

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
FIFTY-SIXTH DAY

Charleston, W.Va., Tuesday, March 8, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Dr. Darrell Cummings, Bethlehem Apostolic Temple, Wheeling, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan J. Ferns, a senator from the first district.

Pending the reading of the Journal of Monday, March 7, 2016,

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

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

The Senate then proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for Senate Bill 13, Increasing penalties for overtaking and passing stopped school buses.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Hanshaw, Ireland and Byrd.

On motion of Senator Carmichael, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Carmichael, Ashley and Kessler.

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

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

Eng. Com. Sub. for Senate Bill 68, Disallowing Health Care Authority to conduct rate review and set rates for hospitals.

A message from The Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for Senate Bill 283, Creating crime when fire is caused by operation of a clandestine drug laboratory.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Weld, Soboyna and Shaffer.

On motion of Senator Carmichael, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Ferns, Boso and Woelfel.

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

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

Eng. Senate Bill 437, Updating and clarifying code relating to rules governing mixed martial arts.

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

Eng. Senate Bill 476, Relating to driving restrictions in school zones.

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

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

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

ARTICLE 6. SPEED RESTRICTIONS.**§17C-6-1. Speed limitations generally; penalty.**

(a) No person may drive a vehicle on a highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this section is lawful, but any speed in excess of the limits specified in this subsection or established as authorized in this section is unlawful. The following speed limits apply:

(1) Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property, including school grounds and any street or highway abutting the school grounds and extending one hundred twenty-five feet along the street or highway from the school grounds. The West Virginia Division of Highways shall erect signage indicating the place of entry and exit of each school zone. Upon a formal vote and a written request by a county board of education to expand a school zone to a road that is adjacent to school property, the West Virginia Division of Highways shall, upon a determination by the Division that such action is needed and necessary for the safety of the school children, expand the school zone by erecting new signage indicating the expanded school zone's location and speed limit within ninety days of receiving the request. The speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways;

(2) Twenty-five miles per hour in any business or residence district; and

(3) Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.

The speeds set forth in this section may be altered as authorized in sections two and three of this article.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled access highways and interstate highways, where no special hazard exists that requires a lower speed, shall be not less than fifty-five miles per hour and the speed limits specified in subsection (b) of this section do not apply.

(e) Unless otherwise provided in this section, any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and, upon a third or subsequent conviction within two years thereafter, shall be fined not more than \$500: *Provided*, That if the third or subsequent conviction is based upon a violation of the provisions of this section where the offender exceeded the speed limit by fifteen miles per hour or more, then upon conviction, shall be fined not more than \$500 or confined in the county or regional jail for not more than six months, or both fined and confined.

(f) Any person who violates the provisions of subdivision (1), subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500: *Provided*, That if the conviction is based upon a violation of the provisions of subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by fifteen miles per hour or more in the presence of one or more children, then upon conviction, shall be fined not less than \$100 nor more than \$500 or confined in the regional or county jail for not more than six months, or both fined and confined: *Provided*, that if the signage required by subdivision (1) is not present in the school zone at the time of the violation, then any person who violates said provision is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$25.

(g) If an owner or driver is arrested under the provisions of this section for the offense of driving above the posted speed limit on a controlled access highway or interstate highway and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less above the speed limit, then, upon conviction thereof, that person shall be fined not more than \$5, plus court costs.

(h) Any person operating a commercial motor vehicle engaged in the transportation of coal on the coal resource transportation road system who violates subsection (a), (b) or (c) of this section shall, upon conviction, be subject to fines in triple the amount otherwise provided in subsection (e) of this section.

(i) If an owner or driver is convicted under the provisions of this section for the offense of driving above the speed limit on a controlled access highway or interstate highway of this state and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less above the speed limit, then notwithstanding the provisions of section four, article three, chapter seventeen-b of this code, a certified abstract of the judgment on the conviction shall not be transmitted to the Division of Motor Vehicles: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter seventeen-e of this code, if the offense was committed while operating a commercial vehicle.

(j) If an owner or driver is convicted in another state for the offense of driving above the maximum speed limit on a controlled access highway or interstate highway and if the maximum speed limit in the other state is less than the maximum speed limit for a comparable controlled access highway or interstate highway in this state, and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less above what would be the maximum speed limit for a comparable controlled access highway or interstate highway in this state, then notwithstanding the provisions of section four, article three, chapter seventeen-b of this code, a certified abstract of the judgment on the conviction shall not be transmitted to the Division of Motor Vehicles or, if transmitted, shall not be recorded by the division, unless within a reasonable time after conviction, the person convicted has failed to pay all fines and costs imposed by the other state: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter seventeen-e of this code, if the offense was committed while operating a commercial vehicle.

On motion of Senator Carmichael, the following amendments to the House of Delegates amendment to the bill (Eng. S. B. 476) were reported by the Clerk, considered simultaneously, and adopted:

On pages one and two, section one, subsection (b), subdivision (1), lines eighteen and nineteen, after the word "shall" by striking out the comma and the words "upon a determination by the division that such action is needed and necessary for the safety of the school children,";

On page two, section one, subsection (b), subdivision (1), line twenty, after the word "request" by changing the period to a colon and inserting the following proviso: *Provided*, That the school zone may not be expanded more than one hundred twenty-five feet along an adjacent road unless the

division determines that the additional extension is needed and necessary for the safety of the school children.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 476—A Bill to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating to driving restrictions in school zones; requiring Division of Highways to erect signage indicating place of entry and exit of each school zone; authorizing county boards of education to formally vote and request in writing for expansion of school zone to a road adjacent to school property; requiring Division of Highways to expand school zones accordingly; requiring Division of Highways to erect new signage to indicate expanded school zone's location and speed limit within ninety days of receiving request; providing that school zone may not be expanded more than one hundred twenty-five feet along adjacent road unless Division of Highways determines that additional extension is needed and necessary for safety of school children; establishing new offense for violation of school zone speed limit if required signage not present; reducing fine for violation of school zone speed limit if required signage not present; and making technical corrections.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Senate Bill 476, as amended, was then 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. 476) passed with its title.

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

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

Eng. Senate Bill 658, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 21, US Army S/SGT Delmer R. Jones Memorial Bridge.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 23, Johnny Mack Bryant Memorial Bridge.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 25, US Army PFC Cornelius Vance Memorial Bridge.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 28, US Marine Corps CPL Ronald "Duke" Varney Memorial Bridge.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 29, US Army SSG Landon Clair Ray and US Army SPC4 Garry Dwight Haynes Memorial Bridge.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 31, US Air Force Staff Sgt Bethel Howard McNeely and US Marine Staff Sgt Clyde Elmo Bryant Bridge.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 42, US Navy LCDR Helen Elizabeth Peck Memorial Bridge.

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

Eng. Com. Sub. for House Bill 2122, Making it illegal for first responders to photograph a corpse; Jonathan's Law.

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

Eng. Com. Sub. for House Bill 2852, Relating to legalizing and regulating the sale and use of fireworks.

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

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

On page seven, section seven, beginning on line thirty-three, by striking out all of subsection (g).

On motion of Senator Carmichael, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill No. 2852, as amended, was then 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 H. B. No. 2852) passed with its Senate amended 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 H. B. 2852) takes effect from passage.

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

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

Eng. Com. Sub. for House Bill 4046—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Administration; 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 certain agencies and commissions under Department of Administration to repeal certain legislative, procedural or interpretative rules that are no longer authorized or are obsolete; authorizing the Department of Administration to promulgate a legislative rule relating to the purchasing division; repealing Department of Administration legislative rule relating to the availability of state surplus buildings and equipment to charity food banks; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to benefit determination and appeal; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers' Defined Contribution System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers' Retirement System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick leave; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Deputy Sheriff Retirement System; authorizing the Ethics Commission to promulgate a legislative rule relating to the public use of names or likenesses; repealing Ethics Commission legislative rule relating to advisory opinions; repealing Ethics Commission legislative rule relating to guidelines and standards for determining the existence of disqualifying financial interests; repealing Ethics Commission legislative rule relating to

contributions; authorizing the Division of Personnel to promulgate a legislative rule relating to the administrative rule of the West Virginia Division of Personnel; repealing State Building Commission procedural rule relating to procedural rules for meetings; repealing Public Employees Insurance Agency procedural rules relating to procedural rules for the Public Employees Insurance Agency Advisory Board; and repealing Board of Risk and Insurance Management legislative rule relating to discontinuation of professional malpractice insurance.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 4505, Allowing powerball winners to remain anonymous.

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

Eng. House Bill 4654, Relating to the Executive Secretary of the Board of Registered Professional Nurses.

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

Com. Sub. for House Concurrent Resolution 3—Requesting the Division of Highways to name the section of County Route 45/20, known as Coldstream Road, beginning at a point, latitude 39.336997, longitude -78.494499 and ending a point, latitude 39.349509, longitude -78.511901, along the North River, Hiatt Run and Maple Run, in Hampshire County, the “North River Mills Historic Trace”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 4—Requesting the Division of Highways to name bridge number 14-50-14.95 (14A125), locally known as Frenchburg Curve Bridge, carrying U.S. Route 50, over the North Fork of the Little Cacapon River, near Augusta, Hampshire County, West Virginia, map coordinates 39.31518 - 78.65962, the “CSA LTG Thomas J. ‘Stonewall’ Jackson Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 8—Requesting the Division of Highways to name bridge number 18-25-1.03 (18A-108), (38.79972, 81.69202), locally known as Harpold Bridge, carrying County Route 25 over Mill Creek in Jackson County, the “Harry Ripley Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 11—Designating April 2 as West Virginia Autism Awareness Day.

Referred to the Committee on Rules.

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

Com. Sub. for House Concurrent Resolution 12—Requesting the Division of Natural Resources to designate the Cheat Mountain Salamander as the State symbol of environmental stewardship.

Referred to the Committee on Rules.

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

Com. Sub. for House Concurrent Resolution 13—Requesting the Division of Highways to name the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056), latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U.S. Army SP4 Everette R. Johnson Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 20—Urging the United States Congress to provide funding for the West Virginia National Guard to sustain and enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C130s and other aircraft to meet global airspace requirements for 2020.

Referred to the Committee on Rules.

