

West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Third Legislature  
First Regular Session

Held at Charleston  
Published by the Clerk of the House



March 27, 2017  
FORTY-EIGHTH DAY



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Monday, March 27, 2017

**FORTY-EIGHTH DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

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

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

The Clerk proceeded to read the Journal of Saturday, March 25, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Reordering of the Calendar**

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 2561, Com. Sub. for H. B. 2711, Com. Sub. for H. B. 2816, Com. Sub. for H. B. 2817 and Com. Sub. for H. B. 2933, on Second Reading, Special Calendar to the foot of bills on Second Reading, and Com. Sub. for S. B. 419, on Second reading, Special Calendar, to the House Calendar.

**Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2811**, Relating to the definition of above ground storage tanks.

A message from the Senate, by

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

**Com. Sub. for S. B. 428** – “A Bill to amend and reenact §30-5-27 of the Code of West Virginia, 1931, as amended, relating to partial filling of prescriptions; permitting partial filling of prescriptions for controlled substances listed in Schedule II under certain circumstances; setting conditions for partial filling of prescriptions for controlled substances listed in Schedule II; permitting remaining portion of prescription to be filled within thirty days of first partial filling; setting forth steps to be followed if pharmacist is unable to fill remaining portion of prescription; prohibiting further quantities from being supplied beyond seventy-two hours in absence of new prescription; providing that remaining portions of a partially filled prescription for controlled substances listed in Schedule II may be filled in emergency situations; and defining ‘emergency situation’; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

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

**S. B. 433** – “A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to permitting counties to increase the excise tax on the privilege of transferring real property”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

**Com. Sub. for S. B. 477** – “A Bill to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-18b of said code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-7-2 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding thereto a new section, designated §17A-10-3c; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; to amend and reenact §17C-5A-2a of said code; and to amend and reenact §17D-2-2 of said code, all relating generally to increasing the funding for the State Road Fund by increasing Division of Motor Vehicles administrative fees and motor fuel excise taxes; changing the flat rate component of the motor fuel excise tax from 20.5 cents to 25 cents per invoiced gallon of motor fuel and on each gallon equivalent for alternative fuel; increasing the minimum average wholesale price of motor fuels for purposes of the five percent variable fuel tax as of specified date; deleting superfluous language relating to floorstocks; increasing Division of Motor Vehicles administrative fees, including increasing fees for various documents, records, registrations, certificates, titles, liens, releases, transfers, cards, stickers, decals, licenses and plates; requiring payment of certain fee for each attempt at the written and road skills test; increasing said administrative Division of Motor Vehicles fees every five years on September 1 based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index; imposing annual registration fee for certain alternative fuel vehicles; and specifying effective dates”; which was referred to the Committee on Finance.

A message from the Senate, by

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

**Com. Sub. for S. B. 602** – “A Bill to amend and reenact §47-8-2 and §47-8-3 of the Code of West Virginia, 1931, as amended, all relating to transferring responsibility for registering and indexing of fictitious names used by sole proprietors”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**Com. Sub. for S. B. 622** – “A Bill to amend and reenact §11-10-12 of the Code of West Virginia, 1931, as amended, relating generally to tax procedures and administration; requiring the Tax Commissioner to issue a certificate of release of lien upon the expiration of ten years from the date a tax, additions to the tax or penalties and interest are due and payable; requiring a notice of lien to include the lien expiration date; providing for additional circumstances when the Tax Commissioner may withdraw tax liens; and providing for additional circumstances when the Tax Commissioner may issue a certificate of release of lien”; which was referred to the Committee on Finance.

A message from the Senate, by

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

**S. B. 658** – “A Bill to amend and reenact §17A-3-12b of the Code of West Virginia, 1931, as amended, relating to establishing a procedure whereby mobile and manufactured homes may be retitled provided certain conditions are met”; which was referred to the Committee on the Judiciary.

### Special Calendar

#### Third Reading

**Com. Sub. for H. B. 2004**, Creating and maintaining a centralized state vehicle inventory system; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 192**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2004) passed.

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

**Com. Sub. for H. B. 2004** – “A Bill to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10 and §5A-12-11; to amend and reenact §17A-3-23 of said code; to amend said code by adding thereto three new sections, designated §17A-3-25, §17A-3-26 and §17A-3-27; and to amend and reenact §29B-1-4 of said code, all relating to creating and maintaining a centralized state vehicle inventory system; establishing the Fleet Management Office within the Department of Administration; creating the State Vehicle Title, Registration and Relicensing Project of 2017; requiring reporting by spending units utilizing state vehicles; providing the new article’s scope and establishing exemptions; providing for new officers and establishing their powers, duties and responsibilities; defining terms; continuing the Fleet Management Office Fund; requiring the Fleet Management Office to coordinate with other agencies; providing for annual reports of vehicle use by spending units; requiring annual reports to the Governor and the Joint Committee on Government and Finance; establishing operator requirements and training; providing for enforcement and penalties; providing for notice; requiring legislative compliance audits; providing a deadline date for the expiration of current state vehicle license plates; creating new state vehicle license plates; providing for notice to spending units regarding the expiration of title, registrations and license plates; requiring a standardized naming convention for the title, registration and licensing of all state vehicles; requiring annual renewal of the state vehicle registrations; providing exemptions from reporting for certain undercover vehicles; and authorizing rule making and emergency rule making.”

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 193**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2004) takes effect July 1, 2017.

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

**H. B. 2548**, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 194**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Kelly and Pyles.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2548) passed.

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

**Com. Sub. for H. B. 2763**, Relating to the approval by the Council for Community and Technical College Education of acquisitions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 195**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2763) passed.

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

**Com. Sub. for H. B. 2799**, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 196**), and there were—yeas 87, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ambler, Baldwin, Caputo, Eldridge, E. Evans, Hamilton, Hartman, Iaquina, Love, Lynch, Rowe and Williams.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2799) passed.

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

**Com. Sub. for H. B. 2850**, Relating to product liability actions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 197**), and there were—yeas 65, nays 34, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Walters and Williams.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2850) passed.

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

**H. B. 2869**, Providing for paid leave for certain state officers and employees during a declared state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 198**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2869) passed.

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

**Com. Sub. for H. B. 2936**, Requiring competitive bidding for all state purchases of commodities, printing and services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 199**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2936) passed.

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

**Com. Sub. for H. B. 2939**, Relating to the sale of items in the State Police Academy post exchange to the public; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 200**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2939) passed.

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

**Com. Sub. for H. B. 2966**, Creating the West Virginia Sentencing Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 201**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2966) passed.

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

**Com. Sub. for H. B. 3028**, Relating to the Comprehensive Substance Use Reduction Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 202**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3028) passed.

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



**Com. Sub. for H. B. 3096**, Relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 203**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk, Love, Pushkin, Sponaugle and Upson.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3096) passed.

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

**H. B. 3108**, Relating to authorizing redirection of certain amounts to the General Revenue Fund; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

### **Second Reading**

**Com. Sub. for H. B. 2002**, Relating to parental notification of abortions performed on unemancipated minors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2109**, Relating to the West Virginia Land Reuse Agency Authorization Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 2188**, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2196**, Relating to the secondary schools athletic commission; on second reading, coming up in regular order, was read a second time.

Delegate Moye moved to amend the bill on page three, section twenty-five, line forty-four, following the semi-colon, by inserting the following:

“(4) If the student is convicted of, or found to have committed a felony or delinquent act which would have been a felony if committed by an adult, regardless of whether adjudication is withheld, the participation of the student in interscholastic extracurricular activities is contingent on established and published district school board policy” and a semicolon.

And,

By renumbering subsequent paragraphs accordingly.

Delegate Hanshaw moved to amend the amendment, by inserting after the word "found", the following:

"by a court of competent jurisdiction".

Unanimous consent having been obtained, Delegate Moye was then added as a cosponsor of the amendment to the amendment offered by Delegate Hanshaw.

Delegate Moye asked unanimous consent that the bill be advanced to third reading with the amendments pending, which request was not granted, objection being heard.

Delegate Moye then moved that the bill be advanced to third reading with the amendments pending.

Delegate Moye subsequently withdrew his motion.

Delegate Cowles asked and obtained unanimous consent that the bill be placed at the foot of bills on second reading.

**Com. Sub. for H. B. 2376**, Relating to the organizational structure of state government; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2453**, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2520**, Prohibiting the use of a tanning device by a person under the age of eighteen; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2552**, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Nelson, the bill was amended on page one, section four, line one, by deleting the word "All" and inserting in lieu thereof the following:

"Except as otherwise provided in this article, all".

The bill was ordered to engrossment and third reading.

**Com. Sub. for H. B. 2589**, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Robinson, was reported by the Clerk on page one, by striking out the enacting section and inserting in lieu thereof, the following:

"That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5-15g; and to amend said code by adding thereto a new article, designated §18-21A-1, §18-21A-2, §18-21A-3, §18-21A-4, §18-21A-5, §18-21A-6 and §18-21A-7, all to read as follows" followed by a colon.

And,

On page one, line four, following the period, by inserting a new article to read as follows:

**“ARTICLE 21A. CAREER AND TECHNICAL EDUCATION PILOT PROGRAM FOR MIDDLE SCHOOL STUDENTS.**

**§18-21A-1. Short title.**

This article may be cited as the ‘Middle School Technical Education Program Act’ or the ‘Middle School STEP Act’.

**§18-21A-2. Legislative findings.**

(a) Career and technical education prepares students to be both college and career ready by providing core academic, technical and employability skills.

(b) High-quality career and technical education programs not only ensure that coursework is aligned with rigorous academic standards and post-secondary expectations, but are built to address specific skills needed in certain career pathways.

(c) Eighty percent of students taking a college preparatory academic curriculum with rigorous career and technical education courses met college and career readiness goals, compared to only sixty-three percent of students taking the same academic core who did not experience rigorous career and technical education courses.

(d) Furthermore, a 2008, study from American College Testing showed that if students are not on target for college and career readiness by the end of eighth grade the impact may be nearly irreversible. The level of academic achievement that students attain by eighth grade has a larger impact on their college and career readiness by the time they graduate from high school than any other academic factor.

(e) Given the importance of career and technical education programs in fostering college and career readiness, and the determinative impact that eighth grade achievement has on future academic and professional success, it is essential that middle school students are informed about and prepared to take advantage of career and technical education programs in their local communities.

**§18-21A-3. Purpose.**

The purpose of the pilot program shall be to better prepare seventh and eighth grade students to take advantage of West Virginia’s Career and Technical Education programs and to improve students’ college and career readiness prior to high school. For the purposes of this article, ‘middle school’ means any school containing the seventh and eighth grade levels.

**§18-21A-4. Organization of special pilot program.**

(a) Funding. — Participating middle schools shall use existing resources to implement the pilot program.

(b) Instructor Qualifications. — Qualified instructors include, but are not limited to, teachers, counselors and other middle school staff possessing a post-secondary degree. Instructors are not required to obtain any additional certification or license to instruct the course. Nothing in this article

or chapter eighteen-a or this code prohibits principals or vice-principals, on a voluntary basis, from participating in the program as a guest instructor or speaker.

(c) Elective Course. — The pilot program shall be a one semester elective course: *Provided*, That middle schools with alternative scheduling systems may adapt the program to suit their scheduling needs.

(d) Local Partners. — High schools, vocational schools, community colleges, public universities and any other institute of higher learning that receives funding from the State of West Virginia shall provide speakers to participating middle schools upon the middle school's request: *Provided*, That the entity providing the speaker is located within fifty miles of the requesting middle school.

### **§18-21A-5. Curriculum.**

(a) Guest Speakers. — Course instructors shall schedule weekly guest speakers to introduce students to a particular career and to prepare students to pursue the featured career by providing relevant information on:

- (1) Education requirements;
- (2) Cost of education;
- (3) Availability of education;
- (4) Average salary;
- (5) Average longevity; and
- (6) Transferability of skills.

Instructors are encouraged to invite professionals excelling in fields where training is available at the local career and technical education school.

(b) On-Site Research. — Instructors may organize field trips to visit local employers, job fairs, high schools, vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions to introduce students to potential career paths via on-site presentations and experiential learning.

(c) Career Skills. — The course shall include instruction on skill sets required to discover and take advantage of employment opportunities, including, but not limited to:

- (1) Performing a job search;
- (2) Developing a résumé;
- (3) Preparing for a job interview; and
- (4) Developing and deploying personal networks to find job opportunities.

(d) Academic Skills. — The course shall include instruction on skill sets required to discover and take advantage of educational opportunities, including, but not limited to:

(1) Researching admissions requirements for vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(2) Researching employment rates and average salaries for graduates of vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(3) Researching employment rates and average salaries for specific degrees, certifications and majors from post-secondary academic institutions;

(4) Researching state, federal and private scholarship and grant opportunities; and

(4) Preparing a college or technical school application.

(e) Personal Graduation Plan. – For successful completion of the course, a student shall create a 'Personal Graduation Plan' outlining his or her plan to become employable following high school or post-secondary school.

#### **§18-21A-6. Admission process for middle schools.**

(a) Authority. — The state board shall establish guidelines for middle schools to submit a request for the school's admission in the pilot program and the state board may admit middle schools into the pilot program.

(b) Admissions. — Middle schools may volunteer to implement the program by submitting a request to the state board and admission shall be on a first-come, first-serve basis.

(c) Minimum School Participation. — It is the goal of the pilot program that a minimum of ten middle schools participate each year during the pilot program's existence. If ten middle schools have not been admitted into the program by July 1 preceding the academic year, the state board may solicit additional middle schools to participate in the pilot program to meet the minimum participation goal, but may not require the participation of any middle school.

#### **§18-21A-7. Certification and monitoring.**

(a) Certificate of Completion. — Students shall receive a West Virginia STEP Certificate verifying their participation in the pilot program upon successful completion of the course.

(b) Monitoring. — The state board shall report to the Legislative Oversight Commission on Education Accountability each year on the graduation, post-secondary participation, and to the extent practicable, job placement rates, in the aggregate, of students that have received a West Virginia STEP Certificate following successful completion of the pilot program."

Delegate Espinosa arose to a point of order as to the germaneness of the amendment.

To the point of order, the Speaker replied that the purpose of the amendment went beyond the fundamental purpose of the bill and ruled that the amendment was not germane.

The bill was ordered to engrossment and third reading.

**Com. Sub. for H. B. 2654**, Expanding county commissions' ability to dispose of county or district property; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2704**, Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools; on second reading, coming up in regular order, was read a second time.

Delegate Marcum moved to amend the bill on page two, section six, line eighteen, following the words 'section five', by inserting a comma and the following:

"or under Chapter sixty-one, article three, section twenty for embezzlement of \$1,00.00 or more from the school".

Delegate Espinosa arose to a point of order as to the germaneness of the amendment.

Delegate Espinosa then withdrew his point of order.

Delegate Marcum then asked and obtained unanimous consent to offer a reformed amendment on page two, section six, line eighteen, following the words "section five", by inserting a comma and the following:

"or under Chapter sixty-one, article three, section twenty for embezzlement of \$1,000.00 or more from the school".

On the adoption of the amendment, Delegate Marcum then demanded the yeas and nays, which demand was not sustained.

The reformed amendment offered by Delegate Marcum was then rejected.

The bill was ordered to engrossment and third reading.

**Com. Sub. for H. B. 2720**, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2771**, Relating to temporary teaching certificates for Armed Forces spouses; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2776**, Creating of special revenue funding sources for the Division of Labor; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2781**, Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2794**, Relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2804**, Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members; on second reading, coming up in regular order, was read a second time.

Delegate Wilson moved to amend the bill on page three, section one, line forty-six, following the word “contrary”, by striking out “licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses”.

And,

On page three, section one, line fifty-seven, following the word “board” and the period, by striking out “In cooperation with the Secretary of the Department of Veterans’ Assistance, the continuing education shall include training on inquiring about whether the patients are veterans or family members of veterans, and screening for conditions such as post-traumatic stress disorder, risk of suicide, depression and grief and prevention of suicide.”

Delegate Wilson then asked and obtained unanimous consent to withdraw the amendment.

The bill was ordered to engrossment and third reading.

**Com. Sub. for H. B. 2815**, Relating to higher education governance; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendment pending and with restricted right to amend jointly by Delegates Hanshaw and Robinson, and the rule was suspended to permit the consideration of the amendment on that reading.

**H. B. 2878**, Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2887**, Relating to retirement and separation incentives; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2897**, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2930**, Allowing powerball, hot lotto, and mega millions winners to remain anonymous; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2941**, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2961**, Relating generally to charitable bingo games and charitable raffles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 2962**, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 2963**, Eliminating tax lien waiver requirement for estates of nonresidents; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 2967**, Relating generally to administration of estates and trusts; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 3006**, Exempting certain contracts between the Department of Health and Human Resources and West Virginia University or Marshall University from state purchasing requirements; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3022**, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3037**, Removing the Division of Energy as an independent agency; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 3048**, Relating to collection of Tier II fees for chemical inventories; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3088**, Relating generally to teacher-pupil ratios; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3091**, Relating generally to employer withholding taxes; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 3095**, Allowing retired teachers to be employed by a higher education institution; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 3102**, Relating to selling Hopemont Hospital; on second reading, coming up in regular order, was read a second time.

Delegates Sypolt and Lewis moved to amend the bill on page one, section twenty-six, line nine, after the word, "constructed", by inserting the words "on the Hopemont property".

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

The yeas and nays having been ordered, they were taken (**Roll No. 204**), and there were—yeas 46, nays 52, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Brewer, Byrd, Canestraro, Caputo, Criss, Dean, Diserio, A. Evans, Ferro, Fleischauer, Fluharty, Folk, N. Foster, Hamilton, Hartman, Hornbuckle, Iaquinta, Isner, Lane, Lewis, Longstreth, Love, Lovejoy, Martin, Maynard, McGeehan, Miley, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, C. Romine, R. Romine, Rowe, Sponaugle, Sypolt, Thompson, Wagner, Ward and Williams.

Absent and Not Voting: Arvon and Gearheart.



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

The bill was ordered to engrossment and third reading.

At 1:27 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 4:00 p.m.

\* \* \* \* \*

### Evening Session

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### Messages from the Senate

A message from the Senate, by

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

**Com. Sub. for S. B. 69** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11A-9, relating to creating the Sexual Assault Victims' Bill of Rights; declaring additional rights bestowed upon sexual assault survivors regarding medical forensic examinations, sexual assault evidence collection kits and other similar topics; clarifying the right of a victim to be accompanied by a personal representative during certain proceedings; requiring certain people be informed or notified of certain rights; incorporating other rights contained in code; and defining terms"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**Com. Sub. for S. B. 167** - "A Bill to amend and reenact §15-2B-2, §15-2B-5, §15-2B-6 and §15-2B-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15-9B-4, all relating to DNA testing generally; allowing the West Virginia State Police Forensic Laboratory to use qualified outside entities for DNA testing; clarifying that the State Police shall attempt to contract with the Marshall University Forensic Science Center for certain DNA testing when outsourcing such testing; granting legislative and emergency rule-making authority to the Sexual Assault Forensic Examination Commission; directing the commission to promulgate time frames for sample submission, sample testing and reporting of DNA testing results; expanding types of testing the State Police Forensic Laboratory may outsource; authorizing law-enforcement and correctional officers to use reasonable force to obtain DNA samples; creating presumption that DNA samples taken by law-enforcement and corrections personnel are obtained in good faith; exempting law-enforcement and correctional officers from civil and criminal liability; directing that erroneously obtained DNA sample to be removed from database and samples destroyed; and clarifying that judicial expungement proceeding proceed by petition"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**Com. Sub. for S. B. 210** - "A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-seven new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50 and §7-20-51; and to amend said code by adding thereto a new section, designated §31-15-16d, all relating to Local Powers Act; renaming short title the County Local Powers Act; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; making technical corrections; amending authorization for county commissions related to imposition of impact fees, services fees and other taxes; providing for county commission review and permissive approval of impact fees; amending use of proceeds from sale of bonds; adding payment sources for bonds; allowing the reallocation of certain ad valorem property taxes after ratification of constitutional amendment and procedures and requirements related to reallocation of ad valorem property taxes; specifying effective date; providing requirements and procedures concerning creation and finalization of county road construction project plans and amendments thereto; specifying public hearing and notice requirements and opportunity for public comment; requiring consent; permitting joint road construction projects; setting forth duties, authorities and jurisdiction of Commissioner of Highways; authorizing intergovernmental agreements and setting forth requirements related thereto; providing for the termination of road construction projects plan; providing for application for approval of road construction project plans and application content; providing for certification of road construction project; providing rule-making authority; providing for acceptance into state road system; qualifying road construction projects as public improvements; providing for reporting by Commissioner of Highways; creating special revenue revolving fund and for county subaccounts; providing for funding and expenditures from account; authorizing West Virginia Economic Development Authority to issue revenue bonds and refunding bonds; permitting cash-basis projects; setting forth requirements concerning issuance, selling, execution and use of bonds; permitting trust agreements; specifying that bonds and other obligations undertaken by the West Virginia Economic Development Authority do not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision; specifying that bonds are negotiable instruments; providing exemption from taxation; waiving and exempting personal liability; providing that authority for exercise of powers are cumulative and neither powers nor bonds are limited; permitting cash-basis projects; providing for termination of special allocation of property taxes; providing for excess fund deposit; specifying that powers are supplemental; providing for severability; and providing authority and requirements related to West Virginia Economic Development Authority, including authority to issue bonds, limitations, payments, certification and return of unused funds"; which was referred to the Committee on Finance.

**Com. Sub. for S. B. 316** - "A Bill to amend and reenact §21A-6-1a of the Code of West Virginia, 1931, as amended, relating to seasonal employment in connection with unemployment compensation benefits; establishing that seasonal employment shall not be distinguishable from employment in general for unemployment compensation benefits determination; and clarifying that seasonal employment has no bearing on ability to file a claim for unemployment benefits provided other eligibility requirements are satisfied"; which was referred to the Committee on Industry and Labor then Finance.

A message from the Senate, by

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

**Com. Sub. for S. B. 380** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-3-3a, relating to Cabwaylingo State Forest; creating a

pilot project permitting all-terrain or recreational vehicles on designated roads and trails in Cabwaylingo State Forest; permitting the director to designate roads, trails and campgrounds; permitting the director to establish special season and permit; applying the ATV, UTV and Motorcycle Responsibility Act to the project; and requiring Legislative Auditor to review project and file report"; which was referred to the Committee on Agriculture and Natural Resources then Government Organization.

A message from the Senate, by

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

**Com. Sub. for S. B. 388** - "A Bill to amend and reenact §61-7-11a and §61-7-14 of the Code of West Virginia, 1931, as amended, all relating generally to dangerous weapons; exempting persons other than provisional concealed handgun permittees who are lawfully authorized to carry a concealed handgun to possess firearms on school parking lots, driveways and other areas of vehicular ingress or egress; creating safety storage requirements on such possession; clarifying persons who may possess a firearm on property where such is otherwise prohibited when acting in an official capacity; and correcting internal statutory references"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**Com. Sub. for S. B. 412** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-4; and to amend and reenact §21-1C-5 of said code, all relating to prohibiting a governmental entity, which requires certain private companies to submit any document that includes records of actual wages paid to employees, from disclosing such document or information contained therein to any other entity or person; providing that any such document containing records of actual wages paid to employees shall be deemed confidential and proprietary and shall not be considered a public record; defining 'governmental entity'; providing that any document containing records of actual wages paid to employees that is filed or submitted pursuant to the West Virginia Jobs Act shall not be disclosed by the Division of Labor or a public authority to any other entity or person; and providing that any document submitted or filed pursuant to the West Virginia Jobs Act that includes records of actual wages paid to employees or information contained therein shall be deemed confidential and proprietary and shall not be considered a public record"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

**Com. Sub. for S. B. 437** – "A Bill to amend and reenact §19-23-3, §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-8, §29-22C-10, §29-22C-27 and §29-22C-27a of said code, all relating generally to horse and dog racing lottery; modifying certain definitions; discontinuing the West Virginia Racing Commission special account known as the West Virginia Greyhound Breeding Development Fund; transferring all moneys in the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon transfer of moneys from the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund, a certain

amount be withheld and deposited in the special account known as the Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs to include Spaying and Neutering Account; requiring that all moneys previously required to be directed to the West Virginia Greyhound Breeding Development Fund be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that all moneys previously required to be directed into any fund or paid for the purpose of funding purses, awards or providing any other funding for greyhound races be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to qualify for such license; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to contract to receive telecasts and accept wagers; providing that a dog racetrack is required to hold a racing license to conduct simulcast racing regardless of whether the racetrack continues to conduct live dog racing; authorizing the West Virginia Racing Commission to promulgate rules, including emergency rules, regarding licensure of dog racetracks conducting only simulcast racing; eliminating the requirement that a video lottery licensee at a dog track must hold a racing license to renew a video lottery license or racetrack table games license; requiring the Lottery Commission to transfer a percentage of gross terminal revenue derived from racetrack video lottery at thoroughbred racetracks, and deducted for administrative costs and expenses, to the Racing Commission's General Administrative Account; eliminating the requirement that an applicant for a video lottery license or license renewal at a dog racetrack must provide evidence of the existence of an agreement regarding proceeds from video lottery terminals with certain parties; providing that a percentage of net terminal income originating at dog racetracks will be deposited in the State Excess Lottery Revenue Fund; providing that a percentage of net terminal income originating at thoroughbred racetracks will be deposited in the West Virginia Thoroughbred Development Fund; permitting a dog racetrack to continue to operate operational video lottery and racetrack table games in a location where live racing was previously conducted or in an alternate location within the county as approved by the Lottery Commission; and eliminating the requirement that a racetrack table games licensee at a dog racetrack must race a minimum number of dates.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 347) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

**Com. Sub. for S. B. 453** - “A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to adding the classification and base salaries of certain civilian employees of the West Virginia State Police Forensic Laboratory as evidence technicians, forensic technicians, forensic analysts and forensic analysts supervisors”; which was referred to the Committee on Finance.

A message from the Senate, by

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

**S. B. 493** - “A Bill to amend and reenact §20-7-1a and §20-7-1c of the Code of West Virginia, 1931, as amended, all relating to providing an increase in compensation for conservation officers”; which was referred to the Committee on Agriculture and Natural Resources then Finance.

**Special Calendar****Second Reading**

-continued-

**H. B. 3107**, Relating generally to horse and dog racing lottery; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending and the rule was suspended to permit the consideration of the amendments on that reading.

**H. B. 3109**, Relating to establishing a Board of Nursing and Health Services; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending and the rule was suspended to permit the consideration of the amendments on that reading.

**Com. Sub. for H. B. 2561**, Relating to public school support; on second reading, coming up in regular order, was read a second time.

Delegate Moye moved to amend the bill on page ten, section seven, line forty-three, following the words "school year", by inserting "in which funds have not been diverted pursuant to this subdivision in the two prior fiscal years" and a comma.

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

The yeas and nays having been ordered, they were taken (**Roll No. 205**), and there were—yeas 37, nays 60, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem, Gearheart and Ward.

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

The bill was ordered to engrossment and third reading.

**Com. Sub. for H. B. 2711**, Abolishing regional educational service agencies and providing for the transfer of property and records; on second reading, coming up in regular order, was read a second time.

Delegates Sponaugle and Rowe moved to amend the bill on page two, by striking out the enacting section and inserting new enacting section, to read as follows:

“That §18-2-26a of the Code of West Virginia, 1931, as amended, be repealed; that §18-2-26 of said code be amended and reenacted; that §18-2E-5 of said code be amended and reenacted; that §18-5-13 and §18-5-45 of said code be amended and reenacted; that said code be further amended by adding thereto two new sections designated, §18-5-13b and §18-5-13c; that §18-9A-8a of said code be amended and reenacted; and that §18A-4-2, §18A-4-8a, and §18A-4-14 of said code be amended and reenacted, all to read as follows” followed by a colon.

And,

On page fifty, following §18-9A-8a, by inserting the following:

**“§18A-4-2. State minimum salaries for teachers.**

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) Beginning July 1, 2014, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, specific additional amounts prescribed in this section or article and any county supplement in effect in a county pursuant to section five-a of this article during the contract year.

STATE MINIMUM SALARY SCHEDULE

Years Exp.	4th Class	3rd Class	2 <sup>nd</sup> Class	A.B. A.B.	A.B. +15	M.A. M.A.	M.A. +15	M.A. +30	M.A. +45	Doc-torate
0	27,917	28,606	28,872	30,315	31,076	32,843	33,604	34,365	35,126	36,161
1	28,245	28,934	29,200	30,833	31,594	33,362	34,123	34,883	35,644	36,679
2	28,574	29,262	29,528	31,352	32,113	33,880	34,641	35,402	36,163	37,198
3	28,902	29,590	29,856	31,871	32,631	34,399	35,160	35,920	36,681	37,716
4	29,474	30,162	30,428	32,633	33,394	35,162	35,923	36,683	37,444	38,479
5	29,802	30,490	30,756	33,152	33,913	35,680	36,441	37,202	37,963	38,998
6	30,130	30,818	31,084	33,670	34,431	36,199	36,960	37,720	38,481	39,516
7	30,458	31,147	31,412	34,189	34,950	36,717	37,478	38,239	39,000	40,035
8	30,786	31,475	31,741	34,707	35,468	37,236	37,997	38,757	39,518	40,553
9	31,114	31,803	32,069	35,226	35,987	37,754	38,515	39,276	40,037	41,072
10	31,443	32,131	32,397	35,746	36,506	38,274	39,035	39,796	40,556	41,591
11	31,771	32,459	32,725	36,264	37,025	38,793	39,553	40,314	41,075	42,110
12	32,099	32,787	33,053	36,783	37,543	39,311	40,072	40,833	41,593	42,628
13	32,427	33,115	33,381	37,301	38,062	39,830	40,590	41,351	42,112	43,147
14	32,755	33,443	33,709	37,820	38,580	40,348	41,109	41,870	42,630	43,665
15	33,083	33,771	34,037	38,338	39,099	40,867	41,627	42,388	43,149	44,184
16	33,411	34,099	34,365	38,857	39,617	41,385	42,146	42,907	43,667	44,702
17	33,739	34,428	34,693	39,375	40,136	41,904	42,665	43,425	44,186	45,221
18	34,067	34,756	35,022	39,894	40,655	42,422	43,183	43,944	44,705	45,740
19	34,395	35,084	35,350	40,412	41,173	42,941	43,702	44,462	45,223	46,258

20	34,723	35,412	35,678	40,931	41,692	43,459	44,220	44,981	45,742	46,777
21	35,052	35,740	36,006	41,449	42,210	43,978	44,739	45,499	46,260	47,295
22	35,380	36,068	36,334	41,968	42,729	44,496	45,257	46,018	46,779	47,814
23	35,708	36,396	36,662	42,487	43,247	45,015	45,776	46,536	47,297	48,332
24	36,036	36,724	36,990	43,005	43,766	45,534	46,294	47,055	47,816	48,851
25	36,364	37,052	37,318	43,524	44,284	46,052	46,813	47,574	48,334	49,369
26	36,692	37,380	37,646	44,042	44,803	46,571	47,331	48,092	48,853	49,888
27	37,020	37,708	37,974	44,561	45,321	47,089	47,850	48,611	49,371	50,406
28	37,348	38,037	38,302	45,079	45,840	47,608	48,368	49,129	49,890	50,925
29	37,676	38,365	38,631	45,598	46,358	48,126	48,887	49,648	50,408	51,443
30	38,004	38,693	38,959	46,116	46,877	48,645	49,405	50,166	50,927	51,962
31	38,333	39,021	39,287	46,635	47,396	49,163	49,924	50,685	51,445	52,480
32	38,661	39,349	39,615	47,153	47,914	49,682	50,443	51,203	51,964	52,999
33	38,989	39,677	39,943	47,672	48,433	50,200	50,961	51,722	52,483	53,518
34	39,317	40,005	40,271	48,190	48,951	50,719	51,480	52,240	53,001	54,036
35	39,645	40,333	40,599	48,709	49,470	51,237	51,998	52,759	53,520	54,555

(c) (1) Eight hundred and eight dollars shall be paid annually to each classroom teacher, effective July 1, 2017.

(2) Six hundred dollars shall be paid annually to each classroom teacher who has at least twenty years of teaching experience.

(3) The payments required by subdivisions (1) and (2) of this subsection: ~~(i)~~ (A) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; ~~(ii)~~ (B) shall be paid in equal monthly installments; and ~~(iii)~~ (C) shall be considered a part of the state minimum salaries for teachers.

(d) To meet the objective of salary equity among the counties as set forth in section five of this article, each teacher shall be paid an equity supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to ~~the provisions of that section:~~

(1) For '4th Class' at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including thirty-five years of experience;

(2) For '3rd Class' at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including thirty-five years of experience;

(3) For '2nd Class' at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(4) For 'A. B.' at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(5) For 'A. B. + 15' at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(6) For 'M. A.' at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(7) For 'M. A. + 15' at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(8) For 'M. A. + 30' at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(9) For 'M. A. + 45' at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience; and

(10) For 'Doctorate' at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to section five-a of this article; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

**§18A-4-8a. Service personnel minimum monthly salaries.**

(a) The minimum monthly pay for each service employee shall be as follows:

(1) Beginning July 1, 2014, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.

STATE MINIMUM PAY SCALE PAY GRADE

Years

Exp.	Pay Grade							
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
0	1,660	1,681	1,723	1,776	1,829	1,892	1,924	1,997
1	1,692	1,714	1,755	1,808	1,862	1,925	1,956	2,030
2	1,725	1,746	1,788	1,841	1,894	1,957	1,989	2,062
3	1,757	1,779	1,821	1,874	1,927	1,990	2,022	2,095
4	1,790	1,812	1,853	1,906	1,959	2,023	2,054	2,129
5	1,823	1,844	1,886	1,939	1,992	2,055	2,087	2,161
6	1,855	1,877	1,920	1,972	2,025	2,088	2,120	2,194
7	1,889	1,909	1,952	2,004	2,057	2,121	2,152	2,227
8	1,922	1,942	1,985	2,037	2,090	2,153	2,185	2,259



9	1,954	1,975	2,018	2,071	2,123	2,186	2,217	2,292
10	1,987	2,008	2,050	2,103	2,155	2,220	2,251	2,325
11	2,020	2,041	2,083	2,136	2,188	2,252	2,284	2,357
12	2,052	2,074	2,115	2,169	2,222	2,285	2,316	2,390
13	2,085	2,106	2,148	2,201	2,254	2,317	2,349	2,423
14	2,118	2,139	2,181	2,234	2,287	2,350	2,382	2,455
15	2,150	2,172	2,213	2,266	2,319	2,383	2,414	2,488
16	2,183	2,204	2,246	2,299	2,352	2,415	2,447	2,521
17	2,215	2,237	2,280	2,332	2,385	2,448	2,480	2,554
18	2,248	2,270	2,312	2,364	2,417	2,481	2,512	2,587
19	2,282	2,302	2,345	2,397	2,450	2,513	2,545	2,619
20	2,314	2,335	2,378	2,431	2,483	2,546	2,578	2,653
21	2,347	2,367	2,410	2,463	2,515	2,579	2,610	2,687
22	2,380	2,401	2,443	2,496	2,548	2,612	2,644	2,719
23	2,412	2,434	2,476	2,529	2,582	2,646	2,678	2,753
24	2,445	2,466	2,508	2,561	2,614	2,680	2,711	2,787
25	2,478	2,499	2,541	2,594	2,648	2,712	2,745	2,819
26	2,510	2,532	2,573	2,628	2,682	2,746	2,777	2,853
27	2,543	2,564	2,606	2,660	2,714	2,778	2,811	2,886
28	2,576	2,597	2,640	2,694	2,748	2,812	2,845	2,920
29	2,608	2,631	2,673	2,726	2,781	2,846	2,877	2,954
30	2,642	2,663	2,707	2,760	2,814	2,878	2,911	2,987
31	2,675	2,697	2,741	2,794	2,848	2,912	2,945	3,020
32	2,709	2,730	2,773	2,827	2,880	2,946	2,977	3,054
33	2,743	2,763	2,807	2,861	2,914	2,978	3,011	3,087
34	2,775	2,797	2,841	2,895	2,948	3,012	3,045	3,120
35	2,809	2,831	2,873	2,927	2,980	3,046	3,078	3,154
36	2,843	2,864	2,907	2,961	3,015	3,079	3,112	3,186
37	2,875	2,898	2,941	2,995	3,049	3,113	3,145	3,220
38	2,909	2,930	2,973	3,027	3,081	3,146	3,178	3,254
39	2,943	2,964	3,007	3,061	3,115	3,179	3,212	3,286
40	2,975	2,998	3,040	3,094	3,149	3,213	3,245	3,320

(2) Each service employee shall receive the amount prescribed in the Minimum Pay Scale in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

CLASS TITLE	PAY GRADE
Accountant I .....	D
Accountant II .....	E
Accountant III .....	F
Accounts Payable Supervisor .....	G
Aide I .....	A
Aide II .....	B
Aide III .....	C
Aide IV .....	D
Audiovisual Technician .....	C
Auditor .....	G
Autism Mentor .....	F
Braille Specialist .....	E
Bus Operator .....	D
Buyer .....	F
Cabinetmaker .....	G
Cafeteria Manager .....	D
Carpenter I .....	E
Carpenter II .....	F
Chief Mechanic .....	G
Clerk I .....	B
Clerk II .....	C
Computer Operator .....	E
Cook I .....	A
Cook II .....	B
Cook III .....	C
Crew Leader .....	F

Custodian I .....	A
Custodian II .....	B
Custodian III .....	C
Custodian IV .....	D
Director or Coordinator of Services .....	H
Draftsman .....	D
Early Childhood Classroom Assistant Teacher I .....	E
Early Childhood Classroom Assistant Teacher II .....	E
Early Childhood Classroom Assistant Teacher III .....	F
Educational Sign Language Interpreter I .....	F
Educational Sign Language Interpreter II .....	G
Electrician I .....	F
Electrician II .....	G
Electronic Technician I .....	F
Electronic Technician II .....	G
Executive Secretary .....	G
Food Services Supervisor .....	G
Foreman .....	G
General Maintenance .....	C
Glazier .....	D
Graphic Artist .....	D
Groundsman .....	B
Handyman .....	B
Heating and Air Conditioning Mechanic I .....	E
Heating and Air Conditioning Mechanic II .....	G
Heavy Equipment Operator .....	E
Inventory Supervisor .....	D

Key Punch Operator .....	B
Licensed Practical Nurse .....	F
Locksmith .....	G
Lubrication Man .....	C
Machinist .....	F
Mail Clerk .....	D
Maintenance Clerk .....	C
Mason .....	G
Mechanic .....	F
Mechanic Assistant .....	E
Office Equipment Repairman I .....	F
Office Equipment Repairman II .....	G
Painter .....	E
Paraprofessional .....	F
Payroll Supervisor .....	G
Plumber I .....	E
Plumber II .....	G
Printing Operator .....	B
Printing Supervisor .....	D
Programmer .....	H
Roofing/Sheet Metal Mechanic .....	F
Sanitation Plant Operator .....	G
School Bus Supervisor .....	E
Secretary I .....	D
Secretary II .....	E
Secretary III .....	F
Sign Support Specialist .....	E

Supervisor of Maintenance .....	H
Supervisor of Transportation .....	H
Switchboard Operator-Receptionist .....	D
Truck Driver .....	D
Warehouse Clerk .....	C
Watchman .....	B
Welder .....	F
WVEIS Data Entry and Administrative Clerk .....	B

(b) An additional \$80 per month is added to the minimum monthly pay of each service person.

~~(b)~~ (c) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

~~(c)~~ (d) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds twelve college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds twenty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds thirty-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds forty-eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds sixty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds seventy-two college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds eighty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds ninety-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds one hundred eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds one hundred twenty college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

~~(d)~~ (e) An additional \$80 per month also is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds an associate's degree;
- (2) A service person who holds a bachelor's degree;
- (3) A service person who holds a master's degree;
- (4) A service person who holds a doctorate degree.

~~(e)~~ (f) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds a bachelor's degree plus fifteen college hours;
- (2) A service person who holds a master's degree plus fifteen college hours;
- (3) A service person who holds a master's degree plus thirty college hours;
- (4) A service person who holds a master's degree plus forty-five college hours; and
- (5) A service person who holds a master's degree plus sixty college hours.

~~(f)~~ (g) To meet the objective of salary equity among the counties, each service person is paid an equity supplement, as set forth in section five of this article, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to section five-b of this article; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

~~(g)~~ (h) When any part of a school service person's daily shift of work is performed between the hours of six o'clock p. m. and five o'clock a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

~~(h)~~ (i) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

~~(i)~~ (j) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

~~(j)~~ (k) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

~~(k)~~ (l) The minimum hourly rate of pay for extra duty assignments as defined in section eight-b of this article is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county

board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however,* That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

~~(†)~~ (m) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

~~(m)~~ (n) For the purpose of qualifying for additional pay as provided in section eight, article five of this chapter, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds or wherever supervision is required. For purposes of this section, 'under the direct supervision of a certified professional person' means that certified professional person is present, with and accompanying the aide'."

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

The yeas and nays having been ordered, they were taken (**Roll No. 206**), and there were—yeas 42, nays 55, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson, Wagner and Williams.

Absent and Not Voting: Deem, Gearheart and Ward.

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

On motion of Delegate Espinosa, the bill was amended on page forty-seven, section forty-five, line forty-five, following the words "county board may", by striking the words "apply up to five days of

instruction delivered through alternative methods to cancel days lost due to necessary school closures” and inserting in lieu thereof the following:

“deliver instruction through alternative methods on up to five days when schools are closed due to inclement weather or other unforeseen circumstances and these days are instructional days notwithstanding the closure of schools. The use of equivalent time gained by lengthening the school day to cancel days lost, and the delivery of instruction through alternative methods, both as defined in this section, shall be considered instructional days for the purpose of meeting the 180 separate day requirement and as employment days for the purpose of meeting the 200 day employment term.”

On motion of Delegate Espinosa, the bill was amended page forty-seven, section forty-five, line sixty-two, following the paragraph designation “(vii)”, by inserting “In addition to the faculty senate meeting required prior to the beginning of the instructional term pursuant to section five, article five-a of this chapter” and a comma.

The bill was ordered to engrossment and third reading.

**Com. Sub. for H. B. 2816**, Eliminating new film tax credits; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Butler, was reported by the Clerk on page two, following line eleven and the article heading, by inserting the following:

**“§11-15-3. Amount of tax; allocation of tax and transfers.**

(a) *Vendor to collect.* – For the privilege of selling tangible personal property or custom software and for the privilege of furnishing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article and article fifteen-b of this chapter, and shall pay the amount of tax to the Tax Commissioner in accordance with the provisions of this article or article fifteen-b of this chapter.

(b) *Amount of tax.* – The general consumer sales and service tax imposed by this article shall be at the rate of ~~six cents on the dollar~~ percent of the sales price of sales tangible personal property, custom software or taxable services purchased, excluding gasoline and special fuel sales, which remain taxable at the rate of five cents percent: on the dollar of sales *Provided, That on and after July 1, 2017, the tax imposed by this article shall be six and one-half percent of the purchase price, excluding sales of motor fuels, which remain taxable at the rate of five percent of the average wholesale selling price of motor fuel: Provided, however, That this increase in the rate of tax adopted pursuant to the reenactment of this section during the 2017 Regular Session of the Legislature shall expire on June 30, 2020, so long as the balance of funds as of June 30, 2019, in the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B, established in section twenty, article two, chapter eleven-b of this code equals or exceeds fifteen percent of the general revenue fund budgeted for the fiscal year commencing on July 1, 2019.*

(c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* – There shall be no tax on sales where the monetary consideration is ~~5¢ or less~~. The amount of the tax shall be computed as follows:

- ~~(1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.~~
- ~~(2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.~~
- ~~(3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.~~



~~(4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.~~

~~(5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.~~

~~(6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.~~

~~(7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the dollar if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢; 3¢ on the fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional part of the dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in excess of 67¢ but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For example,~~

~~the tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33, both inclusive, 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67, both inclusive, 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales from \$1.85 to \$2, both inclusive, 12¢. *Provided*, That beginning January 1, 2004, tax due under this article shall be calculated as provided in subsection (d) of this subsection and this subsection (c) does not apply to sales made after December 31, 2003.~~

~~(e) (c) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* – Beginning January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the third decimal place, and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.~~

~~(e) (d) *No aggregation of separate sales transactions, exception for coin-operated devices.* – Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though the sales are aggregated in the billing or payment therefor. Notwithstanding any other provision of this article, coin-operated amusement and vending machine sales shall be aggregated for the purpose of computation of this tax.~~

~~(f) (e) *Rate of tax on certain mobile homes.* – Notwithstanding any provision of this article to the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six percent of fifty percent of the sales price: *Provided*, That on and after July 1, 2017, notwithstanding any provision of this article to the contrary, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six and one-half percent of fifty percent of the sales price: *Provided, however*, That should the rate of tax imposed in subsection (b) of this section revert to six percent as of a specified date, the tax imposed on sales of certain mobile homes shall similarly revert to six percent of fifty percent of the sales price.~~

~~(g) (f) *Construction; custom software.* – After December 31, 2003, whenever Whenever the words “tangible personal property” or “property” appear in this article, the same shall also include the words “custom software”.~~

~~(h) (g) *Computation of tax on sales of gasoline and special fuel.* – The method of computation of tax provided in this section does not apply to sales of gasoline and special fuel.~~

(h) Notwithstanding any provision of this code to the contrary, on and after July 1, 2017, when the words 'six percent' appear in this article or article fifteen of this chapter they shall mean the rate of the tax specified in subsection (b) of this section."

On page eighteen, following line three hundred eight-nine, by inserting the following:

**"ARTICLE 15A. USE TAX.**

**§11-15A-2. Imposition of tax; ~~six percent tax rate~~; inclusion of services as taxable; transition rules; allocation of tax and transfers.**

(a) An excise tax is hereby levied and imposed on the use in this state of tangible personal property, custom software or taxable services, to be collected and paid as provided in this article or article fifteen-b of this chapter, at the rate of six percent of the purchase price of the property or taxable services, except as otherwise provided in this article: Provided, That on and after July 1, 2017, the tax imposed by this article shall be collected and paid, as provided in this article or article fifteen-b of this chapter, at the rate of six and one-half percent of the purchase price of the tangible personal property, custom software or taxable services, except as otherwise provided in this article: Provided, however, That the one-half percent increase in the tax on the purchase price adopted pursuant to the reenactment of this section during the 2017 Regular Session of the Legislature shall expire on June 30, 2020, so long as the balance of funds as of June 30, 2019, in the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B, established in section twenty, article two, chapter eleven-b of this code equals or exceeds fifteen percent of the general revenue fund budgeted for the fiscal year commencing on July 1, 2019.

(b) *Calculation of tax on fractional parts of a dollar.* – The tax computation under subsection (a) of this section shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(c) 'Taxable services', for the purposes of this article, means services of the nature that are subject to the tax imposed by article fifteen of this chapter. In this article, wherever the words 'tangible personal property' or 'property' appear, the same shall include the words 'or taxable services', where the context so requires.

(d) Use tax is hereby imposed upon every person using tangible personal property, custom software or taxable service within this state. That person's liability is not extinguished until the tax has been paid. A receipt with the tax separately stated thereon issued by a retailer engaged in business in this state, or by a foreign retailer who is authorized by the Tax Commissioner to collect the tax imposed by this article, relieves the purchaser from further liability for the tax to which the receipt refers.

(e) Purchases of tangible personal property or taxable services made for the government of the United States or any of its agencies by ultimate consumers is subject to the tax imposed by this section. Industrial materials and equipment owned by the federal government within the State of West Virginia of a character not ordinarily readily obtainable within the state, is not subject to use tax when sold, if the industrial materials and equipment would not be subject to use taxes if sold outside of the state for use in West Virginia.

(f) This article does not apply to purchases made by counties or municipal corporations.

(g) Notwithstanding any provisions of this code to the contrary, on and after July 1, 2017, when the words 'six percent' appear in subsection (c), section ten of this article, those words shall mean 'a percentage equal to the use tax rate' specified in subsection (a) of this section."

And,

By amending the enacting section to read as follows:

"That §11-13X-4 and §11-13X-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-15-3 and §11-15-9 of said code be amended and reenacted; that §11-15A-2 of said code be amended and reenacted; and that §11-16-13 of said code be amended and reenacted, all to read as follows" followed by a colon.

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

The yeas and nays having been ordered, they were taken (**Roll No. 207**), and there were—yeas none, nays 97, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Gearheart and Ward.

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

An amendment, offered by Delegate Butler, was reported by the Clerk on page twenty, following line fifty-five, by inserting the following:

## **"ARTICLE 28. COMMERCIAL ACTIVITY TAX.**

### **§11-28-1. Imposition of privilege tax.**

There is hereby levied and shall be collected an annual privilege tax on persons conducting any business or commercial activities in this state, in the amount of two tenths of one percent of the gross income of the business as defined by this article.

### **§11-28-2. Definitions.**

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

#### (b) Definitions:

(1) 'Banking business' or 'financial organization' shall mean any bank, banking association, trust company, industrial loan company, small loan company or licensee, building and loan association, savings and loan association, finance company, investment company, investment broker or dealer, and any other similar business organization whose assets consist primarily of intangible personal property and whose gross income consists primarily of dividends, interest and other charges derived from the use of money or credit.

(2) 'Business' includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. 'Business' does not include a casual sale by a

person who is not engaged in the business of selling the type of property involved in such casual sale. 'Business' includes the production of natural resources or manufactured products which are used or consumed by the producer or manufacturer and includes the activities of a banking business or financial organization.

(3) (A) 'Gross income' means the gross receipts of the taxpayer, other than a banking or financial business, received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, all receipts from the investment of the capital of the business, including rentals, royalties, fees, reimbursed costs or expenses or other emoluments however designated and including all interest, carrying charges, fees or other like income, however denominated, derived by the taxpayer from repetitive carrying of accounts, in the regular course and conduct of its business, and extension of credit in connection with the sale of any tangible personal property or service, and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties paid in cash or in kind or otherwise, interest or discount paid or any other expenses whatsoever: *Provided*, That gross income shall not include contributions to capital.

(B) (i) 'Gross income of a banking or financial business' means the gross income received from interest, premiums, discounts, dividends, service fees or charges, commissions, fines, rents from real or tangible personal property, however denominated, royalties, charges for bookkeeping or data processing, receipts from check sales, charges or fees, and receipts from the sale of tangible personal property.

(ii) 'Gross income of a banking or financial business' does not include:

(I) Interest received on the obligations of the United States, its agencies and instrumentalities,

(II) Interest received on the obligations of this state, or any political subdivision of this state,  
or

(III) Interest received on investments or loans primarily secured by first mortgages or deeds of trust on residential property occupied by nontransients; however, all interest derived from these activities shall be reported on the return of a person taxable under the provisions of this section.

(C) 'Gross proceeds of sales' means the value, whether in money or other property, proceeding from the sale of tangible property, without any deduction for the cost of property sold or expenses of any kind: *Provided*, That bad debts shall be allowed as a deduction except that the amount of any bad debt recovery shall be included in gross proceeds of sale.

(D) The terms 'gross income' and 'gross proceeds of sales' do not include:

(i) Cash discounts allowed and taken on sales;

(ii) The proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit;

(iii) The amount allowed as 'trade-in value' for any article accepted as part payment for any article sold;

(iv) Excise taxes imposed by this state; or

(v) Money or other property received or held by a professional person for the sole use and benefit of a client or another person or money received by the taxpayer on behalf of a bank or other financial institution for the repayment of a debt of another.

(4) 'Person' or 'company', herein used interchangeably, includes any individual, firm, copartnership, partnership, limited liability company, joint adventure, association, corporation, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(5) 'Sale', 'sales' or 'selling' means any transfer of the ownership of or title to property, whether for money or in exchange for other property.

(6) 'Selling at wholesale' or 'wholesale sales' means and includes:

(A) Sales of any tangible personal property for the purpose of resale in the form of tangible personal property:

(B) Sales of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article; and

(C) Sales of any tangible personal property to the United States of America, its agencies and instrumentalities or to the State of West Virginia, its institutions or political subdivisions.

(7) 'Service business or calling' means all activities engaged in by a person for other persons for a consideration which involve the rendering of a service as distinguished from the sale of tangible property, but does not include the services rendered by an employee to his or her employer. This term includes, but is not limited to:

(A) Persons engaged in manufacturing, compounding or preparing for sale, profit or commercial use, articles, substances or commodities which are owned by another or others;

(B) Persons engaged as independent contractors in producing natural resource products which are owned by another or others, as personal property, immediately after the same are severed, extracted, reduced to possession and produced;

(C) The repetitive carrying of accounts, in the regular course and conduct of business, and extension of credit in connection with the sale of any tangible personal property or service.

(8) 'Taxpayer' means any person liable for the tax imposed by this article;

(9) 'Tax year' or 'taxable year' means the calendar year, unless permission is obtained from the Tax Commissioner to use the taxpayer's fiscal year as the tax period;

(10) 'Electronic filing' or 'e-filing' means filing using electronic technology such as computer modem, magnetic media, optical disk, facsimile machine, telephone or other technology approved by the Tax Commissioner, in such manner as he or she deems acceptable. Any return required to be filed electronically under this article may contain an electronic signature, if a signature is required.

### **§11-28-3. Rules for determining measure of tax.**

(a) If any person liable for the tax ships or transports its products or any part thereof out of the state without making sale of such products, the value of the products in the condition or form in which

they exist immediately before transportation out of the state shall be the basis for the assessment of the tax. The tax commissioner may prescribe rules for ascertaining such value.

(b) In determining value, however, of sales between affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale do not reflect the true value of the subject matter of the sale, the tax commissioner may prescribe rules for determining the value on which the privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of products where no common interest exists between the buyer and seller but the circumstances and conditions are otherwise similar.

(c) Upon every person engaging or continuing within this state in the business of manufacturing, compounding or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or in part, any article or articles, substance or substances, commodity or commodities, or newspaper publishing (including all gross income or proceeds of sale from circulation and advertising), the measure of this tax is the value of the entire product manufactured, compounded or prepared in the state for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the state.

(d) In those instances in which the same person partially manufactures, compounds or prepares products within this state and partially manufactures, compounds or prepares such products outside of this state, the measure of the tax shall be that proportion of the sale price of the product that the payroll cost of manufacturing within this state bears to the entire payroll cost of manufacturing the product; or, at the option of the taxpayer, the measure of his or her tax under this section shall be the proportion of the sales value of the articles that the cost of operations in West Virginia bears to the full cost of manufacture of the articles.

#### **§11-28-4. Exemptions.**

The provisions of this article do not apply to:

(a) Insurance companies which pay the State of West Virginia a tax on premiums. However, this exemption does not apply to portions of the gross income of insurance companies received for the use of real property, other than property in this state in which the insurance company maintains its office or offices, whether that income is in the form of rentals or royalties;

(b) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(c) Fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit. This exemption does not apply to gross income arising from the sale of alcoholic liquor, food and related services of such fraternal societies, organizations and associations which are licensed as private clubs under the provisions of article seven, chapter sixty of this code, except that funds derived from the licensed charitable gaming activities of such organizations are exempt;

(d) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes: *Provided*, That this exemption does not apply to gross income derived from engaging in unrelated business activity as defined for federal income tax purposes;

(e) Production credit associations, organized under the provisions of the federal 'Farm Credit Act of 1933'; or

(f) Any credit union organized under the provisions of chapter thirty-one or any other chapter of this code: Except, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of this code.

**§11-28-5. Computation of tax; payment.**

The tax imposed by this article is due and payable as follows:

(a) For taxpayers whose estimated tax under this article exceeds \$1,000 per month, the tax shall be due and payable in monthly installments on or before the last day of the month following the month in which the tax accrued. Each such taxpayer shall, on or before the last day of each month, make out an estimate of the tax for which it is liable for the preceding month and submit it with a remittance in the form prescribed by the Tax Commissioner, of the amount of tax to the office of the commissioner.

(b) For taxpayers whose estimated tax under this article does not exceed \$1,000 per month, the tax shall be due and payable in quarterly installments within one month from the expiration of each quarter in which the tax accrued. Each such taxpayer shall, within one month from the expiration of each quarter, make out an estimate of the tax for which he or she is liable for such quarter, sign the same and mail it together with a remittance, in the form prescribed by the Tax Commissioner, of the amount of tax to the office of the commissioner.

(c) When the total tax for which any person is liable under this article does not exceed \$200 in any year, the taxpayer may pay the same quarterly as described in subsection (b) of this section or, with the consent in writing of the Tax Commissioner, at the end of the month next following the close of the tax year.

(d) The Tax Commissioner may require the return and payment for periods of shorter duration than those prescribed above if it is deemed necessary to ensure payment of the tax.

(e) The forms shall be filed electronically, in accordance with the procedures set forth in the Tax Commissioner's rule on use and acceptance of electronic records. Any taxpayer required to file and pay electronically who fails to do so, shall be required to pay a money penalty in an amount equal to five percent of the tax due.

**§11-28-6. Return and remittance by taxpayer.**

On or before the expiration of one month after the end of the tax year, each taxpayer shall make a return for the entire tax year showing the gross proceeds of sales or gross income of business, trade or calling, and compute the amount of tax chargeable in accordance with the provisions of this article and deduct the amount of monthly or quarterly payments (as hereinbefore provided), if any, and transmit with its report a remittance in the form prescribed by the Tax Commissioner covering the residue of the tax chargeable against the taxpayer to the office of the Tax Commissioner; such return shall be signed by the taxpayer if made by an individual, or by the president, vice president, secretary or treasurer of a corporation if made on behalf of a corporation. If made on behalf of a partnership, joint adventure, association, trust, or any other group or combination acting as a unit, any individual delegated by such firm, copartnership, joint adventure, association, trust or any other group or combination acting as a unit shall sign the return on behalf of the taxpayer. The Tax Commissioner may extend the time for making the annual return on the application of any taxpayer and grant such reasonable additional time within which to make the same, for good cause shown. Annual returns must be filed, and payments remitted, electronically, as provided in section four of this article, unless the taxpayer first obtains a waiver in writing from the Tax Commissioner.

**§11-28-7. Tax year.**

The assessment of taxes and the returns required under the provisions of this article shall be on a calendar year basis, unless permission is obtained from the Tax Commissioner to use the taxpayer's fiscal year as the tax period.

**§11-28-8. Tax cumulative.**

The tax imposed by this article is in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business, trade or calling in this state. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are condition precedent to exercising the privilege taxed, may exercise the privilege for the current tax year upon the condition that he or she shall pay the tax accruing under this article.

**§11-28-9. Receivership or insolvency proceedings.**

In the event a business subject to the tax imposed by this article is being operated in connection with a receivership or insolvency proceeding, the court under whose direction the business is operated shall, by the entry of a proper order in the cause, make provision for the regular payment of the taxes imposed by this article as they become due.

**§11-28-10. Priority in distribution in receivership, etc.; personal liability of administrator.**

In the distribution, voluntary or compulsory, in receivership, bankruptcy or otherwise, of the estate of any person, firm or corporation, all taxes due and unpaid under this article shall be paid from the first money available for distribution in priority to all claims, except taxes and debts due the United States which under federal law are given priority over the debts and liens created by this article. Any person charged with the administration of an estate who shall violate the provisions of this section shall be personally liable for any taxes accrued and unpaid under this article, which are chargeable against the person, firm or corporation whose estate is in administration.

**§11-28-11. Credit for taxes paid.**

(a) A credit shall be allowed against the tax imposed by this article for the following taxes paid to the State of West Virginia:

- (1) The severance and business privilege tax imposed by article thirteen-a of this chapter.
- (2) The health care provider tax imposed by article twenty-seven of this chapter.
- (3) The acute care hospital tax imposed by article twenty-seven of this chapter.
- (4) The business and occupation tax imposed by article thirteen of this chapter.

(b) No credit may be taken for the following taxes paid within this state:

(1) The municipal business and occupation tax imposed by a municipality pursuant to article thirteen, chapter eight of this code.

(2) The municipal public utilities tax imposed by a municipality pursuant to article thirteen, chapter eight of this code.



(c) In no case may the credit allowed under this section reduce a taxpayer's liability for the tax imposed by this article below zero dollars.

(d) No unused credit under this section may be carried forward or carried back to another tax year.

**§11-28-12. Offenses; penalties.**

It shall be unlawful for any person to refuse to make the return required by section six of this article; or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this article; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article; or for the president, vice president, secretary or treasurer of any corporation to make or permit to be made for any corporation or association any false return, or any false statement in any return required in this article, with the intent to evade the payment of any tax hereunder. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than \$10,000 or imprisoned not exceeding one year in the regional jail or punished by both fine and imprisonment, at the discretion of the court, within the limitations aforesaid. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of false swearing, and, on conviction thereof, shall be punished in the manner provided by law. Any corporation for which a false return, or a return containing a false statement, as aforesaid, shall be made, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$10,000. The circuit and criminal courts of the county in which the offender resides, or, if a corporation, in which it carries on business, shall have concurrent jurisdiction to enforce this section.

**§11-28-13. Severability; effective date.**

(a) Severability – If any provision of this article or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of said article, but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered, and the applicability of such provision to other persons or circumstances shall not be affected thereby.

(b) Effective date – The provisions of this article take effect July 1, 2017 and shall apply to gross income from business activity engaged in, on or after that date.

**§11-28-14. Termination date; short taxable years for taxpayers on calendar or fiscal year and cash or accrual accounting methods.**

(a) Each and every provision of this article is repealed for all tax periods beginning on and after July 1, 2020: *Provided*, That the provisions of this article shall remain in effect on and after July 1, 2020, so long as the combined balance of funds as of June 30, 2019, or any subsequent June 30, in the Revenue Fund Shortfall Reserve Fund and the Revenue Fund Shortfall Reserve Fund - Part B established in section twenty, article two, chapter eleven-b of this code is less than fifteen percent of the General Revenue Fund budgeted for the fiscal year of the state commencing July 1, 2019 or any fiscal year commencing thereafter. However, tax liabilities, if any, arising for taxable years or portions thereof ending prior to a July 1 termination date shall be determined, administered, assessed and collected as if the taxes imposed by this article had terminated; and the rights and duties of the taxpayer and the State of West Virginia shall be fully and completely preserved.

(b) Persons who are calendar year taxpayers under this article shall file their annual return for the calendar year of the termination date, on or before July 31 of that calendar year, and remit the amount of any taxes shown thereon to be due, unless an extension of time for filing is authorized by the Tax Commissioner.

(c) Persons who are fiscal year taxpayers shall similarly file an annual return on or before July 31 of the termination year, for their short taxable year which ended June 30 of that year, and remit the amount of any taxes shown thereon to be due, unless an extension of time for filing is authorized by the Tax Commissioner.

(d) Persons who keep their records using the accrual method of accounting shall file their annual return for the full or short taxable year ending June 30 of the termination year, computing their tax liability under that method of accounting. A taxpayer shall file an amended return for the termination year and pay any additional taxes due within thirty days after determining that gross income was under-reported on the annual return.

(e) Persons who keep their records using the cash method of accounting may file their annual return for the full or short taxable year ending June 30 of the termination year, computing their tax liability under the cash method of accounting: *Provided*, That the taxpayer shall file a supplemental return for the termination year within one month after the close of each calendar quarter during each ensuing year in which the taxpayer receives gross income for any activity or portion thereof completed prior to July 1 of the termination year, and pay any additional taxes shown on the supplemental return to be due. The purpose of this requirement is to minimize the advantage or disadvantage associated with the different methods of accounting when the commercial activity tax is repealed.

#### **§11-28-15. General procedure and administration.**

Each and every provision of the 'West Virginia Tax Procedure and Administration Act' set forth in article ten of this chapter, and the 'West Virginia Tax Crimes and Penalties Act' set forth in article nine of this chapter shall apply to the tax imposed by this article with like effect as if said acts were applicable only to the tax imposed by this article and were set forth in extenso in this article."

And,

By amending the enacting section to read as follows:

"That §11-13X-4 and §11-13X-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-15-9 of said code be amended and reenacted; that §11-16-13 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §11-28-1, §11-28-2, §11-28-3, §11-28-4, §11-28-5, §11-28-6, §11-28-7, §11-28-8, §11-28-9, §11-28-10, §11-28-11, §11-28-12, §11-28-13, §11-28-14 and §11-28-15, all to read as follows" and a colon.

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

The yeas and nays having been ordered, they were taken (**Roll No. 208**), and there were—yeas none, nays 97, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Gearheart and Ward.

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

The bill was ordered to engrossment and third reading.

**Com. Sub. for H. B. 2817**, Providing for the reduction of the unfunded liability in the teachers retirement system over a 30 year period; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2933**, Relating to the consumers sales and service taxes and use taxes; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending, and the restricted right to amend jointly by Delegates Nelson and Boggs, and the rule was suspended to permit the offering and consideration of the amendment on that reading.

**Com. Sub. for H. B. 2196**, Relating to the secondary schools athletic commission; on second reading, having earlier been moved to the foot of bills on second reading, was reported by the Clerk.

Whereupon,

Delegate Hanshaw asked and obtained unanimous consent that the amendment to the amendment he offered in earlier proceedings be withdrawn.

Delegate Moye asked and obtained unanimous consent that the amendment he offered in earlier proceedings be withdrawn.

On motion of Delegates Espinosa and Moye, the bill was then amended on page three, section twenty-five, line forty-five, following the word "rules", by inserting the following:

"and regulations of the West Virginia Secondary Schools Activities Commission and the county board in which the home-schooled student lives" and a comma.

The bill was then ordered to engrossment and third reading.

### **First Reading**

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

**Com. Sub. for H. B. 2129**, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs,

**Com. Sub. for H. B. 2195**, Relating to requiring comprehensive drug awareness and prevention program in all public schools,

**Com. Sub. for H. B. 2363**, Requiring that a state employee with a commercial driver's license have a current medical evaluation certification,

**Com. Sub. for H. B. 2428**, Establishing additional substance abuse treatment facilities,

**Com. Sub. for H. B. 2483**, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday,

**Com. Sub. for H. B. 2708**, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license,

**Com. Sub. for H. B. 2759**, Creating Statewide Interoperable Radio Network,

**Com. Sub. for H. B. 2851**, Updating fee structure provisions for broker-dealers,

**Com. Sub. for H. B. 3062**, The state Settlement and Recovered Funds Accountability Act, And,

**Com. Sub. for H. B. 3080**, Requiring instruction in the Declaration of Independence and the United States Constitution.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Gearheart.

### **Miscellaneous Business**

Delegate Marcum asked unanimous consent that the remarks of Delegate Butler regarding an amendment he offered to Com. Sub. for H. B. 2816 be printed in the Appendix to the Journal, which consent was not given, objection being heard.

Delegate Byrd asked and obtained unanimous consent that the remarks of Delegate Frich regarding an amendment offered by Delegate Butler to Com. Sub. for H. B. 2816 be printed in the Appendix to the Journal.

Delegate White filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2552 on March 1, 2017 but was not added as a sponsor at that time pursuant to House Rule 94 which allows for not more than eleven members as joint sponsors of a bill, such number having been reached. Subsequently, Delegate Atkinson requested to be removed from said bill and Delegate White was added as a cosponsor.

At 7:47 p.m., the House of Delegates adjourned until 9:00 a.m., Tuesday, March 28, 2017.

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

## **SPECIAL CALENDAR**

**Tuesday, March 28, 2017**

**49<sup>th</sup> Day**

**9:00 A. M.**

### **THIRD READING**

- Com. Sub. for H. B. 2002 - Relating to parental notification of abortions performed on unemancipated minors (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2109 - Relating to the West Virginia Land Reuse Agency Authorization Act (SHOTT) (EFFECTIVE FROM PASSAGE)
- H. B. 2188 - Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2196 - Relating to the secondary schools athletic commission (ESPINOSA) (REGULAR)
- Com. Sub. for H. B. 2376 - Relating to the organizational structure of state government (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2453 - Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2520 - Prohibiting the use of a tanning device by a person under the age of eighteen (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2552 - Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund (NELSON) (REGULAR)
- Com. Sub. for H. B. 2561 - Relating to public school support (NELSON) (JULY 1, 2017)
- Com. Sub. for H. B. 2589 - Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school (ESPINOSA) (REGULAR)
- Com. Sub. for H. B. 2654 - Expanding county commissions' ability to dispose of county or district property (SHOTT) (REGULAR)

- Com. Sub. for H. B. 2704 - Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2711 - Abolishing regional educational service agencies and providing for the transfer of property and records (NELSON) (REGULAR)
- Com. Sub. for H. B. 2720 - Allowing the School Building Authority to transfer funds allocated into the School Construction Fund (NELSON) (REGULAR)
- Com. Sub. for H. B. 2771 - Relating to temporary teaching certificates for Armed Forces spouses (ESPINOSA) (REGULAR)
- Com. Sub. for H. B. 2776 - Creating of special revenue funding sources for the Division of Labor (NELSON) (REGULAR)
- Com. Sub. for H. B. 2781 - Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2794 - Relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2804 - Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2815 - Relating to higher education governance (SHOTT) (REGULAR)  
[RIGHT TO AMEND BY DELEGATES HANSHAW AND ROBINSON]
- Com. Sub. for H. B. 2816 - Eliminating new film tax credits (NELSON) (REGULAR)
- Com. Sub. for H. B. 2817 - Providing for the reduction of the unfunded liability in the teachers retirement system over a 30 year period (NELSON) (JULY 1, 2017)
- H. B. 2878 - Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply (NELSON) (REGULAR)
- Com. Sub. for H. B. 2887 - Relating to retirement and separation incentives (ESPINOSA) (REGULAR)

- Com. Sub. for H. B. 2897 - Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2930 - Allowing powerball, hot lotto, and mega millions winners to remain anonymous (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2933 - Relating to the consumers sales and service taxes and use taxes (NELSON) (REGULAR) [AMENDMENTS PENDING] [RIGHT TO AMEND BY DELEGATES NELSON AND BOGGS]
- Com. Sub. for H. B. 2941 - Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2961 - Relating generally to charitable bingo games and charitable raffles (NELSON) (REGULAR)
- H. B. 2962 - Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors (NELSON) (REGULAR)
- H. B. 2963 - Eliminating tax lien waiver requirement for estates of nonresidents (NELSON) (REGULAR) (FINANCE COMMITTEE TITLE AMENDMENT PENDING)
- H. B. 2967 - Relating generally to administration of estates and trusts (NELSON) (REGULAR)
- Com. Sub. for H. B. 3006 - Exempting certain contracts between the Department of Health and Human Resources and West Virginia University, Marshall University or the School for Oestopathic Medicine from state purchasing requirements (ESPINOSA) (REGULAR)
- H. B. 3022 - Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations (SHOTT) (REGULAR)
- H. B. 3037 - Removing the Division of Energy as an independent agency (HOWELL) (REGULAR)
- Com. Sub. for H. B. 3048 - Relating to collection of Tier II fees for chemical inventories (NELSON) (REGULAR)

- H. B. 3088 - Relating generally to teacher-pupil ratios (ESPINOSA) (REGULAR)
- H. B. 3091 - Relating generally to employer withholding taxes (NELSON) (REGULAR)
- Com. Sub. for H. B. 3095 - Allowing retired teachers to be employed by a higher education institution (ESPINOSA) (REGULAR)
- Com. Sub. for H. B. 3102 - Relating to selling Hopemont Hospital (NELSON) (REGULAR)
- H. B. 3107 - Relating generally to horse and dog racing lottery (NELSON) (EFFECTIVE FROM PASSAGE) [AMENDMENTS PENDING]
- H. B. 3108 - Relating to authorizing redirection of certain amounts to the General Revenue Fund (NELSON) (REGULAR)
- H. B. 3109 - Relating to establishing a Board of Nursing and Health Services (HOWELL) (REGULAR) [AMENDMENTS PENDING]

## **SECOND READING**

- Com. Sub. for S. B. 437 - Discontinuing WV Greyhound Breeding Development Fund (NELSON) (REGULAR)
- Com. Sub. for H. B. 2129 - Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2195 - Relating to requiring comprehensive drug awareness and prevention program in all public schools (ESPINOSA) (REGULAR)
- Com. Sub. for H. B. 2363 - Requiring that a state employee with a commercial driver's license have a current medical evaluation certification (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2428 - Establishing additional substance abuse treatment facilities (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2483 - Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday (SHOTT) (REGULAR)



- Com. Sub. for H. B. 2708 - Relating to a lawful method for a developmentally disabled person to purchase a base hunting license (NELSON) (REGULAR)
- Com. Sub. for H. B. 2759 - Creating Statewide Interoperable Radio Network (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2851 - Updating fee structure provisions for broker-dealers (NELSON) (REGULAR)
- Com. Sub. for H. B. 3062 - The state Settlement and Recovered Funds Accountability Act (NELSON) (REGULAR)
- Com. Sub. for H. B. 3080 - Requiring instruction in the Declaration of Independence and the United States Constitution (ESPINOSA) (REGULAR)



## HOUSE CALENDAR

Tuesday, March 28, 2017

49<sup>th</sup> Day

9:00 A. M.

### SECOND READING

- Com. Sub. for S. B. 113 - Authorizing DEP promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 362 - Authorizing redirection of certain amounts to General Revenue Fund (NELSON) (REGULAR)
- Com. Sub. for S. B. 419 - Creating special revenue fund sources for Division of Labor to meet statutory obligations (NELSON) (REGULAR)
- Com. Sub. for H. B. 2538 - Relating to the licensure of physician assistants (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2871 - Eliminating the mandated employer versus employee cost share of eighty percent employer, twenty percent employee for Public Employee Insurance Agency (NELSON) (REGULAR)

### FIRST READING

- S. B. 164 - Relating to traffic regulations and special load limits (SHOTT) (REGULAR)
- Com. Sub. for S. B. 233 - Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act (SHOTT) (REGULAR)
- Com. Sub. for S. B. 247 - Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes (SHOTT) (EFFECTIVE FROM PASSAGE) (JUDICIARY COMMITTEE AMENDMENT PENDING)
- Com. Sub. for S. B. 248 - Clarifying composition and chairmanship of Commission on Special Investigations (SHOTT) (EFFECTIVE FROM PASSAGE) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 347 - Relating to modernization of Physician Assistant Practice Act (ELLINGTON) (REGULAR) (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING)

H. B. 2500 - Supplementary appropriation to the Department of Health and Human Resources, Division of Human Services (NELSON) (EFFECTIVE FROM PASSAGE)

H. B. 2501 - Supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program (NELSON) (EFFECTIVE FROM PASSAGE)

**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**TUESDAY, MARCH 28, 2017**

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**HOUSE CONVENES AT 9:00 A.M.**

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**COMMITTEE ON THE JUDICIARY  
12:01 A.M. & 8:45 A.M. – ROOM 418M**

**COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES  
8:30 A.M. – ROOM 215E**

**COMMITTEE ON RULES  
8:45 A.M. – BEHIND CHAMBER**

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