or purchase of video lottery game credits or advance; and, making technical corrections,"

With the recommendation that the committee substitute do pass.

Delegate Statler, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

H. B. 2621, Mandating certification for certain members of fire departments, require certain types of training, allow specialized personnel who are not firefighters to be members of a department, and require the postings of fire department evaluations,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2621) was referred to the Committee on Government Organization.

Delegate Statler, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

H. B. 2575, Increasing the age limit to 40 for people to test for career fire departments,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2575) was referred to the Committee on Finance.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. B. 2222, Prohibiting vehicles from driving slow in the left lane,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2222) was referred to the Committee on the Judiciary.

Delegate Westfall, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 2634, Requiring insurance providers to provide coverage for certain treatment,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2634) was referred to the Committee on Health and Human Resources.

Delegate Westfall, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 2681, Authorizing the Insurance Commissioner to transfer moneys from the Insurance Commission Fund into the Workers' Compensation Old Fund to reduce any deficit balance of the Old Fund,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2681) was referred to the Committee on Finance.

Delegate Westfall, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 2682, Relating to the issuance of license suspensions to insurance producers and insurance adjusters who have failed to meet continuing education requirements,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2682) was referred to the Committee on the Judiciary.

Delegate Westfall, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 2695, Consolidate the statutory positions of Director of the Insurance Fraud Unit and Inspector General of the former Workers' Compensation Commission Fraud and Abuse Unit,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2695) was referred to the Committee on Government Organization.

Delegate Martin, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2256, Providing that a municipal services user fee may not be imposed on employees of the state,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2256) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2160, Issuing identification documents to homeless individuals residing at homeless shelters,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2160) was referred to the Committee on Finance.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on February 24, 2021, he approved **Com. Sub. for H. B. 2358** and **H. B. 2359**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 67 - "A Bill to amend and reenact §16-4C-5 of the Code of West Virginia, 1931, as amended, relating to the authority of the Emergency Medical Services Advisory Council in reviewing rules proposed by the Commissioner of the Bureau for Public Health under the Emergency Medical Services Act"; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 79 - "A Bill to amend and reenact §48-9-403 of the Code of West Virginia, 1931, as amended, all relating to providing a fair mechanism for the adjudication of requests for relocation of a parent with a child"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 89 - "A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to exempting from licensure requirements certain education programs operated by private schools with accredited preschool classes and certain recognition by Department of Education"; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 182 - "A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee, and as amended by the Legislature; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia Seed Law; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to inspection of meat and poultry; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to a seed certification program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia-exempted dairy farms and milk and milk products processing rules; authorizing the Auditor to promulgate a legislative rule relating to standards for requisitions for payment issued by state officers on the Auditor; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to funeral director, embalmer, apprentice, courtesy card holders and funeral establishment requirements; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to crematory requirements; authorizing the Funeral Service Examiners to promulgate a legislative rule relating to a fee schedule; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to governing the West Virginia Board of Hearing Aid Dealers; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to registration of landscape architects; authorizing the Board of Landscape Architects to promulgate a legislative rule relating to application for waiver of initial licensing fees for certain individuals; authorizing the Livestock Care Standards Board to promulgate a legislative rule relating to livestock care standards; authorizing the Board of Medicine to promulgate a legislative rule relating to registration to practice during declared state of emergency; authorizing the Board of Occupational Therapy to promulgate a legislative rule relating to telehealth practice requirements, and definitions; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to emergency temporary permits to practice during states of emergency or state of preparedness; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for continuing education for licensure of pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure of wholesale drug distributors, third-party logistics providers, and manufacturers; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Controlled Substances Monitoring Program; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy Rules for immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for physical therapist and physical therapist's assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist's assistants; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to general provisions for athletic trainers; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for athletic trainers; authorizing the Board of Professional Surveyors to promulgate a legislative rule relating to examination and licensing of professional surveyors in West Virginia; authorizing the Real Estate Commission to promulgate a legislative rule relating to licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business; authorizing the Board of Respiratory Care to promulgate a legislative rule relating to criteria for licensure; authorizing the Secretary of State to promulgate a legislative rule

relating to loan and grants programs under the Help America Vote Act (HAVA) for the purchase of voting equipment, election systems, software, services, and upgrades; authorizing the Secretary of State to promulgate a legislative rule relating to guidelines and standards for electronic notarizations; and authorizing the Board of Senior Services to promulgate a legislative rule relating to a shared table initiative for senior citizens”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 270 - “A Bill to amend and reenact §7-18-3 and §7-18-4 of the Code of West Virginia, 1931, as amended, all relating to taxation of hotel rooms booked through a marketplace facilitator; defining “marketplace facilitator”; providing for collection and remittance of the hotel occupancy tax imposed by any municipality or county by certain marketplace facilitators; making marketplace facilitators satisfying certain economic nexus requirements responsible for collection and remittance of the tax imposed by any county or municipality; requiring the marketplace facilitator to separately state the tax on all bills, invoices, accounts, books of account, and records relating to consideration paid for the occupancy or use of a hotel room; deeming all taxes collected be held in trust by the marketplace facilitator until remitted; and permitting marketplace facilitators and hotels or hotel operators to enter into agreements regarding fulfillment of the requirements of the chapter”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 272 - “A Bill to amend and reenact §21-5-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §21-5I-1, §21-5I-2, §21-5I-3, §21-5I-4, §21-5I-5, and §21-5I-6; to amend and reenact §21A-1A-16 of said code; and to amend and reenact §23-2-1a of said code, all relating generally to creating the West Virginia Employment Law Worker Classification Act; creating a short title; making certain findings; defining terms; superseding certain existing statutory provisions relating to distinguishing independent contractors from employees; applying classification provisions to workers’ compensation, unemployment compensation, wage payment and collection, and Human Rights Act matters; establishing classification criteria; setting forth limitations to applicability of the act; and providing for severability.”

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 272) to a committee was dispensed with, and it was taken up for immediate consideration and read a first time.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 275 - “A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-2D-16a; to amend said code by adding thereto a new section, designated §23-1-1h; to amend and reenact §23-5-1, §23-5-3, §23-5-5, §23-5-6, §23-5-8, §23-5-9, §23-5-10, §23-5-11, §23-5-12, §23-5-13, §23-5-15, and §23-5-16 of said code; to amend said code by adding thereto twelve new sections, designated §23-5-1a, §23-5-3a, §23-5-5a, §23-5-6a, §23-5-8a, §23-5-8b, §23-5-9a, §23-5-10a, §23-5-11a, §23-5-12a, §23-5-13a, and §23-5-16a; to amend and reenact §29A-5-4 of said code; to amend and

reenact §29A-6-1 of said code; to amend said code by adding thereto a new section, designated §51-2A-24; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12, and §51-11-13; and to amend and reenact §58-5-1 of said code, all relating generally to creating an Intermediate Court of Appeals; defining terms; providing that the Judicial Vacancy Advisory Commission assist initial and subsequent vacancies on the Intermediate Court of Appeals; clarifying meaning of quorum for Judicial Vacancy Advisory Commission; transferring jurisdiction over appeals of decisions of the Health Care Authority in certificate-of-need reviews from the Workers' Compensation Office of Administrative Law Judges and Circuit Court of Kanawha County to the Intermediate Court of Appeals; establishing procedures and time frames for transfer or disposition of unresolved appeals pending with the Office of Judges; transferring jurisdiction over all workers' compensation claims and transferring all powers and duties related thereto from the Office of Judges to the Workers' Compensation Board of Review by a date certain; providing for additional two members to Workers' Compensation Board of Review; providing for modified procedure to appoint members to Workers' Compensation Board of Review; conferring appellate jurisdiction over Office of Judges decisions and Board of Review decisions to the Intermediate Court of Appeals after a date certain; sunsetting certain provisions relating to duties and procedures of the Office of Judges with respect to workers' compensation claims; modifying duties and procedures of Board of Review with respect to workers' compensation claims; terminating the Office of Judges by a date certain; authorizing the Board of Review to employ hearing examiners and other necessary personnel; establishing qualifications for hearing examiners hired by the Board of Review; setting forth powers of the Board of Review relating to workers' compensation claims; providing for reports requested by the Insurance Commissioner to be made by the chair of the Board of Review; providing for oversight and administrative authority of the Insurance Commissioner over the Board of Review; authorizing the Board of Review to promulgate procedural rules; granting due consideration and an interview to employees of the Office of Judges who apply for positions with the Board of Review on or before a date certain and directing the Board of Review that such consideration and interview prior to considering any other applicant; authorizing the Board of Review to hire attorneys as hearing examiners; requiring that all orders and decisions of the Board of Review pertaining to an objection be issued and signed by a single member of the Board of Review, with certain exceptions; permitting the board of review member assigned to an objection to delegate certain duties to a hearing examiner; establishing the administrative powers and duties of the Board of Review; increasing the limit on the annual salary of a Board of Review member; authorizing the board of review to promulgate rules of practice and procedure, and establishing a process therefor; establishing duties of the chair of the Board of Review; providing that the administrative expenses of the Board of Review shall be included in annual budget of the Insurance Commissioner; providing that petitions for review of final decisions of the Workers' Compensation Board of Review must be made to the Intermediate Court of Appeals; establishing certain procedures and other requirements for appeals of Board of Review decisions made to the Intermediate Court of Appeals; providing that the Supreme Court of Appeals has discretion to review final decisions of the Intermediate Court of Appeals in workers' compensation claims; requiring that appeal of contested cases under the State Administrative Procedures Act be made to the Intermediate Court of Appeals; transferring jurisdiction to review family court final orders from circuit courts to the Intermediate Court of Appeals; creating an Intermediate Court of Appeals in West Virginia to be established and operable by a date certain; providing a short title; providing legislative findings; defining terms; establishing and defining two districts of the Intermediate Court of Appeals; requiring each district of the Intermediate Court of Appeals to conduct proceedings as a three-judge panel; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; providing for the location of proceedings of the Intermediate Court of Appeals; excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing that parties to an appeal in the Intermediate Court of Appeals shall have an opportunity for a full and meaningful review on the record of the lower tribunal and an opportunity to be heard; establishing a procedure by which parties to an appeal in the Intermediate Court of Appeals may file

a motion for direct review of an appeal by the Supreme Court of Appeals in certain extraordinary circumstances; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing a process for initial appointment of judges to the Intermediate Court of Appeals to fill vacancies in the Intermediate Court of Appeals upon its creation; providing for an initial election of judges to the Intermediate Court of Appeals for staggered terms; providing for the regular election of a judge to each district of the Intermediate Court of Appeals upon the expiration of a sitting judge's term; establishing a procedures for the filling of vacancies in unexpired judicial terms by appointment and in certain circumstances, subsequent election; providing that the Governor's judicial appointments must be made from a list of candidates submitted by the Judicial Vacancy Advisory Commission and are subject to advice and consent of the Senate; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected public office during the judicial term; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; authorizing filing fees; providing for deposit of filing fees in a special revenue account to fund the State Police Forensic Laboratory; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals and related filings be filed with the Clerk of the Supreme Court of Appeals; providing that Intermediate Court of Appeals proceedings shall take place in publicly available facilities as arranged by the Administrative Director of the Supreme Court of Appeals; granting the Intermediate Court of Appeals discretion to require oral argument; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for lower courts; providing that the Intermediate Court of Appeals shall issue written decisions as a matter of right; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; providing internal effective dates; removing obsolete language from the code; and making technical corrections to the code"; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 296 - "A Bill to amend and reenact §64-12-1, §64-12-2, §64-12-3, and §64-12-4 of the Code of West Virginia, 1931, as amended, all relating generally to repealing certain legislative, procedural, and interpretative rules promulgated by certain agencies, boards, and commissions which are no longer authorized or are obsolete; authorizing certain agencies under the Department of Administration, Department of Health and Human Resources, Department of Revenue, and Department of Commerce to repeal certain legislative, procedural, and interpretative rules; repealing the Board of Risk and Insurance Management legislative rule relating to discontinuation of professional malpractice insurance; repealing the Department of Health and Human Resources legislative rule relating to DUI safety and treatment; repealing the Department of Health and Human Resources legislative rule relating to incorporation of the social services manual; repealing the Department of Health and Human Resources legislative rule relating to operating rules and regulations for the West Virginia Commission on Children and Youth; repealing the Department of Health and Human Resources legislative rule relating to state child fatality review team and county multidisciplinary review teams; repealing the Insurance Commissioner legislative rule relating to emergency medical services; repealing the Insurance Commissioner legislative rule relating to

diabetes regulations; repealing the Racing Commission procedural rule relating to dispute resolution procedures; repealing the State Tax Department interpretative rule relating to tax shelter voluntary compliance program; repealing the State Tax Department interpretative rule relating to preference for determining successful bids; repealing the State Tax Department procedural rule relating to tobacco products excise tax on floorstocks; repealing the State Tax Department legislative rule relating to West Virginia Film Industry Investment Act; repealing the State Tax Department legislative rule relating to residential solar energy tax credit; repealing the State Tax Department legislative rule relating to Business Franchise Tax; repealing the Division of Labor legislative rule relating to hazardous chemical substances; and repealing the Division of Labor legislative rule relating to Commercial Bungee Jumping Safety Act"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 372 - "A Bill to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating to the practice of medicine and surgery or podiatry; establishing criteria for graduate clinical training residency programs when accreditation is not available for the fellowship's field; and providing for other consideration for graduate clinical training based upon the approval of accredited residency programs in the same field"; which was referred to the Committee on Health and Human Resources.

Resolutions Introduced

Delegates Westfall, Wamsley, Keaton, Pinson and Higginbotham offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 11 - "Requesting the Division of Highways name bridge number: 18-331/00-003.99 (18A126), (38.86741, -81.81838) locally known as COTTAGEVILLE ARCH (SCDA), carrying WV 331 over MILL CREEK in Jackson county the 'Thomas Brothers Memorial Bridge'."

Whereas, Mr. and Mrs. AH Thomas lived in Mt. Alto, West Virginia. The Thomas's had 3 sons: Marion, born on May 24, 1927, James, born on September 27, 1931, and Alvin, born on November 19, 1933.

Whereas, Following the start of the Korean War, the three brothers enlisted in the United States Army and served. By 1950, all three brothers were enlisted at ages 23, 19, and 17, respectively. Marion Thomas, who had served 31 months in the Navy during World War II, began serving in the Army at Fort Sill, Oklahoma. Marion was subsequently deployed to Korea and served on the front lines. James served with the Army Air Force and was stationed at Kelly Field in Texas prior to being deployed to Korea. The youngest brother, Alvin, was stationed at Fort Knox, Kentucky; and

Whereas, The three brothers were believed to be the first family in the county in the Korean War which had three brothers in uniform; and

Whereas, The Thomas brothers returned from service after the war; and

Whereas, Marion Thomas died on January 22, 1985, James Thomas died on November 24, 2012, and Alvin died on November 18, 2017; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Thomas Brothers and their contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number: 18-331/00-003.99 (18A126), (38.86741, -81.81838) locally known as COTTAGEVILLE ARCH (SCDA), carrying WV 331 over MILL CREEK in Jackson county, the "Thomas Brothers Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Thomas Brothers Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegate Capito:

H. B. 2760 - "A Bill to amend and reenact §11-13Q-9, §11-13Q-10, §11-13Q-10a and §11-13Q-22 of the Code of West Virginia, 1931, as amended, all relating to economic development incentive tax credits; specifying economic opportunity tax credit new jobs percentage of 10 percent corresponding to the creation of 10 new jobs; terminating §11-13Q-10 to prevent conflict with the 10 new jobs language added to the economic opportunity tax credit; specifying changes to §11-13Q-22, to resolve technical conflict with other sections; eliminating superannuated reference to business franchise tax; eliminating superannuated reporting requirement; specifying manufacturing activities that qualify for high technology manufacturing tax credit; providing definitions; proscribing multiple tax credits for the same qualified investment; making stylistic changes pursuant to current drafting conventions; specifying effective dates"; to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

By Delegates Zukoff and Fluharty:

H. B. 2761 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §17-4-56 and §22-1-18, all related to authorizing the Division of Highways to assess local impacts to roadways for activities permitted by the Department of Environmental Protection; authorizing the Commissioner of the Division of Highways to promulgate legislative rules relating to the types of activities permitted by the Department of Environmental Protection that require a road use review by the Commissioner as a condition of the Department of Environmental Protection's permit; authorizing the Commissioner to promulgate a form to be completed by certain permit applicants to assess road impacts by construction and operation of permitted activities; providing legislative findings; providing for right of administrative review of roadway conditions directives prior to enforcement as a condition of environmental permit; and providing for actions by the agencies to effectuate these provisions"; to the Committee on Technology and Infrastructure then Energy and Manufacturing.

By Delegates Steele, Reynolds, J. Pack, Foster, Kessinger, Householder, Hardy, D. Kelly, Barnhart, Martin and D. Jeffries:

H. B. 2762 - "A Bill to amend and reenact §55-7B-2 of the Code of West Virginia, 1931, relating to medical professional liability, providing for an exemption to actions arising under the chapter for injuries arising from the practice of elective abortion or elective abortion related services except for any care or treatment provided by a health care provider to correct any harm or injury received due

to an elective abortion or elective abortion related service”; to the Committee on Health and Human Resources then the Judiciary.

By Delegate Linville:

H. B. 2763 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5A-6C-1, §5A-6C-2, §5A-6C-3, and §5A-6C-4, all relating to ‘West Virginia Cyber Incident Reporting;’ providing for definitions; applying the scope to all state agencies within the executive branch, Constitutional officers, all local government entities, county boards of education, the judicial branch, and the legislative branch; providing criteria for reporting incidents; and providing for an annual report”; to the Committee on Technology and Infrastructure then Government Organization.

By Delegate Capito:

H. B. 2764 - “A Bill to amend and reenact §31A-8G-3 of the Code of West Virginia, 1931, as amended, relating to allowing the Division of Financial Institutions enter into agreements with state, federal or foreign regulatory agencies to allow persons who make an innovative financial product or service available in West Virginia, under the program available under the West Virginia FinTech Regulatory Sandbox Act, to make their products or services available in other jurisdictions and to allow persons operating in similar regulatory sandboxes in other jurisdictions to make innovative financial products and services available in West Virginia under the standards provided in the West Virginia FinTech Regulatory Sandbox Act”; to the Committee on the Judiciary.

By Delegate Capito:

H. B. 2765 - “A Bill to amend and reenact §17C-15-26 of the Code of West Virginia, 1931, as amended, relating to allowing emergency management and operations’ vehicles operated by airports to use red flashing warning lights”; to the Committee on the Judiciary.

By Delegate Mandt:

H. B. 2766 - “A Bill to amend and reenact §60A-4-416 of the Code of West Virginia, 1931, as amended, relating to creating a felony crime of delivery of a controlled substance or a counterfeit controlled substance with reckless disregard for the health, safety, and welfare of others, for an illicit purpose, and the use, ingestion, consumption, or exposure thereof causes death”; to the Committee on the Judiciary.

By Delegates Walker and Fleischauer:

H. B. 2767 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-33-1, §29-33-2, §29-33-3, §29-33-4, §29-33-5, §29-33-6, §29-33-7, §29-33-8, §29-33-9, §29-33-10, §29-33-11, §29-33-12, and §29-33-13, all relating to creating a law-enforcement transparency board; providing structure, and selection process for members; providing definitions; providing that the Attorney General serve as administrative head of the board and describing powers and duties; required meetings, reports, and board powers, duties, and authority; how board funded and staff trained; receiving complaints and investigation process; requiring law-enforcement agencies to cooperate with the board; disposition of cases; requiring board to provide findings of investigations to appropriate oversight authorities; and disciplinary oversight”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Hanshaw (Mr. Speaker) and Skaff

[By Request of the Executive]:

H. B. 2768 - “A Bill supplementing, amending and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2021, organization 0803, for the fiscal year ending June 30, 2021”; to the Committee on Finance.

By Delegates Hanshaw (Mr. Speaker) and Skaff**[By Request of the Executive]:**

H. B. 2769 - "A Bill supplementing, amending, and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles, fund 9007, fiscal year 2021, organization 0802, for the fiscal year ending June 30, 2021"; to the Committee on Finance.

By Delegate Barrett:

H. B. 2770 - "A Bill to amend and reenact §30-29-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-11a of said code, all relating to including home confinement officers in definition of law-enforcement officers; and authorizing home confinement officers to carry a concealed firearm in certain facilities limited to other law-enforcement officers"; to the Committee on the Judiciary.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that H. B. 2590 and Com. Sub. for H. B. 2620, on First reading, Special Calendar, had been transferred to the House Calendar; and H. J. R. 2, on First reading, House Calendar, had been transferred to the Special Calendar.

Special Calendar**Third Reading**

Com. Sub. for H. B. 2372, Allow pre-candidacy papers to be filed the day after the general election; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 54**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2372) passed.

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

Second Reading

Com. Sub. for S. B. 11, Declaring work stoppage or strike by public employees to be unlawful; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Ellington, the bill was amended on page three, section forty-five-a, line fifty-one, following the word "Notwithstanding", by striking out the reference to §18-5-2, and inserting in lieu thereof "§18A-5-2".

Delegates Rowe, Hornbuckle, Young and Boggs moved to amend the bill on page four, section forty-five-a, lines fifty-eight through sixty-one, by striking out subsection (e) in its entirety.

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

The yeas and nays having been ordered, they were taken (**Roll No. 55**), and there were—yeas 75, nays 24, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bridges, Bruce, Burkhammer, Clark, Cooper, Fast, Forsht, Foster, Gearheart, Graves, Hanna, Hardy, Horst, J. Kelly, Kimes, Longanacre, Maynard, Mazzocchi, Miller, Queen, Smith, Steele, Wamsley and Zatezalo.

Absent and Not Voting: Riley.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 12, Relating to local health department accountability; on second reading, coming up in regular order, was read a second time.

On motion of Delegate J. Pack, the bill was amended on page four, section six, by removing §16-2-6 from the bill in its entirety.

On page five, section seven, by removing §16-2-7 from the bill in its entirety.

On page five, section eight, by removing §16-2-8 from the bill in its entirety.

On page six, section nine, line five, by removing “A member of the appointing authority shall serve as a nonvoting, ex officio member and this member shall not be counted against any criteria for board appointment set forth in this section.”

On page seven, line twelve, by striking out the words “gross immorality”.

On page seven, line sixteen, by removing the words “gross immorality”.

On page ten, line sixty-six, by striking out subdivision (3) and inserting a new subdivision (3) to read as follows:

“(3) (A) Adopt and promulgate and from time to time amend rules consistent with state public health laws and the rules of the West Virginia State Department of Health and Human Resources, that are necessary and proper for the protection of the general health of the service area and the prevention of the introduction, propagation, and spread of disease;

(B) The commissioner shall establish a procedure by which adverse determinations by local health departments may be appealed, unless otherwise provided for, for the purpose of ensuring a consistent interpretation of state public health laws and rules of the Department of Health and Human Resources.

(C) When rules are adopted, promulgated, or amended, the local board of health shall place notice in the State Register and on their organization’s web page, setting forth a notice of proposed action, including the text of the new rule or the amendment and the date, time, and place for receipt of public comment.

(D) All rules shall be approved, disapproved or amended and approved by the county commission or appointing entity within 30 days of approval from the local board of health.

(E) All rules of a combined local board of health shall be approved, disapproved or amended and approved by each appointing entity within 30 days of approval from the combined local board of health. If one appointing entity approves and another other does not approve a rule from a combined local board health department, the rule is only in effect in the jurisdiction of the appointing entity which approved the rule.

(F) An approved rule shall be filed with the clerk of the county commission or the clerk or the recorder of the municipality or both and shall be kept by the clerk or recording officer in a separate book as public records.

(G) A rule currently in effect is not subject to approval, unless amended, from the county commission or appointing authority.

(H) If there is an imminent public health emergency, approval of the county commission or appointing authority is not necessary before the rule goes into effect but shall be approved or disapproved by the county commission or appointing authority within 30 days after the rules are effective;”.

On page thirteen, line one hundred thirty-seven, by removing the words “the Governor may direct”.

And,

On page thirteen, line one hundred thirty-eight, by removing the word “to” and inserting the word “may”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 14, Providing for additional options for alternative certification for teachers; on second reading, coming up in regular order, was read a second time and ordered to third reading.

H. B. 2265, Relating to collaborative pharmacy practice and updating rulemaking authority; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2290, Initiating a State Employment First Policy to facilitate integrated employment of disabled persons; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

And,

Com. Sub. for H. B. 2529, Prohibiting West Virginia institutions of higher education from discriminating against graduates of private, nonpublic or home schools by requiring them to submit to alternative testing; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

H. J. R. 2, Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate,

Com. Sub. for H. B. 2267, Establishing an optional bus operator in residence program for school districts,

Com. Sub. for H. B. 2363, Relating to “Best Interests of the Child Protection Act of 2021”,

And,

Com. Sub. for H. B. 2616, Amend the reporting to the Governor and the Legislature to have information continuously available on the Office of Health Facility Licensure and Certification’s website.

Miscellaneous Business

The House of Delegates met at 4:30 p.m. on Wednesday, February 24, 2021 for **Remarks by Members**, in accordance with House Rule 65. The Honorable Gary Howell, Speaker Pro Tempore, called the House to order and presided while several members proceeded to make remarks. At 4:51 p.m., Remarks by Members was adjourned.

Pursuant to House Rule 94b, forms were filed with the Clerk’s Office to be added as a cosponsor of the following:

H. B. 2051: Delegate Toney;

H. B. 2057: Delegate Brown;

H. B. 2257: Delegate L. Pack;

H. B. 2708: Delegate Bates;

H. B. 2722: Delegate Hansen;

H. B. 2738: Delegate Riley;

H. B. 2747: Delegate Toney;

And,

H. C. R. 5: Delegate Forsht.

At 11:49 a.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 26, 2021.

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

SPECIAL CALENDAR

Friday, February 26, 2021

17th Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 11 - Declaring work stoppage or strike by public employees to be unlawful (REGULAR)
- Com. Sub. for S. B. 12 - Relating to local health department accountability (REGULAR)
- Com. Sub. for S. B. 14 - Providing for additional options for alternative certification for teachers (REGULAR)
- H. B. 2265 - Relating to collaborative pharmacy practice and updating rulemaking authority (STEELE) (REGULAR)
- Com. Sub. for H. B. 2290 - Initiating a State Employment First Policy to facilitate integrated employment of disabled persons (STEELE) (REGULAR)
- Com. Sub. for H. B. 2529 - Prohibiting West Virginia institutions of higher education from discriminating against graduates of private, nonpublic or home schools by requiring them to submit to alternative testing (ELLINGTON) (REGULAR)

SECOND READING

- Com. Sub. for S. B. 272 - Relating to WV Employment Law Worker Classification Act
- H. J. R. 2 - Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate (CAPITO)
- Com. Sub. for H. B. 2267 - Establishing an optional bus operator in residence program for school districts (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2363 - Relating to "Best Interests of the Child Protection Act of 2021" (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2616 - Amend the reporting to the Governor and the Legislature to have information continuously available on the Office of Health Facility Licensure and Certification's website (J. PACK) (REGULAR)

FIRST READING

- Com. Sub. for H. B. 2628 - Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located (CAPITO) (REGULAR)

HOUSE CALENDAR

Friday, February 26, 2021

17th Day

11:00 A. M.

SECOND READING

- Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)
- H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)

FIRST READING

- H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)
- H. B. 2590 - Relating to the West Virginia Employment Law Worker Classification Act (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2620 - Relating to a departmental study of the child protective services and foster care workforce (J. PACK) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, FEBRUARY 26, 2021

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON FINANCE
9:00 A.M. – HOUSE CHAMBER**

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 215 E**

**COMMITTEE ON RULES
10:45 A.M. – ROOM 418 M**

MONDAY, MARCH 1, 2021

**PUBLIC HEARING
COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 215 E
(ELECTRONIC ACCESS TO BE PROVIDED)**

**H. B. 2389, AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL
PROTECTION TO PROMULGATE A LEGISLATIVE RULE RELATING TO
REQUIREMENTS GOVERNING WATER QUALITY STANDARDS.**

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