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

Com. Sub. for House Concurrent Resolution 34—Requesting the Division of Highways to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754) locally known as New Girl Scout Camp Bridge, carrying County Route 25/11 over Mud River in Cabell County, the “U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 47—Requesting the Division of Highways to name Bridge Number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U.S. Army SFC Jesse Muncy Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 51—Requesting the Division of Highways to name bridge number 52-64-2.07 (52A135) (39-63045, -80.47918), locally known as Smith Bridge,

carrying County Route 64 over Long Drain in Wetzel County, the "U.S. Army PFC Danny Mire Stoneking Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 54—Requesting the Division of Highways to name Bridge Number 39-73/73-8.46 (39A143) (39.65892, -79.63833), locally known as Bruceton Mills Bridge, carrying County Route 73/73 over Big Sandy Creek in Bruceton Mills, Preston County, the "U.S. Army PFC Byron 'Bray' Kelley Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 56—Requesting the Division of Highways to name Bridge Number 31-77-1.15 (31A212) (39.53532, -79.97705), locally known as Booths Creek Bridge, carrying CR 77 over Booths Creek in Monongalia county, the "U.S. Army CPL Robert Eugene Jackson Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 57—Requesting the Division of Highways to name bridge number 12-220-10.31 (12A081) (38.98846, -79.12465), locally known as Petersburg Bridge, carrying US 220 over the south branch of the Potomac River in Grant County, the "U.S. Army PVT Leander Reel Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 72—Requesting the Division of Highways to name Bridge Number 02-13-0.81 (02A172) (39.46979, -77.97913), locally known as New North Tennessee Avenue Bridge, carrying County Route 13 over Tuscarora Creek in Berkeley County, be named the "Max G. Parkinson Memorial Bridge".

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 78—Requesting the Joint Committee on Government and Finance study professional and occupational licensing boards.

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

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

House Concurrent Resolution 86—Designating April 16, 2016, as World Voice Day.

Referred to the Committee on Rules.

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

House Concurrent Resolution 93—Requesting the Joint Committee on Government and Finance study the motor vehicle code.

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

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

House Concurrent Resolution 94—Requesting the Joint Committee on Government and Finance study the holdings of public property by departments, agencies, commissions, bureaus and boards of the state.

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

Executive Communications

Senator Cole (Mr. President) laid before the Senate the following communication from His Excellency, the Governor:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 7, 2016

The Honorable William P. Cole III, President
Senate of West Virginia, Office of the President
State Capitol
Building 1, Room 229-M
Charleston, West Virginia 25305

The Honorable Tim Armstead, Speaker
West Virginia House of Delegates, Office of the Speaker
State Capitol
Building 1, Room 228-M
Charleston, West Virginia 25305

Dear President Cole and Speaker Armstead:

After submission of my recommended FY 2017 Executive Budget on January 13, 2016, there have been a few areas that required adjustments.

My recommended FY 2017 Executive Budget included retirement contributions based on the best estimates available at that time. Those estimated retirement contribution numbers have been updated and the final contribution amounts for West Virginia's retirement systems are now available. Due to these changes in the final actuarial valuations for the Teachers' Retirement System (TRS), State Police Retirement System-Plan A, the Judges' Retirement System (JRS), and Public Employees

Retirement System (PERS), various line items throughout the Budget Bill can be adjusted. These adjustments amount to an increase of \$15,395,217 in the required contributions for the various retirement systems in FY 2017 for the General Revenue and Lottery Funds. Various other adjustments in the General Revenue and Lottery Funds result in a net change of \$-2,300,781. These changes are balanced using additional Lottery surpluses that are anticipated to become available at the end of the current fiscal year.

Various other changes in appropriations of other funds, federal funds, federal block grants, and claims against the state are also required.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2017 Budget Bill for the TITLE II – APPROPRIATIONS as follows:

Section 1. Appropriations from general revenue.

Funds appropriated for the Public Employees Retirement System (PERS), are adjusted in numerous line items throughout the Governor's Recommended FY 2017 Budget Bill in General Revenue. Please see the attached spreadsheet for the adjustments relating to the January 29, 2016 final actuarial estimation. The total reduction for PERS in the General Revenue Fund is \$5,119,262.

Judicial

Supreme Court – General Judicial, Fund 0180, Fiscal Year 2017, Org 2400

(To adjust the Judges' Retirement System appropriation due to the revised request from the Supreme Court of Appeals dated February 23, 2016.)

- Decrease "Judges' Retirement System" Appropriation 11000 by \$2,000,000.

Executive

Governor's Office, Fund 0101, Fiscal Year 2017, Org 0100

(To remove the reappropriated language directed to GO HELP.)

- Remove from reappropriation language "GO HELP (fund 0101, appropriation 11600),".

Department of Administration

Public Employees Insurance Agency, Fund 0200, Fiscal Year 2017, Org 0225

(To properly distribute funding to the appropriate accounts.)

- Increase various funds in the total amount of \$43,234,724 for General Revenue to properly distribute the employers share to the appropriate accounts. Please see the attached spreadsheet for the adjustments.
- Decrease "Public Employees' Insurance Matching" Appropriation 01200, by \$43,487,151.

Department of Commerce

West Virginia Development Office, Fund 0256, Fiscal Year 2017, Org 0307

(To move funding for the National Youth Science Camp.)

- Add “National Youth Science Camp” Appropriation 13200 for \$246,500.

Department of Education

State Board of Education – State Department of Education, Fund 0313, Fiscal Year 2017, Org 0402

(To adjust the Teachers’ Retirement Savings Realized appropriations due to the January 29, 2015 final actuarial estimation.)

- Increase “Teachers’ Retirement Savings Realized” Appropriation 09500 by \$5,256,000.

State Board of Education – State Aid to Schools, Fund, 0317, Fiscal Year 2017, Org 0402

(To adjust the State Aid Formula Teachers’ Retirement System and the Retirement Systems – Unfunded Liability appropriations due to the January 29, 2016 final actuarial estimation.)

- Decrease “Teachers’ Retirement System” Appropriation 01900 by \$143,000.
- Increase “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$15,066,000. (To adjust School Aid Formula based on final local share numbers and updated fiscal note.)
- Decrease “Other Current Expenses” Appropriation 02200 by \$400,888.
- Increase “Professional Educators” Appropriation 15100 by \$447,669.
- Increase “Service Personnel” Appropriation 15200 by \$1,413,980.
- Increase “Fixed Charges” Appropriation 15300 by \$160,469.
- Decrease “Transportation” Appropriation 15400 by \$2,964,338.
- Increase “Improved Instructional Programs” Appropriation 15600 by \$1,010,300.
- Increase “21st Century Strategic Technology Learning Growth” Appropriation 93600 by \$753,411.
- Increase “Less Local Share” line by \$1,920,312 from (\$467,519,563 to (\$469,439,875).
- Decrease “Public Employees’ Insurance Matching” Appropriation by \$678,138 (revision due to SB452 fiscal note).

Department of Education and the Arts

Office of the Secretary – Fund 0294, Fiscal Year 2017, Org 0431

(To move funding for the National Youth Science Camp.)

- Delete “National Youth Science Camp” Appropriation 13200 for \$246,500.

(To correct a drafting error.)

- Delete the language, "From the above appropriation for S.T.E.M Education and Grant Program (fund 0294, appropriation 71900) \$125,000 is for The Challenger Learning Center at Wheeling Jesuit University."

Department of Health and Human Resources

Division of Health – Central Office, Fund 0407, Fiscal Year 2017, Org 0506

(To adjust funding for the Tobacco Education Program.)

- Decrease "Primary Care Support" Appropriation 62800 by \$600,000.
- Increase "Tobacco Education Program" Appropriation 90600 by \$600,000.

Division of Human Services, Fund 0403, Fiscal Year 2017, Org 0511

(To decrease the appropriation for Medical Services. This funding is moved to Lottery Surpluses.)

- Decrease "Medical Services" Appropriation 18900 by \$13,094,436.

Department of Military Affairs and Public Safety

West Virginia State Police, Fund 0453, Fiscal Year 2017, Org 0612

(To adjust the appropriation due to the January 29, 2016 final actuarial estimation for State Police Plan A Retirement.)

- Increase "Retirement Systems – Unfunded Liability" Appropriation 77500 by \$2,406,000.

Bureau of Senior Services

Bureau of Senior Services, Fund 0420, Fiscal Year 2017, Org 0508

(To move part of the appropriation for Title XIX Waiver from the Lottery Fund)

- Increase "Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens" Appropriation 53900 by \$181,906.

Section 3. Appropriations from other funds.

Department of Administration

Department of Administration – Office of the Secretary – Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2017, Org 0201

(To adjust the appropriation to allow for the full transfer of the Teachers' Realized Savings Realized.)

- Increase "Current Expenses" Appropriation 13000 by \$5,256,000.

Department of Commerce

Division of Forestry, Fund 3081, Fiscal Year 2017, Org 0305

(To adjust the spending authority for Personal Services and Employee Benefits.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$200,000.

Section 4. Appropriation from lottery net profits.

Funds appropriated for the Public Employees Retirement System (PERS) are adjusted in various line items throughout the Governor’s Recommended FY 2017 Budget Bill in Lottery Net Profits. Please see the attached spreadsheet for the adjustments relating to the January 29, 2016 final actuarial estimation. The total reduction for PERS in the Lottery Fund is \$70,521.

Funds that were originally appropriated to the Public Employees Insurance Agency in General Revenue are adjusted in various line items throughout the Governor’s Recommended FY 2017 Budget Bill in Lottery Net Profits. Please see the attached spreadsheet for the adjustments. The total increases various funds in the total amount of \$252,427 for Lottery Revenue.

Bureau of Senior Services

Bureau of Senior Services, Lottery Senior Citizens Fund, Fund 5405, Fiscal Year 2017, Org 0508

(To adjust the appropriation for Title XIX Waiver moved to General Revenue.)

- Decrease “Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens” Appropriation 53900 by \$181,906.

Section 6. Appropriations of federal funds.

Department of Health and Human Resources

Division of Human Services, Fund 8722, Fiscal Year 2017, Org 0511

(To adjust the appropriation for Medical Services related to children that are provided services under Medicaid, but qualify at the CHIP rate.)s

- Increase “Medical Services” Appropriation 18900 by \$20,062,773.

Section 7. Appropriation from federal block grants.

Department of Commerce

Workforce West Virginia – Workforce Investment Act, Fund 8749, Fiscal Year 2017, Org 0323

(To adjust an improvement based on federal grant requirements.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$750,000.
- Decrease “Current Expenses” Appropriation 13000 by \$750,000.

Section 8. Awards for claims against the state.

Amend the language to read as follows:

“There are hereby appropriated for fiscal year 2017, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$447,066, special revenue funds in the amount of \$89,910, and state road funds in the amount of \$983,485 for payment of claims against the state.”

Section 10. Appropriations from lottery net profits surplus accrued.

Bureau of Senior Services

Bureau of Senior Services – Lottery Senior Citizens Fund, Fund 5405, Fiscal Year 2017, Org 508

(To adjust the appropriation from surplus lottery revenue based on most recent estimates.)

- Increase “Senior Services Medicaid Transfer – Lottery Surplus” Appropriation 68199 by \$1,000,000.

Section 11. Appropriations from state excess lottery revenue surplus accrued.

Department of Health and Human Resources

Division of Human Services, Fund 5365, Fiscal Year 2017, Org 0511

(To adjust the appropriation from surplus lottery revenue based on most recent estimates.)

- Increase “Medical Services – Lottery Surplus” Appropriation 68100 by \$12,094,436.

Thank you for your prompt attention of this matter. Your cooperation is always appreciated. Should you have any questions or required additional information, please call me at any time.

Sincerely,

Earl Ray Tomblin
Governor

cc: The Honorable Mike Hall, Chairman
The Honorable Eric Nelson, Chairman
State Budget Office

Which communication was received and referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 7th day of March, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 421), Terminating behavioral health severance and business privilege tax.

(Com. Sub. for S. B. 582), Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

And,

(Com. Sub. for S. B. 594), Requiring State Auditor consider for payment claim submitted by electronically generated invoice.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Steve Westfall,
Vice Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2494, Creating a provisional plea process in criminal cases.

And has amended same.

Eng. Com. Sub. for House Bill 4360, Increasing the criminal penalty for the unlawful practice of law.

And has amended same.

And,

Eng. House Bill 4578, Creating a criminal offense of conspiracy to violate the drug laws.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Trump, unanimous consent being granted, the bills (Eng. H. B. 2494 and 4578 and Eng. Com. Sub. for H. B. 4360) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4009, Letting Our Counties Act Locally Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Trump, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4009) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on the Judiciary pending.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4014, Preventing the State Board of Education from implementing common core academic standards and assessments.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,
Chair.

At the request of Senator Sypolt, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4014) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4080, Department of Veterans' Assistance, rule relating to VA headstones or markers.

Eng. Com. Sub. for House Bill 4502, Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses.

Eng. Com. Sub. for House Bill 4517, Limiting the ability of an agent under a power of attorney to take self-benefiting actions.

Eng. Com. Sub. for House Bill 4636, Increasing the penalties for violating the Whistle-blower Law.

And,

Eng. House Bill 4738, Relating to the offense of driving in an impaired state.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Trump, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4080, 4502, 4517 and 4636 and Eng. H. B. 4738 contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Eng. Com. Sub. for House Bill 4265, Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds.

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Hall, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4265) was taken up for immediate consideration, second committee reference dispensed with, read a first time and ordered to second reading.

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

Eng. House Bill 4315, Relating to air-ambulance fees for emergency treatment or air transportation.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Hall, unanimous consent being granted, the bill (Eng. H. B. 4315) was taken up for immediate consideration, second committee reference dispensed with, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

Eng. House Bill 4351, Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 4, 2016;

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

Respectfully submitted,

Mike Hall,
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

Eng. Com. Sub. for House Bill 4365, Relating to the certificate of need process.

And has amended same.

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

Respectfully submitted,

Ryan J. Ferns,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4365) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4487, Relating to state retirement systems.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 3, 2016;

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

Respectfully submitted,

Mike Hall,
Chair.

Senator Leonhardt, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Eng. Com. Sub. for House Bill 4507, Providing an employer may grant preference in hiring to a veteran or disabled veteran.

And has amended same.

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

Respectfully submitted,

Kent Leonhardt,
Chair.

At the request of Senator Trump, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4507) was taken up for immediate consideration, second committee reference dispensed with, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System.

With an amendment from the Committee on Pensions pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 3, 2016;

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

Respectfully submitted,

Mike Hall,
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

Eng. House Bill 4655, Prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials.

And has amended same.

And,

Eng. House Bill 4734, Relating to mine subsidence insurance.

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Gaunch, unanimous consent being granted, the bills (Eng. H. B. 4655 and 4734) contained in the preceding report from the Committee on Banking and Insurance were each taken up for immediate consideration, read a first time and ordered to second reading.

Engrossed House Bill 4655, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Banking and Insurance pending.

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 Engrossed House Bill 4734 contained in the foregoing report from the Committee on Banking and Insurance.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 1, Urging Congress propose regulation freedom amendment.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senate Concurrent Resolution 64, Requesting DOH study 2015 performance audit and report to Joint Committee on Government and Finance any action taken as result of audit.

On unfinished business, coming up in regular order, was reported by the Clerk.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2588, Relating to the filing of financial statements with the Secretary of State.

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: Miller—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2588) passed.

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

Eng. Com. Sub. for House Bill 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 Secretary of State; requiring all candidates who file financial statements with Secretary of State to file electronically beginning January 1, 2018; making candidates required to file electronically eligible for exemption in the case of hardship; providing for exceptions in instances where a candidate has been unable to file the financial statement; directing candidates unable to file financial statement electronically to file by certified mail; and providing for exceptions in the case of hardship.

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

Eng. Com. Sub. for House Bill 2615, West Virginia Small Business Capital 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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2615) passed with its title.

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

Eng. Com. Sub. for House Bill 2801, Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2801) passed with its title.

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

Eng. Com. Sub. for House Bill 2823, Eliminating the street and interurban and electric railways tax.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2823) passed with its title.

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

Eng. Com. Sub. for House Bill 4188, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

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

Pending discussion,

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

Eng. Com. Sub. for House Bill 4209, Relating generally to health care provider taxes.

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, 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)—33.

The nays were: Karnes—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4209) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2016.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, 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)—33.

The nays were: Karnes—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4209) takes effect July 1, 2016.

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

Eng. Com. Sub. for House Bill 4213, Uniform Deployed Parents Custody and Visitation 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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4213) passed.

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

Eng. Com. Sub. for House Bill 4213—A Bill to repeal §48-1-233.3 of the Code of West Virginia, 1931, as amended, and to repeal §48-1-233.4 of said code; to repeal §48-9-404 of said code; and to amend said code by adding thereto a new chapter, designated §48A-1-101, §48A-1-102, §48A-1-103, §48A-1-104, §48A-1-105, §48A-1-106, §48A-1-107, §48A-2-201, §48A-2-202, §48A-2-203, §48A-2-204, §48A-2-205, §48A-3-301, §48A-3-302, §48A-3-303, §48A-3-304, §48A-3-305, §48A-3-306, §48A-3-307, §48A-3-308, §48A-3-309, §48A-3-310, §48A-4-401, §48A-4-402, §48A-4-403, §48A-4-404, §48A-5-501, §48A-5-502 and §48A-5-503, all relating to adopting the Uniform Deployed Parents Custody and Visitation Act; providing short title; defining terms; providing for enforcement through assessment of attorney fees and costs; jurisdiction of the court; establishing procedures to determine matters of child custody and visitation when parents are deployed in military or other national service; requiring notices from deployed parent; requiring person with custodial responsibility to notify regarding change of address; providing for out-of-court agreements and establishing minimum requirements therefor; prohibiting consideration of past or future deployments in determining the best interest of the child; authority created by agreement; authorizing orders for payment of child support during deployment; providing for modification and termination of orders and agreements; delegation and filing of power of attorney to adult nonparent; temporary custody orders; expedited hearings; testimony by electronic means; rules regarding prior judicial order or agreement; granting care-taking or decision-making authority to nonparent; granting limited contact; setting forth contact for temporary custody orders; and giving guidance for interpretation and construction in conjunction with other laws and orders.

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

Eng. Com. Sub. for House Bill 4225, Relating to patriotic displays at public buildings.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4225) passed with its title.

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

Eng. Com. Sub. for House Bill 4295, Relating to the School Innovation Zones Act.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4295 pass?”

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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4295) passed.

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

Eng. Com. Sub. for House Bill 4295—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-14; and to amend said code by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, §18-5E-6 and §18-5E-7, all relating to education innovation; terminating funding for Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones; setting forth purpose of Innovation in Education Act; defining Innovation in Education school; allowing incorporation of more than one of certain attributes into an Innovation in Education school’s program design; setting forth certain requirements for Innovation in Education school; authorizing soliciting, accepting and expending gifts, donations and grants with certain limits; authorizing State Board of Education designation of Innovation in Education school; requiring state board rule for implementation and authorizing emergency rule if necessary; requiring rule to include certain provisions pertaining to the application process, minimum contents of the application, and the process by which the state board will review performance and student success, reaffirm or reconsider designation, and identify exemplary schools; allowing state board to provide for West Virginia Department of Education to independently assess applicants; setting forth requirements applicable to the state board when making a designation determination; setting forth items that Innovation in Education Plan must include; requiring operational agreement between school principal and county board of education; specifying minimum contents of operational agreement; requiring performance report on and evaluations of Innovation in Education school; allowing county superintendent to make certain recommendations to the county board and state board in the evaluation; allowing the state board to take certain actions based on the county superintendent’s evaluation and a data analysis conducted by the Department one of which is the termination of the Innovation in Education designation in certain instances; and creating Innovation in Education Fund.

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

Eng. Com. Sub. for House Bill 4322, Expanding the Learn and Earn Program.

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

On the passage of the bill, the yeas were: 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4322) passed with its title.

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

Eng. Com. Sub. for House Bill 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4377) passed with its title.

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

Eng. Com. Sub. for House Bill 4433, Allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4433) 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 H. B. 4433) takes effect from passage.

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

Eng. House Bill 4489, Relating generally to human trafficking.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4489) passed.

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

Eng. House Bill 4489—A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend and reenact §48-26-401; to amend and reenact §49-1-201 of said code; to amend and reenact §49-4-301 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8, §61-14-9 and §61-14-10; and to amend and reenact §62-1D-8 of said code, all relating generally to human trafficking; designating the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; designating the Family Protection Services Board to be the body responsible for the development of a comprehensive list and inventory of available services regarded trafficking victims to provide to state, county and local law-enforcement agencies; establishing that the Family Protection Services Board shall work in collaboration with the appropriate government agencies to devise a program to promote public awareness about human trafficking, victim remedies and services; adding commercial sexual exploitation to the definition of abused child and defining the term; describing the appropriate procedure to be followed by a law-enforcement officer upon encountering a child who appears to be a victim who has engaged in commercial sexual activity and listing the services available to child victims; eliminating existing criminal offense and penalties for human trafficking; creating felony offenses and penalties for trafficking an individual; defining terms; creating felony offenses and penalties for using an individual in forced labor; creating felony offenses and penalties for using an individual in debt bondage; creating felony offenses and penalties for compelling an adult through

coercion to engage in commercial sexual activity; creating a felony offense for maintaining or making available a minor for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offense; creating a felony offense of patronizing an individual to engage in commercial sexual activity; clarifying that each victim shall be considered a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for disgorgement of profits and debarment from state and local government contracts; making victims eligible for compensation under the Crime Victims Compensation Fund; providing for criminal immunity for offense of prostitution for minors so charged; defining a trafficked minor as an abused child in need of services who shall not be arrested or detained but put under protective custody and establishing that a child who is determined to be a victim may also be granted immunity for soliciting, inducing, enticing or procuring a prostitute if it is determined by the court that he or she was coerced into the criminal behavior; authorizing immunity for adults engaged in prostitution or in soliciting, inducing, enticing or procuring a prostitute upon a determination that they are a victim and only engaged in the activity due to coercion; providing for expungement of prostitution conviction for victims of trafficking; and authorizing law enforcement to use wiretaps to conduct investigations.

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

Eng. Com. Sub. for House Bill 4520, Clarifying that certain hospitals have only one governing body whose meetings shall be open to the public.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4520) passed with its title.

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

At the request of Senator Maynard, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced that that body had requested the return of

Eng. Senate Bill 437, Updating and clarifying code relating to rules governing mixed martial arts.

On motion of Senator Carmichael, the Senate acceded to the House of Delegates request for the return of the bill (Eng. S. B. 437).

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

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4561, Creating a special hiring process for West Virginia Division of Highways employees.

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, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kessler, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—26.

The nays were: Beach, Facemire, Kirkendoll, Laird, Miller, Romano, Snyder and Unger—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4561) passed.

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

Eng. Com. Sub. for House Bill 4561—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to requiring the Commissioner of the Division of Highways and the Director of the Division of Personnel to collaborate to develop a special hiring procedure for personnel positions in the Division of Highways; establishing requirements for the special hiring procedure; exempting the Division of Highways and the Division of Personnel from classified service hiring procedures upon implementation of the special hiring process; exceptions; establishing reporting requirements; and requiring emergency and legislative rulemaking.

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

Eng. Com. Sub. for House Bill 4587, Relating to violations associated with absent voters' ballots.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4587) passed.

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

Eng. Com. Sub. for House Bill 4587—A Bill to amend and reenact §3-9-19 of the Code of West Virginia, 1931, as amended, relating to violations associated with absent voters' ballots; changing

reference of clerk of circuit court to clerk of county commission; making clerk of county commission guilty of misdemeanor if he or she refuses or neglects to perform duties required by him or her related to voting by absentees; making clerk of county commission guilty of misdemeanor if he or she discloses to any other person or persons how any absent voter voted; changing gender references; and making other technical and grammatical changes relating to the language in the misdemeanor provisions of this section.

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

Eng. House Bill 4617, Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program.

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

On the passage of the bill, the yeas were: 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 present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4617) passed with its title.

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

Eng. House Bill 4705, Relating to adding an additional type of West Virginia source income of nonresident individual.

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

On the passage of the bill, the yeas were: 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 present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4705) 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. H. B. 4705) takes effect from passage.

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

Eng. House Bill 4725, Relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications.

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, 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 present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4725) 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 4725—A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing that persons appointed to offices of justice of the Supreme Court of Appeals, circuit judge, family court judge and magistrate shall continue to serve if the unexpired term be less than two years; providing for elections to fill unexpired terms under certain circumstances based on when vacancy occurs; and making certain clarifications.

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

Eng. House Bill 4726, Relating to coal mining generally.

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

Pending discussion,

The question being “Shall Engrossed House Bill 4726 pass?”

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

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

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—30.

The nays were: Beach, Kessler, Laird and Yost—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4726) passed.

On motion of Senator Boso, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. House Bill No. 4726—A Bill to repeal §22-3A-1, §22-3A-2, §22-3A-3, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-7, §22-3A-8, §22-3A-9 and §22-3A-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-6c of said code; to amend and reenact §22-1-7 of said code; to amend and reenact §22-3-2, §22-3-4, §22-3-13, §22-3-13a, §22-3-22a and §22-3-30a of said code; to amend said code by adding thereto six new sections, designated §22-3-34, §22-3-35, §22-3-36, §22-3-37, and §22-3-38; to amend and reenact §22-11-6 of said code; to amend and reenact §22A-1-13, §22A-1-14, §22A-1-15, §22A-1-19, §22A-1-20, §22A-1-31 and §22A-1-35 of said code; to amend and reenact §22A-1A-2 of said code; to amend and reenact §22A-2-3, §22A-2-8, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36, §22A-2-55, §22A-2-66 and §22A-2-77 of said code; and to amend and reenact §22A-7-7 of said code, all relating generally to coal mining; making findings; eliminating the Department of Environmental Protection Office of Explosives and Blasting and consolidating the remaining duties and responsibilities related to blasting to the Department of Environmental Protection Division of Mining and Reclamation; adding blasting oversight; providing that the Department of Environmental Protection to revise rules on hydrologic protection and stormwater runoff analyses on mining operations and to promulgate rules that conform with the federal regulations requirements to minimize the disturbances to the prevailing hydrologic balance at a mine site and in associated off-site areas; providing that cumulative hydrologic impact assessment may be conducted; requiring a statement of probable hydrologic consequences and to prevent flooding; modifying certain findings, ventilation requirements, and roof or rib requirements; requiring the Department of Environmental Protection to follow deadlines for approving or denying applications for site specific water quality criteria; providing that state mine rescue teams may serve as backup mine rescue teams for mines in this state; providing that the Board of Mine Health and Safety to have the authority to propose rules for the use of diesel equipment in the state's mines; transferring certification authority to the Director of the Office of Miners' Health Safety and Training for mining emergency medical technicians; requiring the State Board of Appeals to allow evidence of testing procedures and test results be introduced through notarized affidavits from Medical Review Officers and testify if necessary; providing for telephonic testimony under oath; providing that the penalty for not reporting accidents in fifteen minutes to the Office of Miners' Health, Safety and Training be modified to up to \$100,000; providing that the Director of Office of Miners' Health, Safety and Training shall have the authority to modify assessed penalties and penalties may be modified by the State Board of Appeals based on a vote of two Board members; providing a method incase a miners' wireless emergency communications device fails; and allowing company input into state supervisory training and how it is scheduled during the year.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2904, Requiring the clerk of a county commission to maintain a county ordinance book.

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

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

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 2. SECRETARY OF STATE.

§5-2-4. Accessible county records; required information.

(a) The Secretary of State shall maintain a website with certain county information. The website shall be updated annually.

(b) On or before January 31, 2018, the county officer information website shall be updated by the Secretary of State.

(c) The website shall contain the following minimum information regarding county officials:

(1) The official title and name of each county office holder;

(2) The contact information for each county office holder, including telephone number, facsimile number, office location and mailing address;

(3) The electronic mail address of each elected county office holder where available; and

(4) The website of each county commission, where available.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3pp. Accessible county records; required information.

(a) Beginning July 1, 2017, each county commission may maintain a website that provides the following information without charge:

(1) The title and name of each elected county office holder;

(2) The contact information of each elected county office holder, including office telephone number, facsimile number, office location and mailing address;

(3) The government electronic mail address of each elected county office holder;

(4) A copy of each county ordinance as adopted;

(5) A copy of the approved meeting minutes; and

(6) A schedule of regular meeting days for each calendar year.

(b) Beginning on or before December 31, 2017, and each year thereafter, the Secretary of State shall obtain the following information:

- (1) A list of each elected county official by title, with the name of the elected official;
- (2) The office contact information for each county office holder; and
- (3) The website address of the county commission website, where available.

§7-1-7. Record books.

(a) Beginning on July 1, 2017, the county commission shall, within sixty days of adoption, through the clerk of the commission, enter into a separate book the complete record of all ordinances adopted by the county commission. The clerk shall list, along with each ordinance in the book, the provision of the West Virginia Code authorizing each ordinance. The clerk shall maintain the book in his or her office and shall make available a copy to the county sheriff. Compiling all such ordinances adopted by the county commission and publishing the same on a publically available internet website as delineated in section three-pp of this article shall constitute full compliance with the provisions of this section.

(b) The county ~~court~~ commission of every county shall provide two record books for the use of the ~~court~~ county commission, in one of which shall be entered all the proceedings of such ~~court~~ county commission in relation to contested elections, all matters of probate, the appointment of appraisers of the estates of decedents and the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts, and all matters relating to apprentices; and in the other of said books shall be entered all the other proceedings of such ~~court~~ county commission: *Provided, however,* That said ~~court~~ county commission shall provide and keep such additional or different record books as may be specially required by law.

The bill (Eng. Com. Sub. for H. B. 2904), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4171, Relating to the public school calendar.

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

Eng. House Bill 4246, Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library.

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

Eng. House Bill 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person.

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §55-71-1, §55-71-2, §55-71-3, §55-71-4, §55-71-5 and §55-71-6; and that §61-2-29b of said code be amended and reenacted, all to read as follows:

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION;

JUDICIAL SALE.

ARTICLE 7I. FINANCIAL EXPLOITATION OF AN ELDERLY PERSON, PROTECTED PERSON OR INCAPACITATED ADULT.

§55-7I-1. Action for financial exploitation of an elderly person, protected person or incapacitated adult; definitions.

(a) Any elderly person, protected person or incapacitated adult against whom an act of financial exploitation has been committed may bring an action under this article against any person who has committed an act of financial exploitation against him or her.

(b) For the purposes of this article:

(1) "Incapacitated adult" has the same meaning as prescribed under section twenty-nine, article two, chapter sixty-one of this code;

(2) "Elderly person" means a person who is sixty-five years or older;

(3) "Financial exploitation" or "financially exploit" means the intentional misappropriation or misuse of funds or assets of an elderly person, protected person or incapacitated adult, but shall not apply to a transaction or disposition of funds or assets where the defendant made a good-faith effort to assist the elderly person, protected person or incapacitated adult with the management of his or her money or other things of value; and

(4) "Protected person" means any person who is defined as a "protected person" in section four, article one, chapter forty-four-a of this code and who is subject to the protections of chapter forty-four-a or forty-four-c of this code.

§55-7I-2. Restriction of defenses, standing alone, based on legal relationship.

Notwithstanding any provision of this code to the contrary, acting in a position of trust and confidence, including, but not limited to, as guardian, conservator, trustee or attorney for or holding power of attorney for an elderly person, protected person or incapacitated adult shall not, standing alone, constitute a defense to an action brought under this article.

§55-7I-3. Court authorized remedies.

(a) In an action brought against a person under this article upon a finding that an elderly person, protected person or incapacitated adult has been financially exploited, the court may order:

(1) The return of property or assets improperly obtained, controlled or used; and

(2) An award of actual damages to the person who brought the action for any damages incurred or for the value of the property or assets lost as a result of the violation or violations of this article.

(b) In addition to the remedies provided in subsection (a) of this section, a court may order the following:

(1) For violations committed by a person who is not in a position of trust and confidence, payment of two times the amount of damages incurred or value of property or assets lost; and

(2) For violations committed by a person in a position of trust and confidence, and payment of treble damages.

