

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
THIRTY-NINTH DAY

Charleston, West Virginia, Saturday, March 18, 2017

The Senate met at 9 a.m.

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

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Friday, March 17, 2017,

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

The Senate proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2546—A Bill to amend and reenact §21-5-1 and §21-5-4 of the Code of West Virginia, 1931, as amended, relating to allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned; defining terms; setting forth conditions upon which an employer may withhold, deduct or divert replacement costs for employer provided property that has been timely returned; and authorizing withholding, deduction or diversion with consent of employee.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2555—A Bill to amend and reenact §11-13W-1 of the Code of West Virginia, 1931, as amended, relating to tax credits for apprenticeship training in construction trades; removing requirement that eligibility is limited to programs jointly administered by labor and management trustees; conforming provisions to current law.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 2586—A Bill to amend and reenact §5-10-27b of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-9b of said code; to amend and reenact §8-22A-11 of said code; to amend and reenact §15-2-45 of said code; to amend and reenact §15-2A-6b of said code; to amend and reenact §16-5V-13 of said code; to amend and reenact §18-7A-28b of said code; to amend and reenact §18-7B-12a of said code; and to amend and reenact §51-9-12b of said code, all relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board; providing for treatment of benefits in the event of a members death; and bringing code into conformity with federal law.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 2676—A Bill to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to transfer of the Director of Security and security officers who are employed by the Division of Culture and History to the Division of Protective Services.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 2694—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas, welcome centers and roads; providing for sponsorship agreements; providing for agreement requirements; providing for disposition of funds received from agreements; providing for the promulgation of emergency or legislative rules; and providing for a report of the status of the program.

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

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

Eng. Com. Sub. for House Bill 2739—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated, §9-5-25, relating to supplemental Medicaid reimbursements for ground emergency medical transportation services providers.

Referred to the Committee on Health and Human Resources.

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

Eng. House Bill 2766—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-15-9a, relating to establishing a new special revenue fund, designated the Adult Drug Court Participation Fund, for the purpose of collecting and remitting moneys to the State Treasury for participation in an adult drug court program administered by the Supreme Court of Appeals.

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

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

Eng. Com. Sub. for House Bill 2811—A Bill to amend and reenact §22-30-3 of the Code of West Virginia, 1931, as amended, relating to the definition of above ground storage tanks to clarify and amend categories of exempt devices.

Referred to the Committee on Energy, Industry and Mining.

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

Eng. Com. Sub. for House Bill 2839—A Bill to amend and reenact §4-10-3, §4-10-6, §4-10-7, §4-10-8, §4-10-10 and §4-10-14 of the Code of West Virginia, 1931, as amended, all relating generally to updating the procedures for legislative review of departments and licensing boards; amending definitions; defining the timing and scope of department presentations; eliminating analysis of websites as a review component; updating regular schedules for agency and regulatory board reviews; and authorizing reviews and reorganizations outside of the regular review schedules.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 2852—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5A-2-35 and §5A-2-36, all relating to the preparation of a comprehensive annual financial report; requiring training; requiring notice; requiring reporting; prescribing penalties for non-compliance; providing for an administrative appeal; and establishing deadlines for creation of the comprehensive annual financial report.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 2868—A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating generally to the Uniform Unclaimed Property Act; clarifying that policies or annuities payable upon proof of death in which the insured has not been listed in the Death Master file are presumed abandoned if they remain unclaimed three years after the insurer has learned of the death of the insured; clarifying that policies and annuities payable

upon proof of death in which the insured has been listed on the Death Master file are presumed abandoned if they remain unclaimed two years after the date of the death of the insured as indicated on the death master list; and providing that at the time the proceeds owed by the insurer are presumed to be abandoned, those proceeds are then subject to other provisions of the Unclaimed Property Act and administration by the State Treasurer.

Referred to the Committee on the Judiciary.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 17, 2017, he had approved **Enr. Committee Substitute for House Bill 2347**.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 17th day of March, 2017, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2167), Creating a Silver Alert program for senior citizens.

(Com. Sub. for H. B. 2301), Relating to direct primary care.

(H. B. 2431), Allowing influenza immunizations to be offered to patients and residents of specified facilities.

(Com. Sub. for H. B. 2542), Relating to public higher education personnel.

(H. B. 2590), Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

And,

(H. B. 2594), Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 69, Creating Sexual Assault Survivors' Bill of Rights.

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

Com. Sub. for Senate Bill 69 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §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.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill (Com. Sub. for S. B. 69), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 243, Relating to domestic relations.

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

Com. Sub. for Senate Bill 243 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §48-6-301 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-9-205 and §48-9-206 of said code, all relating to domestic relations; removing language related to child support from code section governing awarding spousal support and separate maintenance; directing court to consider certain factors to decide amount and duration of spousal support and separate maintenance; providing alimony guideline worksheet for calculating monthly payments; permitting court to disregard or adjust guideline-based award for good cause shown; requiring court to state reason for deviation on record and in writing; setting forth purpose of requiring court to give reason for deviation; removing the twenty-four month timeframe for a description of the allocation of caretaking and other parenting responsibilities performed from the matters contained in permanent parenting plan; directing court to allocate custodial responsibility so that custodial time spent with each parent achieves certain objectives; directing courts to consider which parent will encourage and accept a positive relationship between child and other parent and which parent is more likely to keep other parent involved in child's life and activities; and eliminating language prohibiting court from considering divisions of functions arising from temporary arrangements after separation in determining proportion of caretaking functions each person previously performed for child.

And,

Senate Bill 288, Relating to naming law and doubling penalties for various child abuse offenses.

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

Com. Sub. for Senate Bill 288 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8D-1a; and to amend and reenact §61-8D-2a of said code, all relating to naming the law and increasing the penalty for death of child by a parent, guardian, custodian or other person by child abuse to an indeterminate term of fifteen years to life.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Com. Sub. for Senate Bill 339 (originating in the Committee on Health and Human Resources), Creating Legislative Coalition on Chronic Pain Management.

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

Com. Sub. for Com. Sub. for Senate Bill 339 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-52-1, §16-52-2, §16-52-3, §16-52-4, §16-52-5 and §16-52-6, all relating to creating a Legislative Coalition on Chronic Pain Management; setting forth findings and purpose; providing for administrative functions of the coalition to be performed by legislative staff; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate and the Speaker of the House of Delegates; setting forth powers and duties of the coalition; setting forth required reporting; setting forth reporting data elements; providing for compensation of members; and providing a sunset date.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Com. Sub. for Senate Bill 360 (originating in the Committee on Health and Human Resources), Creating Legislative Coalition on Diabetes Management.

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

Com. Sub. for Com. Sub. for Senate Bill 360 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4, §16-5Z-5 and §16-5Z-6, all relating to creating the Legislative Coalition on Diabetes Management; setting forth findings and purpose; providing for administrative functions of the coalition to be performed by legislative staff; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate and the Speaker of the House of Delegates; setting forth powers and duties of the coalition; setting forth required reporting; setting forth reporting data elements; requiring state entities to cooperate with the coalition in its duties; providing for compensation of members; and providing a sunset date.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 398, Creating Emergency Volunteer Health Practitioners Act.

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

Com. Sub. for Senate Bill 398 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3, §29-30-4, §29-30-5, §29-30-6, §29-30-7, §29-30-8, §29-30-9, §29-30-10 and §29-30-11, all relating to creating the Emergency Volunteer Health Practitioners Act; defining terms; providing for applicability of the article; regulating the practice of volunteer health practitioners during an emergency; creating a registration system; granting reciprocity to licenses issued to volunteer health practitioners in other states during an emergency; allowing for credentialing and privileges of a volunteer health practitioner; providing for sanctions; relating article to other laws of the state; providing for limitation of liability; allowing volunteer health practitioners to collect workers' compensation; and providing for rulemaking by the Secretary of the Department of Health and Human Resources.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

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

By Senator Woelfel:

Senate Bill 649—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-19-1, §55-19-2, §55-19-3, §55-19-4, §55-19-5, §55-19-6 and §55-19-7, all relating to requiring presuit mediation for civil actions filed in circuit courts; allowing tolling of statutes of limitations pending presuit mediation; setting forth the substance of any demand for mediation and the substance of the response; providing for the selection of mediators; requiring the West Virginia State Bar to appoint mediators under certain circumstances; outlining the mediation procedure; and including penalties for failing to demand presuit mediation.

Referred to the Committee on the Judiciary.

By Senators Sypolt and Cline:

Senate Bill 650—A Bill to amend and reenact §3-2-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17B-2-1 of said code, all relating to requiring photo identification on voter registration identification cards; and providing that voter registration information may also be required on drivers' licenses or state issued identification cards if so determined by the Secretary of State in cooperation with the Commissioner of Motor Vehicles.

Referred to the Committee on the Judiciary.

By Senators Prezioso and Plymale:

Senate Bill 651—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1B-14, relating generally to creating direct affiliation between state universities and research, development and technology parks within the state; transferring ownership of the West Virginia Regional Technology Park to Marshall University; establishing requirement for private investment and funding; and directing the Higher Education Policy Commission to research and report to the Legislature.

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

By Senators Boso and Cline:

Senate Bill 652—A Bill to amend and reenact §27-5-1 of the Code of West Virginia, 1931, as amended, relating to requiring that a mental hygiene commissioner be on call at all times.

Referred to the Committee on Health and Human Resources.

By Senator Trump:

Senate Bill 653—A Bill to amend and reenact §4-2A-2 of the Code of West Virginia, 1931, as amended, relating to the compensation of members of the Legislature; reducing the compensation of members of the Legislature to \$19,000 beginning in calendar year 2018; and setting forth schedule of pay.

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

By Senator Maynard:

Senate Bill 654—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7 and §15-14-8, all relating to enacting the Refugee Absorptive Capacity Act; short title; definitions; state office within the Department of Health and Human Services which deals with refugees; moratorium applications and cessations; fiscal impact assessment; reports required; administration and severability.

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

By Senator Mann:

Senate Bill 655—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to adding digital literacy skills to the list of areas for which the state board is to adopt high-quality education standards; and requiring the state board to provide online assessment preparation for any online assessment.

Referred to the Committee on Education.

By Senator Mann:

Senate Bill 656—A Bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to allowing ACT or the College Board to only receive payment or other consideration for certain information if they secure the affirmative written consent of the parent or student, given in response to clear and conspicuous notice, solely for providing the student access to employment, educational scholarships or financial aid, and post-secondary educational opportunities.

Referred to the Committee on Education.

By Senators Hall, Trump and Gaunch:

Senate Bill 657—A Bill to repeal §8-16-19 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-13A-8 and §16-13A-9 of said code; to amend and reenact §24-1-1b of said code; and to amend and reenact §24-2-1, §24-2-3, §24-2-4b and §24-2-11 of said code, all relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state; deleting reference to appeals to the Public Service Commission from actions of municipal boards that are not subject to the jurisdiction of the Public Service Commission; detailing the authority of county commissions to modify proposed rates for certain water and sewer utilities; providing for complaints to be filed with the circuit courts pertaining to rates and charges enacted as proposed or as modified or rejected by the county commission and requiring the circuit court to act within one hundred twenty days of receipt of the complaint; eliminating the Public Service Commission's authority regarding stormwater utilities; providing time limits for the filing of requests for investigation pertaining to political subdivisions of this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more; specifying time limits for resolution of investigation requests; clarifying the authority of the Public Service Commission to resolve complaints of customers of water and sewer utilities operated by a political subdivision of the state having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more; clarifying the jurisdiction of the Public Service Commission relating to rates for municipal water and/or sewer utilities having less than four thousand five hundred customers or annual combined gross revenues of less than \$3 million; and revising the notice and procedure provisions for construction projects for political subdivisions of

this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more.

Referred to the Committee on Government Organization.

By Senators Maynard and Cline:

Senate Bill 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.

Referred to the Committee on Government Organization.

By Senator Blair:

Senate Bill 659—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-52-1, relating to enacting the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact; and entering into the compact with all jurisdictions also enacting the compact.

Referred to the Committee on Interstate Cooperation; and then to the Committee on Government Organization.

By Senator Weld:

Senate Bill 660—A Bill to amend and reenact §60A-9-5 of the Code of West Virginia, 1931, as amended, relating to access to controlled substance monitoring information.

Referred to the Committee on Health and Human Resources.

By Senator Maynard:

Senate Bill 661—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-8-1, §5B-8-2, §5B-8-3, §5B-8-4, §5B-8-5 and §5B-8-6, all relating to creating a grant fund to encourage production of film and entertainment in West Virginia; defining terms; requiring production company to apply for grant funds; requiring substantiation of production costs; establishing reporting requirements; and requiring production company to file a notice of intent to apply for grant funds.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

By Senators Maynard and Cline:

Senate Bill 662—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-17A-8, relating to providing for special obligation notes to finance construction of completion of Interstate 73 and Interstate 74 through West Virginia; and providing for the repayment of the bonds by unmanned toll booth collections.

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

By Senators Maynard and Cline:

Senate Bill 663—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3tt, relating to allowing county commissions to set standards for certain road construction projects within their counties.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

By Senators Sypolt and Cline:

Senate Bill 664—A Bill to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to removing the limitation on the amount collected by the county via the hotel occupancy tax that may be used for medical care and emergency services.

Referred to the Committee on Finance.

By Senators Plymale, Beach, Clements, Rucker, Smith, Stollings, Cline and Prezioso:

Senate Bill 665—A Bill to amend and reenact §30-20A-1, §30-20A-2, §30-20A-3, §30-20A-4, §30-20A-5, §30-20A-6 and §30-20A-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated §30-20A-8, §30-20A-9, §30-20A-10, §30-20A-11, §30-20A-12, §30-20A-13, §30-20A-14, §30-20A-15 and §30-20A-16, all relating to licensing the practice of athletic training; and providing criminal penalties.

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

By Senator Palumbo:

Senate Bill 666—A Bill to amend and reenact §61-7-14 of the Code of West Virginia, 1931, as amended, relating to correcting incorrect code reference resulting from recent amendment to said code requiring certain court personnel to complete certain handgun safety and training requirements before carrying a concealed handgun.

Referred to the Committee on the Judiciary.

By Senators Gaunch, Prezioso and Plymale:

Senate Bill 667—A Bill to amend and reenact §11-10-5s of the Code of West Virginia, 1931, as amended, relating to the authority of the Attorney General to disclose certain information provided by the Tax Commissioner unless it is subject to a protective order or agreement restricting the use of the disclosed information to the proceeding, arbitration or litigation.

Referred to the Committee on the Judiciary.

By Senator Miller (By Request):

Senate Bill 668—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-5-30, relating to defining the crime of filing a fraudulent claim against a doctor; and setting criminal penalties.

Referred to the Committee on the Judiciary.

By Senators Palumbo and Prezioso:

Senate Bill 669—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-3d; and to amend and reenact §24-6-6b of said code, all relating to replacing the wireless enhanced 911 fee with a consumers sales tax on telecommunications service and ancillary services; imposing consumers sales and service tax and use tax on sales of telecommunications service and ancillary services; requiring a portion of the funds generated by the tax be transferred to the Public Service Commission; requiring funds from the tax received by the Public Service Commission to be distributed in a certain manner;

repealing the wireless enhanced 911 fee; and setting July 1, 2017, as the effective date for these changes.

Referred to the Committee on Finance.

By Senators Ojeda and Plymale:

Senate Joint Resolution 9—Proposing an amendment to the Constitution of the State of West Virginia, amending article VI thereof by adding thereto a new section, designated section fifty-seven, relating to authorizing the use of medical marijuana; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senator Boso offered the following resolution:

Senate Concurrent Resolution 43—Requesting the Division of Highways to name bridge number 38-66-11.62 (38A133), locally known as Cass Bridge, carrying WV 66 over the Greenbrier River in Pocahontas County, the “Eugene Lee ‘Gene’ Burner Memorial Bridge”.

Whereas, Eugene Lee “Gene” Burner was born on May 1, 1919, and raised in Durbin, West Virginia, the son of Dr. Allen Eugene Burner and Mabel Wilson Burner; and

Whereas, Gene attended the Durbin Grade School and Green Bank High School before attending West Virginia University and earning a Bachelor of Science and Master of Science in Physics; and

Whereas, Gene worked as a research physicist and instrument engineer at the U. S. Bureau of Mines in Morgantown, West Virginia, for many years until his retirement in 1975. During his time at the Bureau of Mines, Gene helped develop a process for the gasification of coal that has greatly contributed to improving West Virginia’s coal and energy industries; and

Whereas, After raising three children in Morgantown, Gene and his beloved wife, Bonnie Pugh Burner, moved back to Pocahontas County in 1975. While in Pocahontas County, Gene worked to restore the old white farmhouse on Burner Hill near Cass, which was originally constructed in the early 1900s by Gene’s uncle; and

Whereas, Gene also was an active member of his community. Always a talented pianist and tenor soloist, Gene played the piano and organ at three churches in the area, in Cass, Durbin and Arbovale, sometimes all on the same day. Gene also lent his musical talents to weddings and funerals, often playing with his mother and his second wife, Louise Shears Burner; and

Whereas, Gene further demonstrated his commitment to his community by serving on the boards of Methodist churches in the area and the Arbovale Cemetery. His focus on expanding and maintaining the buildings and grounds of local churches and cemeteries continues to enhance the lives of people within the communities of Pocahontas County. Of particular note, Gene supported and actively worked with other citizens and groups to ensure that grave markers for some of Pocahontas County’s pioneers and most notable citizens were accurately marked and well preserved; and

Whereas, Gene's interests and talent also extended to history and genealogy. Before and after Gene's return to Pocahontas County, he performed extensive research on his family history and his ancestors' connection to the town of Cass and other lumber towns in Pocahontas County. Gene was an active contributor to the Pocahontas County Historical Society, providing pictures that he discovered during his research and taking photographs of historical buildings in the region, including former one-room schoolhouses and churches; and

Whereas, Gene also loved making and capturing memories anywhere he went. He was a fixture at civic events, cake walks, school activities, sporting events and class and family reunions, always bringing a camera, a light meter and tripod in tow. Gene loved to socialize with family and friends, but also never failed to memorialize events with candid shots and group photos. His extensive file of negatives is truly a treasure, providing a pictorial narrative of the life, culture and history of the people of Pocahontas County, West Virginia; and

Whereas, On August 6, 2008, Gene passed away, thirty-three years after his return to Pocahontas County. Despite his passing, Gene has left an indelible mark on Pocahontas County and the State of West Virginia, not just through his good works and deeds, but through his love for his community and the way in which he touched the lives of everyone that knew him. For these reasons and more, it is fitting to erect a sign memorializing Gene and his life well-lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 38-66-11.62 (38A133), locally known as Cass Bridge, carrying WV 66 over the Greenbrier River in Pocahontas County, the "Eugene Lee 'Gene' Burner Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Eugene Lee 'Gene' Burner Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senator Maynard offered the following resolution:

Senate Concurrent Resolution 44—Requesting the Division of Highways to name bridge number 30-65/83-0.05 (30A283), (37.7938, -82.343), locally known as Tug Valley High School Bridge, carrying County Route 65/83 over Pigeon Creek in Mingo County, the "Tug Valley Students Memorial Bridge".

Whereas, The West Virginia Division of Highways built this bridge in 2016; and

Whereas, The bridge furthers the economic development of Mingo County; and

Whereas, The bridge has enabled the Mingo County Board of Education to develop and improve the Tug Valley High School and its athletic facilities; and

Whereas, These upgrades improve the education and quality of life for all Tug Valley students;
and

Whereas, Numerous students of Tug Valley High School perished at an early age while attending the school; and

Whereas, Those students deserve a lasting memorial celebrating their lives; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-65/83-0.05 (30A283), (37.7938, -82.343), locally known as Tug Valley High School Bridge, carrying County Route 65/83 over Pigeon Creek in Mingo County, the "Tug Valley Students Memorial Bridge"; and, be it

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

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

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 16, Repealing section related to wind power projects.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 16 pass?"

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Plymale, Prezioso, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld and Carmichael (Mr. President)—25.

The nays were: Beach, Hall, Miller, Palumbo, Romano and Woelfel—6.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 16) passed with its title.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Palumbo regarding the passage of Engrossed Committee Substitute for Senate Bill 16 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for Com. Sub. for Senate Bill 308, Clarifying administrative and law-enforcement activities of DNR police officers are important to conservation and management of state's fish and wildlife.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 308) passed with its title.

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

Eng. Senate Bill 443, Establishing Adult Drug Court Participation Fund.

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

On motion of Senator Ferns, the bill was recommitted to the Committee on Finance.

Eng. Com. Sub. for Senate Bill 500, Relating to Medicaid fraud and abuse.

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Ojeda, