

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
FIFTEENTH DAY

Charleston, W. Va., Wednesday, January 27, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Reverend Rick Swearingin, Madison United Methodist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Tuesday, January 26, 2016,

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

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

The Clerk presented a communication from the Division of Motor Vehicles, submitting its annual report of the Motor Vehicle Test and Lock Program, in accordance with §17C-5A-3a of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Motorcycle Safety Awareness Board, submitting its annual report as required by §17B-1D-8 of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate then proceeded to the third order of business.

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

Eng. House Bill 2147—A Bill to amend and reenact §44A-2-7 of the Code of West Virginia, 1931, as amended, relating to appointing counsel for an alleged protected person; requiring the circuit court to make appointments from a listing of all interested attorneys in the circuit and on a rotating basis; and providing for the appointment of any competent counsel if no interested counsel are available.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 2584—A Bill to amend and reenact §52-1-11 of the Code of West Virginia, 1931, as amended, relating to jury service; allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2588—A Bill to amend and reenact §3-8-5b of the Code of West Virginia, 1931, as amended, relating to the filing of financial statements with the Secretary of State; providing that these must be in an electronic format; providing for exceptions in instances where a candidate has been unable to file the financial statement, and, providing for exceptions in the case of hardship.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 2796—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-15b, relating to providing that certain state employees may be granted a leave of absence with pay while providing assistance as an essential member of an emergency aid provider during a declared state of emergency.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 2800—A Bill to amend and reenact §29B-1-2 and §29B-1-4 of the Code of West Virginia, 1931, as amended, all relating to adding law-enforcement officers contact information and the names and contact information of family members to the list of exemptions from public records requests; providing exception for law-enforcement information voluntarily disclosed on campaign documentation; providing exception for law-enforcement officer's government-issued email addresses and telephone numbers; and defining law-enforcement officers.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 4038—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to insurance requirements for the refilling of topical eye medication; requiring a refill take place at a certain time; and establishing when a refill is permitted.

Referred to the Committee on Health and Human Resources.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 15, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 27, Permitting sheriff to hire outside attorneys for collection of taxes through courts.

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

Com. Sub. for Com. Sub. for Senate Bill 27 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-2-2 of said code, all relating to permitting county commissions to hire outside attorneys to assist in collection of taxes or to represent the county before any United States Bankruptcy Court; providing for county commissions to limit fees to be paid to any attorneys so hired; providing for reimbursement of actual expenses incurred by attorneys in the course of representation; and providing for sharing cost of collection with various taxing units.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Banking and Insurance has had under consideration

Senate Bill 109, Repealing code provisions related to certain reports by trustees for property.

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

Com. Sub. for Senate Bill 109 (originating in the Committee on Banking and Insurance)—A Bill to repeal §31A-2-4c of the Code of West Virginia, 1931, as amended; to repeal §38-1-8a of said code; to repeal §44-13-4a of said code; to amend and reenact §31-18-6 of said code; and to amend and reenact §59-1-10 of said code, all relating to repealing provisions concerning filing certain foreclosure disclosure forms; repealing provisions requiring compiling and maintaining information relating to certain deeds of trust; and eliminating all requirements concerning certain foreclosure disclosure forms.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

The bill (Com. Sub. for S. B. 109), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Senate Bills 150, 215 and 243, Office of Administrative Hearings rule relating to appeal procedures.

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

Com. Sub. for Senate Bill 150 (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Transportation; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Office of Administrative Hearings to promulgate a legislative rule relating to appeal procedures; authorizing the Division of Highways to promulgate a legislative rule relating to the state transportation infrastructure fund program; and authorizing the Division of Public Transit to promulgate a legislative rule relating to rail-fixed guideway systems state safety oversight.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Boso, from the Committee on Energy, Industry and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry and Mining has had under consideration

Senate Bill 177, DEP, Air Quality rule relating to control of ozone season nitrogen oxides emissions.

And,

Senate Bill 178, DEP, Air Quality rule relating to control of annual sulfur dioxide emissions.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

Senate Bill 259, Repealing Unfair Practices Act.

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

Com. Sub. for Senate Bill 259 (originating in the Committee on Government Organization)—A Bill to repeal §47-11A-7, §47-11A-10 and §47-11A-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-11A-1, §47-11A-2, §47-11A-5, §47-11A-6, §47-11A-8, §47-11A-9 and §47-11A-14 of said code, all relating to unfair trade practices; providing legislative findings; designating article the Unfair Trade Practices Act; making it unlawful for a retailer to sell products below cost with specific intent, where the effect may substantially lessen competition or tend to create a monopoly, and there is a dangerous probability of recoupment of losses through future profits; providing that a violation of the act constitutes a misdemeanor offense; exempting wholesalers from the provisions of the act; providing for how cost is to be determined; exempting sales of perishable merchandise or seasonal goods to avert loss to the retailer from the provisions of the act; exempting sales made in a good faith attempt to match the price of a competitor from the provisions of the act; exempting sales involving an earned discount or earned rebate through the use of a bonus or rewards program from the provisions of the act; providing that an injured party may maintain an action to enjoin continuance of any violation; providing actual damages, if alleged and proven, be assessed; providing that a claim arising under the act may be sufficiently rebutted by evidence that a competitor in the same market area is selling a substantially similar product for an equal to or greater than price as the defendant; defining market area; requiring a court to dismiss an action upon motion for summary judgment if the action is sufficiently rebutted; vesting jurisdiction in the circuit courts to carry into effect the provisions of the act; providing for the purposes of the act; and providing for construction of the act.

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

Respectfully submitted,

Craig Blair,
Chair.

The bill (Com. Sub. for S. B. 259), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 288, Creating one-day special license for charitable events to sell nonintoxicating beer and wine.

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

Com. Sub. for Senate Bill 288 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b, relating to creating a one-day special license for charitable events to sell nonintoxicating beer; setting fee for license; and authorizing commissioner to waive certain restrictions by rule or order.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 329, Eliminating sunset provision for commission to study residential placement of children.

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,

Ryan J. Ferns,
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 Health and Human Resources.

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 338, Compiling and maintaining Central State Mental Health Registry.

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

Com. Sub. for Senate Bill 338 (originating in the Committee on Health and Human Resources)—A Bill amend and reenact §61-7A-1, §61-7A-2, §61-7A-3 and §61-7A-4 of the Code of West Virginia,

1931, as amended, all relating generally to compiling and maintaining the West Virginia Central State Mental Health Registry; clarifying that only certain mental illness commitments are to be reported to registry; prohibiting reporting children under fourteen years of age to registry; requiring names to be reported to Administrator of the Supreme Court of Appeals; and making technical corrections.

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

Respectfully submitted,

Ryan J. Ferns,
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 Health and Human Resources.

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

Your Committee on Finance has had under consideration

Senate Bill 342, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services.

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

Com. Sub. for Senate Bill 342 (originating in the Committee on Finance)—A Bill supplementing and amending by decreasing the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources – Division of Human Services, fund 0403, fiscal year 2016, organization 0511, and to the Bureau of Senior Services, fund 0420, fiscal year 2016, organization 0508, by supplementing, amending and decreasing the appropriations for the fiscal year ending June 30, 2016.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. 342) 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.

On motion of Senator Carmichael, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Committee Substitute for Senate Bill 342 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 342) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. 342) takes effect from passage.

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

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

Your Committee on Finance has had under consideration

Senate Bill 357, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund.

And,

Senate Bill 360, Supplemental appropriation bill to Division of Human Services.

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

Respectfully submitted,

Mike Hall,
Chair.

At the request of Senator Carmichael, unanimous consent being granted, Senate Bill 357 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.

On motion of Senator Carmichael, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill 357 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 357) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 357) takes effect from passage.

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

At the request of Senator Carmichael, unanimous consent being granted, Senate Bill 360 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.

On motion of Senator Carmichael, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt,

Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill 360 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 360) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 360) takes effect from passage.

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

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 363, Creating exemption for autocycles.

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,

Chris Walters,
Chair.

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

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

Your Committee on Finance has had under consideration

Senate Bill 364, Supplemental appropriation bill to expire funds from General Revenue.

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

Respectfully submitted,

Mike Hall,
Chair.

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. 364) 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.

On motion of Senator Carmichael, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill 364 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 364) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (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. S. B. 364) takes effect from passage.

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

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

Your Committee on the Judiciary has had under consideration

Senate Bill 379, Relating to candidate filing fees.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 387, Shared animal ownership agreements to consume raw milk.

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

Com. Sub. for Senate Bill 387 (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-7, relating to shared animal ownership agreements to consume raw milk; acquiring percentage ownership interest in milk-producing animal's raw milk; providing for payment for percentage ownership for care and boarding of milk-producing animal; providing for receipt of a share of raw milk pursuant to an agreement; requiring written document acknowledging the inherent dangers of consuming raw milk; setting forth required provisions for shared animal ownership agreements; requiring herd seller meet animal health requirements established by state veterinarian; providing immunity to herd seller; prohibiting the distribution, sale or resale of raw milk; requiring shared animal ownership agreements be filed; requiring parties and physicians to report illnesses related to consumption of raw milk; requiring Commissioner of Agriculture contact other parties consuming raw milk from same herd seller of illnesses; providing administrative penalties; and providing rule-making authority.

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

Respectfully submitted,

Robert Karnes,
Chair.

The bill (Com. Sub. for S. B. 387), under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

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

By Senators Carmichael, Hall, Ashley, Plymale and Trump:

Senate Bill 392—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-16b, relating to transferring Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture.

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

By Senators Kessler and Yost:

Senate Bill 393—A Bill to amend and reenact §46A-6L-102 of the Code of West Virginia, 1931, as amended, relating to eliminating fees charged by consumer-reporting agencies to consumers related to security freeze on consumer credit report.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 394—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-8F-1 and §61-8F-2, all relating to prohibited sexual contact by psychotherapists; creating crime of prohibited sexual contact by a psychotherapist and crime of therapeutic deception; providing elements of the crime; providing exceptions; providing definitions; and providing criminal penalties.

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

By Senators Ferns, Plymale, Stollings, Prezioso and Unger:

Senate Bill 395—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; modifying expiration date for tax rate on eligible acute care hospitals; changing tax rate on eligible acute care hospitals; and providing for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account.

Referred to the Committee on Finance.

By Senators Walters, Facemire and Boso:

Senate Bill 396—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-6-33a, relating to authorizing shut-in of oil and gas wells in West Virginia; payment of shut-in royalty or shut-in payments; and deferment of certain charges or fees in certain circumstances.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

By Senators Walters and Beach:

Senate Bill 397—A Bill to amend and reenact §17-16A-18 of the Code of West Virginia, 1931, as amended, relating to Parkways Authority and maintaining status quo in the event bond indebtedness relative to Parkways Authority is eliminated; continuing tolls; and maintaining projects with Parkways Authority.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

By Senators Trump, Palumbo, Gaunch, Williams, Beach, Yost and Miller:

Senate Bill 398—A Bill to amend and reenact §31B-10-1006 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-9-53a of said code, all relating to notices of revocation of certificate of authority to conduct business.

Referred to the Committee on Government Organization.

By Senators Karnes, Miller, Plymale, Stollings, Boso, Prezioso, Williams, Leonhardt and Unger:

Senate Bill 399—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3 and §11-13DD-4, all relating to creation of farm-to-food bank tax credit; defining terms; providing method for calculation and application of tax credit; establishing procedures to value and claim the tax credit; and establishing the effective date of the tax credit.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

By Senators Cole (Mr. President) and Kessler (By Request of the Executive):

Senate Bill 400—A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended, relating to dedication and deposit of certain tax proceeds; reducing amount of sales tax proceeds annually dedicated to School Major Improvement Fund by \$999,996 for fiscal year 2017; and reducing amount of sales tax proceeds annually dedicated to School Construction Fund by \$3 million for fiscal year 2017.

Referred to the Committee on Finance.

By Senators Takubo, Stollings, Trump, Prezioso and Unger:

Senate Bill 401—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §16-5B-18, relating to creating designation for hospital as either comprehensive, primary or acute stroke-ready hospital; setting forth reporting requirements to emergency medical service agencies; requiring Department of Health and Human Resources to establish protocols; and requiring rulemaking.

Referred to the Committee on Health and Human Resources.

By Senators Hall, Plymale, Boso, Williams and Romano:

Senate Bill 402—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to excluding pension and annuity income of certain law-enforcement officers and firefighters from West Virginia income taxes.

Referred to the Committee on Finance.

By Senators Leonhardt and Williams:

Senate Bill 403—A Bill to amend and reenact §19-8-1 of the Code of West Virginia, 1931, as amended, relating to cooperative extension workers.

Referred to the Committee on Government Organization.

By Senators Ferns, Plymale, Stollings and Prezioso:

Senate Bill 404—A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §16-3C-2a and

§16-3C-2b; and to amend and reenact §16-4-19 of said code, all relating to testing for HIV and sexually transmitted diseases; authorizing billing of persons for HIV and sexually transmitted disease testing or sexually transmitted disease treatment done by state or local public health agencies; informing persons who wish to opt-out of HIV-related testing that anonymous testing is available; authorizing magistrate and circuit courts to order testing of persons accused of certain sex crimes; requiring prosecuting attorneys to file motion for testing upon request of victim or victim's parent or guardian; establishing a time-frame for mandatory testing; providing for follow-up HIV-related testing as medically appropriate; providing that costs associated with testing may be borne by the state when the defendant or juvenile respondent is financially unable to pay; authorizing billing of a defendant's or juvenile respondent's health insurance provider; requiring testing of juvenile's adjudicated of certain sex crimes; removing counseling requirement; removing exemption for providers regulated by Insurance Commissioner; removing limitation on amount that may be charged for medication used to treat sexually transmitted diseases; and removing archaic language related to testing of sexually transmitted diseases.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senators Trump, Leonhardt, Miller, Carmichael, Woelfel, Boso, Gaunch, Ashley, Plymale and Blair:

Senate Bill 405—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to conspiracy to commit violations of Uniform Controlled Substances Act; creating felony offense of conspiracy; providing penalties; establishing sentencing guideline based upon quantity for certain controlled substances; authorizing court to make determination of applicable quantity; and authorizing aggregation of quantities from all participants and members of the conspiracy.

Referred to the Committee on the Judiciary.

By Senators Boso, Boley, Gaunch, Karnes, Leonhardt and Sypolt:

Senate Bill 406—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-8-1a of said code, all relating generally to compulsory school attendance and early childhood education programs; changing age date of attending school and early childhood education programs from September 1 to July 1; and eliminating legislative findings portion of section relating to early childhood programs.

Referred to the Committee on Education.

By Senators Blair, Carmichael, Ferns, Gaunch, Mullins, Takubo and Trump:

Senate Bill 407—A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-9A-2 of said code; to amend said code by adding thereto a new section, designated section §18-9A-12a; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, §18-33-8, §18-33-9, §18-33-10, §18-33-11, §18-33-12 and §18-33-13; and to amend and reenact §29-12-5a of said code, all relating to providing for the authorization and oversight of public charter schools; providing for charter school employee participation in public employee insurance and applicable Teachers Retirement Systems; including charter school students in net enrollment of county; providing calculation of charter school basic foundation program and corresponding reduction in county's basic foundation program; defining exceptional child with high-cost/high-acuity special needs; providing for establishment of method for disbursing state appropriated funds; providing for charter school application for funds; removing certain reports; creating charter school act to establish process for creation; providing for governance and oversight

accountability of public charter schools; stating purposes; establishing charter schools as public schools and part of public education system; providing for liberal interpretation; prohibiting conversion of private schools into charter schools under act; prohibiting establishment of charter virtual schools under act; providing general definitions; limiting county board management and control of charter school; prohibiting state board as authorizing authority; defining terms; providing for authorizations, eligibilities, compliances and prohibitions; providing for general supervision by state board for meeting student performance standards required of other public school students; providing powers of public charter schools; establishing processes for determining capacity and enrolling students; prohibiting discrimination in enrollment decisions; providing for credit transfers; authorizing charter student participation in state and school district sponsored interscholastic leagues, competitions, awards, scholarships and recognition programs and specifying parameters; requiring access to and utilization of electronic education information system for reporting certain information and subject to student data accessibility, transparency and accountability; providing for certification of charter school enrollment, attendance and program participation to county board and department; providing for distribution of charter school basic foundation program funds and allowing authorizer charge for oversight costs; providing for payment of special education and federal funds to charter schools; requiring charter school submission of budget and sources of funds to state board and requiring public availability; creating public charter school oversight and authorizer board and specifying mission, agency status and degree of oversight and supervision by state board; providing for appointment of members, qualifications, terms, removal, civil liability and limited scope of acts of ex officio members; requiring appointment of executive director and duties and qualifications; setting forth meetings, expenses, powers and duties of board; requiring annual report to state board and availability to public and Legislature; granting authority to require annual reports from charter schools; establishing limitations on regulation by state board, oversight and authorizer board and county board authorizers; requiring annual request for proposals; providing contents of requests for proposals; providing for application for authorization of public charter school; requiring notice of intent to establish by organizers; requiring timelines for notice and submission of application; providing option for county board to proceed as authorizer or forward application to oversight and authorizer board; establishing process for application review and evaluation; granting period for applicant response to authorizer decision prior to final determination; requiring report of final action; setting forth registration of approved charters by state superintendent; stating effect of approved application; providing authorizer powers and duties respecting charter contracts; providing timelines for execution of charter contract and authorization to appeal to executive director to finalize terms; providing minimum provisions of contract, including performance provisions; prohibiting delegation and assignment of powers; setting forth obligations and responsibilities set forth in charter contract; requiring performance report prior to contract renewal and period to rectify weaknesses; requiring offer of contract application renewal guidance; requiring timelines for submission of renewal application; provisions for authorizer decisions on renewals; permitting authorizer report of renewal decisions; prohibition on contract renewal of school given failing level of accreditation during final operating year; authorizing contract revocation at any time or nonrenewal for certain violations and failures; requiring report of revocation and nonrenewal with statement of reasons; providing for options of county board for disposition of school when contract revoked or not renewed; duties of authorizer when contract revoked or not renewed; establishing supremacy of article when inconsistent with any other laws rules or regulations; granting authorization for one or more schools under single contract; granting authorization of one or more contracts for single governing board; providing that local education agency status when charter school authorized county board and local education agency status when charter school authorized oversight and authorizer board; providing for county board accreditation accountability for charter school authorized by county board; prohibition on county board requiring employee to be employed in charter school; prohibition on any retaliatory action against district employee involved in application to establish charter school; prohibiting discrimination against charter school in district advertising of educational options; providing for accrual of seniority with the county

board of personnel employed in charter school; and authorizing charter school liability coverage through Board of Risk and Insurance Management.

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

By Senators Hall, Ferns, Gaunch and Mullins:

Senate Bill 408—A Bill to amend and reenact §3-8-1a, §3-8-5b, §3-8-8, §3-8-9 and §3-8-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §3-8-9a and §3-8-9b, all relating generally to regulation and control of elections; updating definitions; creating new definition for “political party caucus”; updating and removing outdated provisions; requiring candidates for circuit judge and family court judge to file financial statements with Secretary of State; requiring Secretary of State to maintain an online searchable database; setting contribution limits for any campaign for nomination or election; setting contribution limits to political organizations; setting contribution limits to state party executive committees, or any subsidiary thereof, or state party legislative caucus committees; providing for indexing of contribution limits; setting limits on contributions made from any separate segregated fund; prohibiting contributions by foreign nationals; identifying additional lawful election expenses; defining coordinated political expenditures; clarifying prohibition on coordinated political expenditures; permitting limited coordinated political expenditures by state political party committees and political party caucuses for certain elections; and specifying effective dates.

Referred to the Committee on the Judiciary.

By Senators Takubo, Plymale, Stollings and Prezioso:

Senate Bill 409—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-15F-1, §33-15F-2, §33-15F-3 and §33-15F-4, all relating to requiring any insurance company operating in this state be precluded from excluding any health-care provider who provides services to persons receiving federal health care subsidies; defining terms; prohibiting discrimination of health-care providers; providing for exceptions; granting rule-making authority to Insurance Commissioner; and setting out construction and applicability.

Referred to the Committee on Health and Human Resources.

By Senator Trump:

Senate Bill 410—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-4A-1, §37-4A-2, §37-4A-3, §37-4A-4, §37-4A-5, §37-4A-6, §37-4A-7, §37-4A-8, §37-4A-9, §37-4A-10, §37-4A-11, §37-4A-12 and §37-4A-13, all relating to creating Uniform Partition of Heirs Property Act; providing short title and definitions; providing that this article applies to partition actions filed on or after the effective date of this article; providing court shall determine whether certain property is heirs property; requiring posting of notice of legal action on property subject to partition; appointing commissioners; determining value of property; procedure for cotenant buyout of interests; alternative to partition; providing considerations for partition in kind and whether partition would result in great prejudice to the cotenants as a group; whether sale should be an open-market sale, by sealed bids, or by auction; requiring report of open-market sale; requiring uniformity of application and construction of this article; and modifying, limiting and superseding the relation of this article to Electronic Signatures in the Global and National Commerce Act.

Referred to the Committee on the Judiciary.

Senators Palumbo, Walters, Plymale, Stollings, Williams and Unger offered the following resolution:

Senate Concurrent Resolution 13—Requesting the Division of Highways name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate 77 over Garrison Avenue in Kanawha County, the "Tom Williams Family Bridge".

Whereas, The family of Tom Williams was raised on Garrison Avenue in Charleston, West Virginia; and

Whereas, A daughter in the family, Lena Gay Williams McClandish, served in the U. S. Navy, stationed at a Maryland hospital; and

Whereas, One son, Thomas Buck Williams, also served in the U. S. Navy as a "frogman" during the Korean War; and

Whereas, A second son, Gene Williams, served in the U. S. Army and was stationed at Fort Hood, Washington; and

Whereas, A third son, U. S. Marine Gunnery Sergeant Dennis Williams, while serving as a Platoon Sergeant with Company D, First Battalion, First Marines, First Marine Division, in connection with operations against the enemy in the Republic of Vietnam, courageously exposed himself to enemy fire to carry a wounded comrade across fifty meters of fire-swept terrain to a place of relative safety where medical aid was available; and

Whereas, Gunnery Sergeant Dennis Williams was awarded two Purple Hearts and retired after twenty-one years of service; and

Whereas, As a result of his courage, bold initiative and unfaltering devotion to duty at great personal risk, Gunnery Sergeant Dennis Williams is authorized to wear the Combat V; and

Whereas, It is fitting and proper to honor the Williams family's contribution to the nation and its military services, made by the sister and three brothers herein named; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate 77 over Garrison Avenue in Kanawha County, the "Tom Williams Family Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "Tom Williams Family Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senators Walters, Plymale, Stollings, Williams and Unger offered the following resolution:

Senate Resolution 12—Designating Wednesday, January 27, 2016, as Innovation and Entrepreneurship Day at the Legislature.

Whereas, Research and innovation continue to be the bedrocks of America's economic strength and vitality; and

Whereas, Facilitating innovation-based economic development and the growth of entrepreneurial companies are critical to our state's future and prosperity; and

Whereas, In 2013, West Virginia continued to make good progress toward a broader, more robust innovation economy; and

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

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

Whereas, Recent studies point to the need for states to nurture research and development activities, develop innovation assets and grow businesses to diversify their economies; and

Whereas, A technology-based economic development study by the Battelle Technology Partnership Practice highlighted four key innovation clusters where West Virginia should focus its innovation efforts; and

Whereas, These four key innovation clusters are advanced energy, chemicals/advanced materials, biometrics and identity management and biotechnology; and

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

Whereas, There is growing interest in entrepreneurship across our state as business plan competitions are attracting record-setting numbers of applications and other groups are exploring ways to bring entrepreneurship education into the K-12 system; and

Whereas, Improving access to risk capital is a critical need that is being addressed by existing and new public and private programs, such as the West Virginia Capital Access Program, the 1NNOVA Fund, the West Virginia Growth Investment, LLC and the Appalachian Community Capital; and

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

Whereas, West Virginia has developed an integrated ecosystem of organizations, agencies and financial firms working collaboratively to spur innovation enterprises and jobs; and

Whereas, Many of these innovation drivers are here at the Capitol today as part of the "Innovation and Entrepreneurship Day" hosted by Industries of the Future-West Virginia and TechConnect WV; therefore, be it

Resolved by the Senate:

That the Senate hereby designates Wednesday, January 27, 2016, as Innovation and Entrepreneurship Day at the Legislature; and, be it

Further Resolved, That the innovation industry is interested in realizing the long-term economic opportunities that an innovation-based economy can provide our state's citizens; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Industries of the Future-West Virginia and TechConnect WV.

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

Senators Kirkendoll, Yost, Plymale, Stollings, Beach, Prezioso, Williams, Gaunch, Romano and Unger offered the following resolution:

Senate Resolution 13—Designating January 31, 2016, as a Day of Prayer for the Coalfields.

Whereas, Divine Providence has made the State of West Virginia rich in coal with approximately 51 billion tons of recoverable reserves ready to be mined; and

Whereas, For more than a century, West Virginia coal has helped fuel America's expansion westward, supported the industrial revolution and powered our nation's way to victory in two World Wars; and

Whereas, The State of West Virginia depends on coal as the foundation of its economy; and

Whereas, The coal industry has historically provided more than 25,000 direct mining jobs, paid more than \$3.4 billion in wages and generated more than \$26 billion in total economic activity statewide annually; and

Whereas, The coal industry and its support functions provide a high percentage of the good paying, full-time jobs in this state; and

Whereas, The coalfields of West Virginia are experiencing a significant economic downturn as a direct result of the policy decisions of the Obama Administration as administered through its regulatory agencies; and

Whereas, The regulatory actions of the Obama Administration have already shut down hundreds of our coal mines, coal processing and coal loading facilities and coal-fired power plants here in the state; and

Whereas, The economic downturn has resulted in massive unemployment, economic hardship and poverty across a large part of our state; and

Whereas, Unemployment across the coalfields far exceeds 10 percent in many of our coal-producing counties; and

Whereas, This economic hardship has inordinately affected the poor, the elderly and children; and

Whereas, This economic hardship has created despair and fostered widespread drug and alcohol addiction; and

Whereas, Our faith teaches us that God answers the prayers of His people; and

Whereas, West Virginians have deep and abiding faith in an Almighty God; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 31, 2016, as a Day of Prayer for the Coalfields; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the organizers of a Day of Prayer for the Coalfields.

At the request of Senator Kirkendoll, 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 Carmichael, and by unanimous consent, the remarks by Senator Kirkendoll regarding the adoption of Senate Resolution 13 were ordered printed in the Appendix to the Journal.

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

Upon expiration of the recess, the Senate reconvened and proceeded to the seventh order of business.

Senate Concurrent Resolution 12, Wayne County Veterans Memorial Highway.

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

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 107, Uniform Interstate Depositions and Discovery Act.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 107) passed.

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

Eng. Senate Bill 107—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §56-12-1, §56-12-2, §56-12-3, §56-12-4, §56-12-5, §56-12-6, §56-12-7 and §56-12-8, all relating to creating and adopting the Uniform Interstate Depositions and Discovery Act; establishing the short and citation title of the act; defining terms; creating the procedure governing issuance of subpoenas by clerks of the court in this state; clarifying the rules governing service of such subpoenas; establishing application of the West Virginia Rules of Civil Procedure to subpoenas issued under the act; requiring that any application or motion to enforce, quash or modify a subpoena issued under the act comply with the rules and statutes of this state including where to file any such application or motion; encouraging consideration of uniformity of the law with respect to the act whenever it is applied or construed; and establishing the application of the effective date of the act.

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

Eng. Com. Sub. for Senate Bill 157, Authorizing Department of Revenue to promulgate legislative rules.

Having been read a third time on yesterday, Tuesday, January 26, 2016, and now coming up in regular order, was reported by the Clerk.

The question being "Shall Engrossed Committee Substitute for Senate Bill 157 pass?"

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Romano, Snyder, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Beach, Prezioso, Stollings, Unger and Yost—5.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 157) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Romano, Snyder, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Beach, Prezioso, Stollings, Unger and Yost—5.

Absent: Miller—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 157) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 195, Authorizing DHHR to promulgate legislative rules.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 195) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 195) 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.

Com. Sub. for Senate Bill 146, Establishing instruction standards for early childhood education.

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

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

Com. Sub. for Senate Bill 262, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.

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

Com. Sub. for Senate Bill 290, Assignment of wages by employers and payment by payroll card.

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

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

On page two, section three, line thirty-four, after the word “same” by inserting the words “and appropriately witnessed by an individual who shall sign and provide his or her name in print”;

And,

On page two, section three, lines thirty-seven and thirty-eight, by striking out the words “and no assignment”.

On motion of Senator Kessler, the following amendment to the bill (Com. Sub. for S. B. 290) was next reported by the Clerk and adopted:

On page one, section three, line ten, after the word “institution” by changing the period to a colon and inserting the following proviso: *Provided*, That an employee paid by a payroll card shall not be assessed any fees for using the payroll card, withdrawing funds from the payroll card or replacing a lost or stolen payroll card; nor shall the employee be limited in the daily amount he or she may withdraw from the payroll card.

The bill (Com. Sub. for S. B. 290), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

Com. Sub. for Senate Bill 14, Limiting successor corporation asbestos-related liabilities.

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

Com. Sub. for Senate Bill 202, Authorizing Department of Commerce promulgate legislative rules.

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

Com. Sub. for Senate Bill 216, Authorizing Human Rights Commission promulgate legislative rule relating to Pregnant Workers' Fairness Act.

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

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

Thereafter, at the request of Senator Sypolt, and by unanimous consent, the remarks by Senator Ferns as to the introduction of the Wheeling Park High School Patriots football and cheering teams were ordered printed in the Appendix to the Journal.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Carmichael.

At the request of Senator Carmichael, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of the Honorable Darrell E. Holmes, former Clerk of the Senate.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Carmichael were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, January 28, 2016, at 11 a.m.

SENATE CALENDAR

**Thursday, January 28, 2016
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 13 - Tom Williams Family Bridge.

THIRD READING

Eng. Com. Sub. for S. B. 262 - Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.
Eng. Com. Sub. for S. B. 290 - Assignment of wages by employers and payment by payroll card.

SECOND READING

Com. Sub. for S. B. 14 - Limiting successor corporation asbestos-related liabilities.
Com. Sub. for S. B. 146 - Establishing instruction standards for early childhood education.
Com. Sub. for S. B. 202 - Authorizing Department of Commerce promulgate legislative rules.
Com. Sub. for S. B. 216 - Authorizing Human Rights Commission promulgate legislative rule relating to Pregnant Workers' Fairness Act.

FIRST READING

S. B. 15 - Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.
Com. Sub. for Com. Sub. for S. B. 27 - Permitting county commissions hire outside attorneys for collection of taxes through courts.
Com. Sub. for S. B. 150 - Authorizing Department of Transportation promulgate legislative rules.
Com. Sub. for S. B. 288 - Creating one-day special license for charitable events to sell nonintoxicating beer and wine.
S. B. 329 - Eliminating sunset provision for commission to study residential placement of children.
Com. Sub. for S. B. 338 - Compiling and maintaining Central State Mental Health Registry.
S. B. 379 - Relating to candidate filing fees - (Com. title amend. pending).

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Thursday, January 28, 2016

9:30 a.m.	Finance	(Room No. 451M)
1 p.m.	Health & Human Resources	(Room No. 451M)
2 p.m.	Government Organization	(Room No. 208W)
3 p.m.	Finance	(Room No. 451M)

Friday, January 29, 2016

9 a.m.	Transportation & Infrastructure	(Room No. 208W)
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