§55-71-4. Attorneys' fees; court costs and burden of proof; statute of limitations.

(a) The court may award reasonable attorneys' fees and costs to a person that brings an action under this section and prevails.

(b) The standard of proof in proving that a person committed financial exploitation in an action pursuant to this article is a preponderance of the evidence.

(c) An action under this article shall be brought within two years from the date of the violation or from the date of discovery, whichever is later in time.

§55-71-5. Action to freeze assets; burden of proof; options the court may exercise.

(a) An elderly person, protected person or incapacitated adult may bring an action to enjoin the alleged commission of financial exploitation and may petition the court to freeze the assets of the person allegedly committing the financial exploitation in an amount equal to, but not greater than, the alleged value of lost property or assets for purposes of restoring to the victim the value of the lost property or assets. The burden of proof required to freeze the assets of a person allegedly committing financial exploitation shall be a preponderance of the evidence. Upon a finding that the elderly person, protected person or incapacitated adult has been formally exploited, the court may:

(1) Grant injunctive relief;

(2) Order the violator to, in escrow an amount of money equivalent to the value of the misappropriated assets for distribution to the aggrieved elderly person, protected person or incapacitated adult;

(3) Order the violator to return to the elderly person, protected person or incapacitated person any real or personal property which was misappropriated; or

(4) Provide for the appointment of a receiver;

(b) In an action under section one of this article, the court may void or limit the application of contracts or clauses resulting from the financial exploitation.

(c) In an action brought under this article, upon the filing of the complaint or on the appearance of any defendant, claimant or other party, or at any later time, the court may require the plaintiff, defendant, claimant or other party or parties to post security, or additional security, in a sum the court directs to pay all costs, expenses and disbursements that are awarded against that party or that the party may be directed to pay by any interlocutory order, by the final judgment or after appeal.

§55-71-6. Penalty for violation of injunction; retention of jurisdiction.

Any person who violates the terms of an order issued under section five of this article shall be subject to proceeding for contempt of court. The court issuing the injunction may retain jurisdiction if, in its discretion, it determines that to do so is in the best interest of the elderly person, protected person or incapacitated adult. Whenever the court determines that an injunction issued under section five of this article has been violated, the court may award reasonable costs to the party asserting that a violation has occurred.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**ARTICLE 2. CRIMES AGAINST THE PERSON.**

§61-2-29b. Financial exploitation of an elderly person, protected person or incapacitated adult; penalties; definitions.

~~(a)~~ Any person who financially exploits an elderly person, protected person or an incapacitated adult shall be guilty of larceny and subject to the penalties contained in section thirteen, article three of this chapter in the amount of less than \$1,000 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

~~(b)~~ Any person who financially exploits an elderly person, protected person or an incapacitated adult in the amount of \$1,000 or more is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 and imprisoned in a state correctional facility not less than two nor more than twenty years.

~~(c)~~ Any person convicted of a violation of this section shall, in addition to any other penalties at law, be subject to an order of restitution.

~~(d)~~ ~~(d)~~ In determining the value of the money, goods, property or services referred to in subsection (a) of this section, it shall be permissible to cumulate amounts or values where such money, goods, property or services were fraudulently obtained as part of a common scheme or plan.

~~(e)~~ ~~(e)~~ Financial institutions and their employees, as defined by section one, article two-a, chapter thirty-one-a of this code and as permitted by subsection thirteen, section four of said article, others engaged in financially related activities, as defined by section one, article eight-c, chapter thirty-one-a of this code, caregivers, relatives and other concerned persons are permitted to report suspected cases of financial exploitation to state or federal law-enforcement authorities, the county prosecuting attorney and to the Department of Health and Human Resources, Adult Protective Services Division or Medicaid Fraud Division, as appropriate. Public officers and employees are required to report suspected cases of financial exploitation to the appropriate entities as stated above. The requisite agencies shall investigate or cause the investigation of the allegations.

~~(f)~~ ~~(f)~~ When financial exploitation is suspected and to the extent permitted by federal law, financial institutions and their employees or other business entities required by federal law or regulation to file suspicious activity reports and currency transaction reports shall also be permitted to disclose suspicious activity reports or currency transaction reports to the prosecuting attorney of any county in which the transactions underlying the suspicious activity reports or currency transaction reports occurred.

~~(g)~~ ~~(g)~~ Any person or entity that in good faith reports a suspected case of financial exploitation pursuant to this section is immune from civil liability founded upon making that report.

~~(h)~~ ~~(h)~~ For the purposes of this section:

(1) "Incapacitated adult" means a person as defined by section twenty-nine of this article;

(2) "Elderly person" means a person who is sixty-five years or older;

(3) "Financial exploitation" or "financially exploit" means the intentional misappropriation or misuse of funds or assets of an elderly person, protected person or incapacitated adult, but shall not apply to a transaction or disposition of funds or assets where the accused made a good-faith effort to assist the elderly person, protected person or incapacitated adult with the management of his or her money or other things of value; and

(4) "Protected person" means any person who is defined as a "protected person" in section four, article one, chapter forty-four-a of this code and who is subject to the protections of chapter forty-four-a or forty-four-c of this code.

~~(g)~~ (i) Notwithstanding any provision of this code to the contrary, acting as guardian, conservator, trustee or attorney for or holding power of attorney for an elderly person, protected person or incapacitated adult shall not, standing alone, constitute a defense to a violation of subsection (a) of this section.

The bill (Eng. H. B. 4309), as amended, was then ordered to third reading.

Eng. House Bill 4340, Amending licensing requirements for an act which may be called Lynette's Law.

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

Eng. House Bill 4345, Repealing the West Virginia Permitting and Licensing Information Act.

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

Eng. House Bill 4378, Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person.

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

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

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

ARTICLE 3. GUARDIANSHIP AND CONSERVATORSHIP ADMINISTRATION.

§44A-3-17. Petition by certain persons for access to persons in guardianship; hearing and court order.

(a) As used in this section, unless the context otherwise requires, "relative" means a spouse, parent, grandparent, stepparent, child, grandchild, sibling or half sibling. The term includes said relationships that are created as a result of adoption. Additionally, as used in this section and section eighteen of this article, "relative" includes any person who has a family-type relationship with a protected person and any person with whom the protected person resided immediately prior to the time guardianship was sought.

(b) A relative may file a petition in circuit court seeking access to and information about a protected person which may include the opportunity to have visitation and contact with the protected person. The petition may be filed in the circuit court of the county in which the protected person resides or if the protected person has been admitted to a health care facility in a county other than that in which he or she resides in the circuit court of the county in which the health care facility is located.

(c) The court shall schedule a hearing on the petition within sixty days of the petition being filed: *Provided*, That if the petition alleges that the protected person's health is in significant decline or he or she is at imminent risk of death, an emergency hearing shall be scheduled as soon as practicable. The court may continue a hearing for good cause shown.

(d) Service of process upon the guardian shall be by personal service, consistent with the West Virginia Rules of Civil Procedure. Service of the petition shall be effected at least ten days prior to the scheduled hearing date: *Provided*, That where an emergency hearing is sought pursuant to subsection (c) of this section, service of process upon the guardian shall be as far in advance of the scheduled hearing date as possible.

(e) Upon notice and hearing the court may:

(1) Deny the petition;

(2) Order the guardian to allow the petitioner access to the protected person upon finding, by a preponderance of the evidence, that the guardian is preventing access by the petitioner to the protected person, that the protected person is desirous of contact with the petitioner.

(f) In determining whether to order that the petitioner shall have access to the protected person, the court shall consider the best interests of the protected person.

(g) The court may, in its discretion, award the prevailing party in an action brought under this section court costs and reasonable attorney's fees. Court costs and attorney's fees awarded under this subsection may not be paid from the protected person's estate.

(h) If the court grants the petition it may, in its discretion, retain jurisdiction over the matter and modify its order consistent with the best interests of the protected person.

(i) The provisions of this section apply to all guardianship of protected persons regardless of the date guardianship was established.

§44A-3-18. Guardian's duty to Inform certain relatives about protected person's health and residence.

(a) The provisions of this section apply to relatives who have been granted access to a protected person under section seventeen of this article.

(b) Except as provided by subsection (d) of this section, the guardian of a protected person shall as soon as practicable inform such relatives if:

(1) The protected person dies;

(2) The protected person is admitted to a medical facility for a period of three days or more;

(3) The protected person's residence has changed; or

(4) The protected person is staying at a location other than his or her usual place of residence for a period that exceeds two calendar weeks.

(c) In the case of the death of the protected person, the guardian shall inform the relative of any funeral arrangements and the location of the protected person's final resting place.

(d) A relative entitled to receive information regarding a protected person under this section may waive the notice required thereof by this section by providing a written waiver to the guardian. A guardian shall file any such written waiver with the court.

The bill (Eng. H. B. 4378), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4383, Making individuals responsible for the costs relating to the filing of excessive false complaints.

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

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

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

ARTICLE 30. EXCESSIVE FILING OF FALSE COMPLAINTS.

§5-30-1. Filing of false claims; suspension of investigatory obligations; notice; exceptions; civil actions and remedies.

(a) For purposes of this section:

(1) "Complaint" means a claim, allegation, report or action that prompts a required inspection or investigation by an agency or department of the state, excluding any complaint filed in the courts of this state.

(2) "False complaint" means a complaint received by an agency or department of the state that the agency or department of the state determines, after investigation, that the person who filed the complaint did so knowing the material statements in the complaint were not true, filed a complaint in reckless disregard of the truth or falsity of the statements contained therein or filed a complaint which constitutes an abuse of process.

(b) If any agency or department of the state that is required by statute, rule, regulation or policy to conduct inspections or investigate complaints by individuals to determine whether there is violation of a statute, rule or regulation determines, by clear and convincing evidence, that a person filed a false complaint, as defined in this section, may, in its sole discretion, suspend any obligations with respect to such required inspections or investigations as to that individual if the agency or department determines that the individual has made three or more false complaints in a two-month period: *Provided*, That any such suspension shall not last longer than six months and the agency or department may still undertake any inspections or investigations as a result of a complaint by the individual within this time period: *Provided, however*, That the agency or department must maintain written records of, at least, the name and telephone number of the person making the complaint to avail itself of the provisions of this section.

(c) Any individual whose complaint is determined to be a false complaint shall be advised of the same, in writing, within forty-eight hours of the conclusion of the inspection or investigation. A copy of this article shall be provided with the written notice. The agency shall also forward a copy of any such written communication to the Governor, the Speaker of the House and the President of the Senate.

(d) This article does not apply to any agency or department inspections or investigations that are required in the event of emergencies or the West Virginia State Police.

(e) In the event an agency or department subject to this article suspends its obligations to an individual, the agency or department is authorized to file a civil action against the individual and, upon proof by a preponderance of the evidence that any of the complaints giving rise to the suspension were false complaints, is entitled to recover its actual costs associated with the inspection or investigation and resolution of those false complaints, plus attorney's fees and costs, as well as any injunctive or equitable relief.

(f) Nothing in this article is intended to affect or supersede any other available legal or administrative remedies of any agency or department.

The bill (Eng. Com. Sub. for H. B. 4383), as amended, was then ordered to third reading.

Eng. House Bill 4417, Increasing wages protected from garnishment.

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

Eng. Com. Sub. for House Bill 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act.

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

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

On page one, section fourteen-a, line three, after the word "another" by inserting the word "person".

The bill (Eng. Com. Sub. for H. B. 4448), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4612, Relating generally to tax increment financing and economic opportunity development districts.

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

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

On page fourteen, section fourteen, line seven, after the word "one-c" by inserting a comma and the words "chapter twenty-one of this code".

On motion of Senator Romano, the following amendments to the bill (Eng. Com. Sub. for H. B. 4612) were next reported by the Clerk and considered simultaneously:

On page fourteen, after section four, by inserting two new sections, designated sections seven and ten, to read as follows:

§7-11B-7. Creation of a development or redevelopment or district.

(a) County commissions and the governing bodies of Class I and II municipalities, upon their own initiative or upon application of an agency or a developer, may propose creation of a development or redevelopment district and designate the boundaries of the district: *Provided*, That a district may not include noncontiguous land.

(b) The county commission or municipality proposing creation of a development or redevelopment district shall then hold a public hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a development or redevelopment district and its proposed boundaries.

(1) Notice of the hearing shall be published as a Class II legal advertisement in accordance with section two, article three, chapter fifty-nine of this code.

(2) The notice shall include the time, place and purpose of the public hearing, describe in sufficient detail the tax increment financing plan, the proposed boundaries of the development or redevelopment district and, when a development or redevelopment project plan is being proposed, the proposed tax increment financing obligations to be issued to finance the development or redevelopment project costs.

(3) Prior to the first day of publication, a copy of the notice shall be sent by first-class mail to the Director of the Development Office and to the chief executive officer of all other local levying bodies having the power to levy taxes on real and tangible personal property located within the proposed development or redevelopment district.

(4) All parties who appear at the hearing shall be afforded an opportunity to express their views on the proposal to create the development or redevelopment district and, if applicable, the development or redevelopment project plan and proposed tax increment financing obligations.

(c) After the public hearing, the county commission, or the governing body of the municipality, shall finalize the boundaries of the development or redevelopment district, the development or redevelopment project plan, or both, and submit the same to the Director of the Development Office for his or her review and approval. The director, within sixty days after receipt of the application, shall approve the application as submitted, reject the application or return the application to the county commission or governing body of the municipality for further development or review in accordance with instructions of the Director of the Development Office. A development or redevelopment district or development or redevelopment project plan may not be adopted by the county commission or the governing body of a municipality until after it has been approved by the Executive Director of the Development Office.

(d) Upon approval of the application by the Development Office, the county commission may enter an order and the governing body of the municipality proposing the district or development or redevelopment project plan may adopt an ordinance, that:

(1) Describes the boundaries of a development or redevelopment district sufficiently to identify with ordinary and reasonable certainty the territory included in the district, which boundaries shall create a contiguous district;

(2) Creates the development or redevelopment district as of a date provided in the order or ordinance;

(3) Assigns a name to the development or redevelopment district for identification purposes.

(A) The name may include a geographic or other designation, shall identify the county or municipality authorizing the district and shall be assigned a number, beginning with the number one.

(B) Each subsequently created district in the county or municipality shall be assigned the next consecutive number;

(4) Contains findings that the real property within the development or redevelopment district will be benefitted by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry or employment, increasing employment or any combination thereof;

(5) Approves the development or redevelopment project plan, if applicable;

(6) Establishes a tax increment financing fund as a separate fund into which all tax increment revenues and other revenues designated by the county commission, or governing body of the municipality, for the benefit of the development or redevelopment district shall be deposited, and from which all project costs shall be paid, which may be assigned to and held by a trustee for the benefit of bondholders if tax increment financing obligations are issued by the county commission or the governing body of the municipality; and

(7) Provides that ad valorem property taxes on real and tangible personal property having a tax situs in the development or redevelopment district shall be assessed, collected and allocated in the

following manner, commencing upon the date of adoption of such order or ordinance and continuing for so long as any tax increment financing obligations are payable from the tax increment financing fund, hereinafter authorized, are outstanding and unpaid:

(A) For each tax year, the county assessor shall record in the land and personal property books both the base assessed value and the current assessed value of the real and tangible personal property having a tax situs in the development or redevelopment district;

(B) Ad valorem taxes collected from regular levies upon real and tangible personal property having a tax situs in the district that are attributable to the lower of the base assessed value or the current assessed value of real and tangible personal property located in the development project area shall be allocated to the levying bodies in the same manner as applicable to the tax year in which the development or redevelopment project plan is adopted by order of the county commission or by ordinance adopted by the governing body of the municipality;

(C) The tax increment with respect to real and tangible personal property in the development or redevelopment district shall be allocated and paid into the tax increment financing fund and shall be used to pay the principal of and interest on tax increment financing obligations issued to finance the costs of the development or redevelopment projects in the development or redevelopment district. Any levying body having a development or redevelopment district within its taxing jurisdiction shall not receive any portion of the annual tax increment except as otherwise provided in this article; and

(D) In no event shall the tax increment include any taxes collected from excess levies, levies for general obligation bonded indebtedness or any levies other than the regular levies provided for in article eight, chapter eleven of this code.

(e) Proceeds from tax increment financing obligations issued under this article may only be used to pay for costs of development and redevelopment projects to foster economic development in the development or redevelopment district or land contiguous thereto.

(f) Notwithstanding subsection (e) of this section, a county commission may not enter an order approving a development or redevelopment project plan unless the county commission expressly finds and states in the order that the development or redevelopment project is not reasonably expected to occur without the use of tax increment financing.

(g) Notwithstanding subsection (e) of this section, the governing body of a municipality may not adopt an ordinance approving a development or redevelopment project plan unless the governing body expressly finds and states in the ordinance that the development or redevelopment project is not reasonably expected to occur without the use of tax increment financing.

(h) No county commission shall establish a development or redevelopment district any portion of which is within the boundaries of a Class I, II, III or IV municipality without the formal consent of the governing body of such municipality.

(i) A tax increment financing plan that has been approved by a county commission or the governing body of a municipality may be amended by following the procedures set forth in this article for adoption of a new development or redevelopment project plan.

(j) The county commission may modify the boundaries of the development or redevelopment district, from time to time, or extend the length of existence of development or redevelopment districts as set forth in section ten of this article, by entry of an order modifying the order creating the development or redevelopment district.

(k) The governing body of a municipality may modify the boundaries of the development or redevelopment district, from time to time, or extend the length of existence of development or redevelopment districts as set forth in section ten of this article, by amending the ordinance establishing the boundaries of the district.

(l) Before a county commission or the governing body of a municipality may amend such an order or ordinance, the county commission or municipality shall give the public notice, hold a public hearing and obtain the approval of the Director of the Development Office, following the procedures for establishing a new development or redevelopment district. In the event any tax increment financing obligations are outstanding with respect to the development or redevelopment district, any change in the boundaries shall not reduce the amount of tax increment available to secure the outstanding tax increment financing obligations.

§7-11B-10. Termination of development or redevelopment district.

(a) No development or redevelopment district may be in existence for a period longer than thirty years and no tax increment financing obligations may have a final maturity date later than the termination date of the area or district: Provided, That for any existing development or redevelopment district for which tax increment financing obligations have been issued by a county commission, or the governing body of a municipality, prior to December 31, 2008, that existing development or redevelopment district may be in existence for a period of forty years.

(b) The county commission or governing body of the municipality creating the development or redevelopment district may set a shorter period for the existence of the district. In this event, no tax increment financing obligations may have a final maturity date later than the termination date of the district.

(c) Upon termination of the district, no further ad valorem tax revenues shall be distributed to the tax increment financing fund of the district.

(d) The county commission shall adopt, upon the expiration of the time periods set forth in this section, an order terminating the development or redevelopment district created by the county commission: *Provided*, That no district shall be terminated so long as bonds with respect to the district remain outstanding.

(e) The governing body of the county commission shall repeal, upon the expiration of the time periods set forth in this section, the ordinance establishing the development or redevelopment district: *Provided*, That no district shall be terminated so long as bonds with respect to the district remain outstanding.;

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That §7-11B-3, §7-11B-4, §7-11B-7, §7-11B-10, §7-11B-14, §7-11B-21 and §7-11B-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto two new sections, designated §7-11B-29 and §7-11B-30; that §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of said code be amended and reenacted; that said code be amended by adding thereto two new sections, designated §7-22-23 and §7-22-24; that §8-38-5, §8-38-7, §8-38-8, §8-38-12 and §8-38-14 of said code be amended and reenacted; that said code be amended by adding thereto two new sections, designated §8-38-23 and §8-38-24; and that §11-10-11a of said code be amended and reenacted, all to read as follows:.

Following extended discussion,

The question being on the adoption of Senator Romano's amendments to the bill, the same was put and did not prevail.

The bill (Eng. Com. Sub. for H. B. 4612), as amended by the Committee on Finance, was then ordered to third reading.

Eng. House Bill 4651, Relating to professional examination requirements for hearing-aid dealers and fitters.

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

Eng. House Bill 4739, Unclaimed Life Insurance Benefits Act.

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

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

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

ARTICLE 13D. UNCLAIMED LIFE INSURANCE BENEFITS ACT.

§33-13D-1. Definitions.

(a) Definitions. — For purposes of this section:

(1) "Account owner" means the owner of a retained asset account who is a resident of this state.

(2) "Annuity contract" means an annuity contract issued in this state. The term "annuity contract" shall not include an annuity used to fund an employment-based retirement plan or program where: (1) The insurer does not perform the record-keeping services; or (2) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(3) "Death Master File" means the United States Social Security Administration's Death Master File or any other database or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining whether a person has died.

(4) "Death Master File match" means a search of the Death Master File that results in a match of the person's first and last name and Social Security number or the first and last name and date of birth of an insured, annuity owner or retained asset account holder.

(5) "Knowledge of death" shall, for the purposes of this section, mean: (a) Receipt of an original or valid copy of a certified death certificate; or (b) a Death Master File match validated by the insurer in accordance with section two of this article.

(6) "Person" means the policy insured, annuity contract owner, annuitant or account owner, as applicable under the policy, annuity contract or retained asset account at issue in this act.

(7) "Policy" means any policy or certificate of life insurance issued in this state that provides a death benefit. The term "policy" shall not include: (i) Any policy or certificate of life insurance that provides a death benefit under an employee benefit plan: (a) subject to the Employee Retirement Income Security Act of 1974, as periodically amended; or (b) under any federal employee benefit program; or (ii) any policy or certificate of life insurance that is used to fund a preneed funeral contract

or prearrangement; or (iii) any policy or certificate of credit life or accidental death insurance; or (iv) any policy issued to a group master policyholder for which the insurer does not provide record-keeping services.

(8) "Record-keeping services" means those circumstances under which the insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining and administering in its own or its agents' systems information about each individual insured under an Insured's group insurance contract (or a line of coverage thereunder), at least the following information: (1) Social Security number or name and date of birth; and (2) beneficiary designation information; (3) coverage eligibility; (4) benefit amount; and (5) premium payment status.

(9) "Retained asset account" means any mechanism whereby the settlement of proceeds payable under a policy or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check- or draft-writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity contract benefits other than death benefits.

§33-13D-2. Insurer conduct.

(a) An insurer shall perform a comparison of its insureds' in-force policies, annuity contracts and account owners against a Death Master File to identify potential death master file matches of its insureds, annuitants and account owners, on at least an annual basis, by using the full Death Master File once and thereafter using the Death Master File update files for future comparisons to identify potential Death Master File matches. The comparison using the full Death Master File should be completed within two years of the effective date of this article and must be completed on policies in force as of 1986, and all policies issued thereafter: *Provided*, That the Insurance Commissioner shall promulgate legislative rules requiring that the comparison against a Death Master File be completed on policies issued at earlier times if the commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective to match to the established Master Death Database.

(b) The insurer comparison of policies, annuity contracts and account owners shall be conducted first to the extent that such records are available electronically and then using the most easily accessible insurer data for records that are not available electronically.

(c) This section shall not apply to policies or annuity contracts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of active premium payment within the eighteen months immediately preceding the Death Master File comparison.

(d) Nothing in this section shall limit the insurer from requesting a valid death certificate as part of any claims validation process.

(e) For those potential matches identified as a result of a Death Master File match, or if an insurer learns of the possible death of a person otherwise, then the insurer shall, within ninety days of a Death Master File match:

(1) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the person against other available records and information;

(2) Review its records to determine whether the deceased person has any other products with the insurer;

(3) Determine whether benefits may be due in accordance with any applicable policy, annuity contract or retained asset account.

(f) Every insurer shall implement procedures to account for:

(1) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(2) Compound last names, maiden or married names, and hyphens, blank spaces or apostrophes in last names;

(3) Transposition of the "month" and "date" portions of the date of birth; and

(4) Incomplete Social Security number.

(g) If the beneficiary or other authorized representative has not communicated with the insurer within the ninety-day period, the insurer shall take reasonable steps and use good faith efforts, which shall be documented by the insurer, to locate and contact the beneficiary or beneficiaries or other authorized representative on any such policy, annuity contract or retained asset account, including, but not limited to, sending the beneficiary information regarding the insurer's claims process, including the need to provide an official death certificate if applicable under the policy, annuity contract or retained asset account.

(h) To the extent permitted by law, the insurer may disclose minimum necessary personal information about a person or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(i) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a Death Master File search or verification of Death Master File match conducted pursuant to this section.

(j) The benefits from a policy, annuity contract or a retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners, and in the event said beneficiaries or owners cannot be found, shall be paid to the state as unclaimed property pursuant to article eight, chapter thirty-six of this code.

(k) The West Virginia Office of the Insurance Commissioner has exclusive authority to promulgate such rules and regulations as may be required or reasonably necessary to implement the provisions of this section.

(l) The commissioner may, in his or her reasonable discretion, make an order to:

(1) Limit an insurer's Death Master File comparisons required under subsection (a) of this section to the insurer's electronic searchable files or approve a plan and timeline for conversion of the insurer's files to searchable electronic files upon a demonstration of hardship by the insurer;

(2) Exempt an insurer from the Death Master File comparisons required under subsection (a) of this section or permitting an insurer to perform such comparisons less frequently than annually upon a demonstration of hardship by the insurer; or

(3) Phase-in compliance with this section according to a plan and timeline approved by the commissioner.

The bill (Eng. H. B. 4739), as amended, was then ordered to third reading.

Eng. House Bill 4740, Permitting that current members of the National Guard or Reserves may be excused from jury duty.

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

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

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

That §52-1-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 1. PETIT JURIES.

§52-1-11. Excuses from jury service.

(a) The court, upon request of a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror should be excused from jury service. The clerk shall enter this determination in the space provided on the juror qualification form.

(b) A person who is not disqualified for jury service under section eight of this article may be excused from jury service by the court upon a showing of undue hardship, extreme inconvenience, or public necessity, for a period the court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the court's direction.

(c) A person who is not disqualified for jury service under section eight of this article may be excused from jury service by the court if the person is a current member of the National Guard or reserves.

The bill (Eng. H. B. 4740), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

Eng. House Bill 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and expanding prescriptive authority.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate recessed until 5 p.m. today.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 269, Budget Bill.

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

Com. Sub. for Senate Bill 269 (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

At the request of Senator Hall, unanimous consent being granted, the bill (Com. Sub. for S. B. 269) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 Concurrent Resolution 53, Harry C. “Buck” Markley, Jr. Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 53 (originating in the Committee on Transportation and Infrastructure)—Requesting Division of Highways name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek, and connecting the town of Farmington to U. S. Route 250 in Marion County, the “Harry C. ‘Buck’ Markley Jr. Memorial Bridge”.

Whereas, Harry C. “Buck” Markley, was born on May 27, 1935, in Farmington, West Virginia. He was the son of Harry and Virginia Pyles Markley. He graduated from Farmington High School and worked in Marion County at Wall Plaster and Angelucci Trucking before transitioning to the coal fields of the Four States, Blacksville and Grant Town mines. He served as a federal mine inspector from 1972 through 1996 and was a member of the Four States, Blacksville and the federal mine rescue teams; and

Whereas, Harry Markley was a devoted public servant, serving on the Farmington Town Council and as Mayor of Farmington for eighteen years, as well as serving with the Farmington Volunteer Fire Department for forty-five years, and forty years as chief of Company Seven. During Harry Markley’s career in public service he also served on the Marion County Fire Board. As Mayor, Harry Markley took the steps necessary to make Farmington easily accessible by leading the effort to reconstruct the bridge connecting Farmington to U. S. Route 250 in 1985; and

Whereas, Harry Markley passed away on June 23, 2015, in his home in Marion County. He has been an outstanding citizen and leader of Farmington and it is fitting that Harry C. “Buck” Markley Jr.’s legacy is memorialized on the very bridge that he helped to create; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek, and connecting the town of Farmington to U. S. Route 250 in Marion County, the “Harry C. ‘Buck’ Markley Jr. Memorial 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 "Harry C. 'Buck' Markley Jr. Memorial Bridge"; and, be it

Further Resolved, That the clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Mayor Donna Costello.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Chris Walters,
Chair.

At the request of Senator Carmichael, unanimous consent being granted, the resolution (Com. Sub. for S. C. R. 53) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The question being on the adoption of the resolution, the same was put and prevailed.

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 Concurrent Resolution 54, Union Army CPT John Bond Memorial Bridge.

Senate Concurrent Resolution 56, Judge Ronald G. Pearson Bridge.

And,

Senate Concurrent Resolution 59, U. S. Army SPC 4 Everette R. Johnson Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Chris Walters,
Chair.

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (S. C. R. 54, 56 and 59) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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 Concurrent Resolution 55, Dewey “Duke” Maynard Memorial Road.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 55 (originating in the Committee on Transportation and Infrastructure)—Requesting portion of Sweetwater Road on U. S. Route 35 near Dunlow, Wayne County, West Virginia, beginning at longitude, latitude: 37.980503, -82.359323 and ending at longitude, latitude: 38.010280, -82.306155, be named “The Dewey ‘Duke’ Maynard Memorial Road”.

Whereas, Dewey “Duke” Maynard was born January 18, 1941, at Holden in Logan County, West Virginia, the youngest son of the late Hardin and Genevie McNeeley Maynard. He was married to Icie Moore Maynard for 47 years. On January 14, 2010, Dewey “Duke” Maynard died at the age of 69 after suffering from a debilitating neurological disease that robbed him of his pride and mobility. Duke was survived by his wife, daughter and son-in-law, Robin Lee and J. T. Spaulding; a son and daughter-in-law, Dewey Lee Maynard, Jr.; and Sueann Maynard, all of Dunlow, West Virginia; and

Whereas, He was a retiree of the Laborers’ Local 543 and from his own business, Maynard Logging; a member of the Masonic Blue Lodge in Crum, WV; and was a 32nd Degree Master Mason; and

Whereas, Duke was well loved throughout his community, especially by those he visited each Christmas Eve for 21 years, providing gifts and playing Santa Claus for the school children; and

Whereas, Dewey “Duke” Maynard lived in the area near this roadway his entire life and was a kind and generous man who donated personal time and money to local youth and high school sports programs; and

Whereas, He served as a Republican Committeeman for several years, promoting community involvement in the democratic process and personally ensuring that the elderly had transportation to polling places; and

Whereas, In 1991, “Duke” created and gathered signatures on a petition to request that the Department of Highways place guardrails on Sweet Water Road for the sole purpose of protecting the school buses that traveled the road; and

Whereas, He was widely known to help those who had lost their jobs by hiring them for odd jobs and aiding them to obtain membership in the Laborers’ Local 543. He helped many neighbors purchase groceries at his own great financial burden and gathered clothes and food for neighbors who had lost their homes to fire or natural disasters. He was named an Honorary Wayne County Deputy Sheriff by Sheriff Toby Shy and was called upon to locate burned vehicles and stolen property and to assist deputies in carrying out their duties by helping them find remote areas and people they were not familiar with; and

Whereas, Naming a portion of Sweetwater Road on U. S. Route 35 near Dunlow, Wayne County, West Virginia, beginning at longitude, latitude: 37.980503, -82.359323 and ending at longitude, latitude: 38.010280, -82.306155, “The Dewey ‘Duke’ Maynard Memorial Road” would be a fitting tribute and honor to the memory of Dewey “Duke” Maynard who was a loving husband and father and a valuable asset to his community, county and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of Sweetwater Road on U. S. Route 35 near Dunlow, Wayne County, West Virginia, beginning at longitude, latitude: 37.980503, -82.359323 and ending at longitude, latitude: 38.010280, -82.306155, “The Dewey ‘Duke’ Maynard Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the "The Dewey 'Duke' Maynard Memorial Road"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the surviving relatives of Dewey 'Duke' Maynard.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Chris Walters,
Chair.

At the request of Senator Carmichael, unanimous consent being granted, the resolution (Com. Sub. for S. C. R. 55) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Concurrent Resolution 61, Requesting study on best methods to enhance communication between teachers, parents and students.

And,

Senate Concurrent Resolution 63, Requesting study of demand for and shortage of teachers in WV.

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

Respectfully submitted,

Dave Sypolt,
Chair.

The resolutions, under the original double committee references, were then referred to the Committee on Rules.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2202, Relating to more equitable disbursement of funds to county boards.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,
Chair.

At the request of Senator Sypolt, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2202) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Education pending.

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

Eng. Com. Sub. for House Bill 2826, Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; "Sarah Nott's Law".

And has amended same.

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

Respectfully submitted,

Chris Walters,
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 Transportation and Infrastructure.

At the request of Senator Walters, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2826) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 2897, Young Entrepreneur Reinvestment Act.

And has amended same.

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

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2897) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Economic Development pending.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4060, Relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety.

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 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

Eng. Com. Sub. for House Bill 4168, Creating a special motor vehicle collector license plate.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4239, Relating to construction of a modern highway from Pikeville, Kentucky to Beckley, West Virginia.

And has amended same.

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

Respectfully submitted,

Chris Walters,
Chair.

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Engrossed Committee Substitute for House Bill 4168 contained in the foregoing report from the Committee on Transportation and Infrastructure.

At the request of Senator Walters, and by unanimous consent, Engrossed Committee Substitute for House Bill 4168 was taken up for immediate consideration, read a first time and ordered to second reading.

At the request of Senator Walters, unanimous consent being granted, Engrossed Committee Substitute for House Bill 4239 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Transportation and Infrastructure pending.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4237, Supporting and Strengthening Families Act.

And has amended same.

Eng. Com. Sub. for House Bill 4317, Limiting factors in parenting plans.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4606, Relating to the recusal of certain public officials from voting for appropriation of moneys to nonprofit entities.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4301, Relating to a framework for initiating comprehensive transformation of school leadership.

And,

Eng. House Bill 4461, Relating to School Building Authority School Major Improvement Fund eligibility.

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

Respectfully submitted,

Dave Sypolt,
Chair.

At the request of Senator Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee references of the bills contained in the foregoing report from the Committee on Education.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4307, Clarifying that a firearm may be carried for self defense in state parks, state forests and state recreational areas.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 4411, Relating to penalty for illegally taking native brook trout.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 4, 2016;

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

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

Eng. Com. Sub. for House Bill 4435, Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Eng. Com. Sub. for House Bill 4554, Allowing an increase of gross weight limitations on certain roads in Greenbrier County.

And has amended same.

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

Respectfully submitted,

Chris Walters,
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

Eng. Com. Sub. for House Bill 4586, Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Eng. House Bill 4732, Relating to performance metrics for the West Virginia Division of Highways.

And has amended same.

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

Respectfully submitted,

Chris Walters,
Chair.

At the request of Senator Walters, unanimous consent being granted, the bill (Eng. H. B. 4732) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Government Organization, with amendments from the Committee on Transportation and Infrastructure pending.

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

Com. Sub. for House Concurrent Resolution 5, U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge.

And has amended same.

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

Respectfully submitted,

Chris Walters,
Chair.

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

Com. Sub. for House Concurrent Resolution 7, U.S. Army PFC Cecil Ray Ball Memorial Bridge.

Com. Sub. for House Concurrent Resolution 10, U.S. Marine Corps GySgt Lionel Collins Memorial Road.

Com. Sub. for House Concurrent Resolution 15, U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge.

Com. Sub. for House Concurrent Resolution 18, U.S. Air Force Staff Sergeant William Henry 'Bill' Whitman Memorial Highway.

And,

Com. Sub. for House Concurrent Resolution 41, U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Chris Walters,
Chair.

At the request of Senator Carmichael, unanimous consent being granted, the resolutions (Com. Sub. for H. C. R. 7, 10, 15, 18 and 41) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

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

Com. Sub. for House Concurrent Resolution 17, SGT Larry Joseph Whitt Bridge.

And has amended same.

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

Respectfully submitted,

Chris Walters,
Chair.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, March 9, 2016, at 11 a.m.

SENATE CALENDAR

Wednesday, March 09, 2016
11:00 AM

SPECIAL ORDER OF BUSINESS

Thursday, March 10, 2016 - 11:00 A.M.

Consideration of executive nominations

UNFINISHED BUSINESS

- Com. Sub. for H. C. R. 5 - U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge - (Com. amend. pending).
- Com. Sub. for H. C. R. 17 - SGT Larry Joseph Whitt Bridge - (Com. amends. pending).

THIRD READING

- Eng. Com. Sub. for H. B. 2904 - Requiring the clerk of a county commission to maintain a county ordinance book.
- Eng. Com. Sub. for H. B. 4171 - Relating to the public school calendar (original similar to HB4028, HB4298).
- Eng. Com. Sub. for H. B. 4188 - Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.
- Eng. H. B. 4246 - Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library.
- Eng. H. B. 4309 - Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person - (Com. title amend. pending) (original similar to HB4306, SB362).
- Eng. H. B. 4340 - Amending licensing requirements for an act which may be called Lynette's Law.
- Eng. H. B. 4345 - Repealing the West Virginia Permitting and Licensing Information Act (original similar to SB260).
- Eng. H. B. 4378 - Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person - (Com. title amend. pending).
- Eng. Com. Sub. for H. B. 4383 - Making individuals responsible for the costs relating to the filing of excessive false complaints - (Com. title amend. pending).
- Eng. H. B. 4417 - Increasing wages protected from garnishment.

- Eng. Com. Sub. for H. B. 4448 - Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act (original similar to SB472).
- Eng. Com. Sub. for H. B. 4612 - Relating generally to tax increment financing and economic opportunity development districts - (Com. title amend. pending).
- Eng. H. B. 4651 - Relating to professional examination requirements for hearing-aid dealers and fitters.
- Eng. H. B. 4739 - Unclaimed Life Insurance Benefits Act - (Com. title amend. pending).
- Eng. H. B. 4740 - Permitting that current members of the National Guard or Reserves may be excused from jury duty - (Com. title amend. pending).

SECOND READING

- Com. Sub. for S. B. 269 - Budget Bill.
- Eng. H. B. 2494 - Creating a provisional plea process in criminal cases - (Com. amend. and title amend. pending).
- Eng. Com. Sub. for H. B. 2826 - Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; "Sarah Nott's Law" - (Com. amend. and title amend. pending).
- Eng. Com. Sub. for H. B. 4014 - Preventing the State Board of Education from implementing common core academic standards and assessments - (Com. amends. and title amend. pending) (original similar to SB499).
- Eng. Com. Sub. for H. B. 4080 - Department of Veterans' Assistance, rule relating to VA headstones or markers (original similar to SB245).
- Eng. Com. Sub. for H. B. 4168 - Creating a special motor vehicle collector license plate - (Com. amends. pending).
- Eng. Com. Sub. for H. B. 4265 - Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds - (Com. amend. pending) (original similar to SB340).
- Eng. H. B. 4315 - Relating to air-ambulance fees for emergency treatment or air transportation (original similar to SB456).
- Eng. H. B. 4334 - Clarifying the requirements for a license to practice as an advanced practice registered nurse and expanding prescriptive authority - (Com. amend. and title amend. pending) (original similar to SB17, SB519).

- Eng. H. B. 4351 - Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture (original similar to SB392).
- Eng. Com. Sub. for H. B. 4360 - Increasing the criminal penalty for the unlawful practice of law - (Com. amend. and title amend. pending).
- Eng. Com. Sub. for H. B. 4365 - Relating to the certificate of need process - (Com. amends. pending) (original similar to SB467).
- Eng. H. B. 4411 - Relating to penalty for illegally taking native brook trout - (Com. amend. and title amend. pending).
- Eng. Com. Sub. for H. B. 4487 - Relating to state retirement systems (original similar to HB4187).
- Eng. Com. Sub. for H. B. 4502 - Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses.
- Eng. Com. Sub. for H. B. 4507 - Providing an employer may grant preference in hiring to a veteran or disabled veteran - (Com. title amend. pending).
- Eng. Com. Sub. for H. B. 4517 - Limiting the ability of an agent under a power of attorney to take self-benefiting actions.
- Eng. Com. Sub. for H. B. 4519 - Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System - (Com. amend. pending).
- Eng. H. B. 4578 - Creating a criminal offense of conspiracy to violate the drug laws - (Com. amend. and title amend. pending).
- Eng. Com. Sub. for H. B. 4636 - Increasing the penalties for violating the Whistle-blower Law.
- Eng. H. B. 4734 - Relating to mine subsidence insurance - (Com. amend. and title amend. pending).
- Eng. H. B. 4738 - Relating to the offense of driving in an impaired state.

FIRST READING

- Eng. Com. Sub. for H. B. 4053 - Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions - (Com. amend. and title amend. pending) (original similar to SB176).
- Eng. Com. Sub. for H. B. 4060 - Relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety - (Com. amend. and title amend. pending) (original similar to SB211).
- Eng. Com. Sub. for H. B. 4237 - Supporting and Strengthening Families Act - (Com. amend. and title amend. pending) (original similar to SB319).
- Eng. Com. Sub. for H. B. 4301 - Relating to a framework for initiating comprehensive transformation of school leadership.

- Eng. Com. Sub. for H. B. 4307 - Clarifying that a firearm may be carried for self defense in state parks, state forests and state recreational areas - (Com. amend. and title amend. pending) (original similar to SB122).
- Eng. Com. Sub. for H. B. 4317 - Limiting factors in parenting plans - (Com. amends. and title amend. pending).
- Eng. Com. Sub. for H. B. 4435 - Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects.
- Eng. H. B. 4461 - Relating to School Building Authority School Major Improvement Fund eligibility.
- Eng. Com. Sub. for H. B. 4554 - Allowing an increase of gross weight limitations on certain roads in Greenbrier County - (Com. amend. and title amend. pending).
- Eng. Com. Sub. for H. B. 4586 - Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways.
- Eng. Com. Sub. for H. B. 4606 - Relating to the recusal of certain public officials from voting for appropriation of moneys to nonprofit entities - (Com. amend. and title amend. pending).

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Wednesday, March 9, 2016

| | | |
|-----------|-------------------------|-------------|
| 8:30 a.m. | Education | (Room 451M) |
| 8:30 a.m. | Government Organization | (Room 208W) |
| 10 a.m. | Rules | (Room 219M) |
| 1 p.m. | Confirmations | (Room 208W) |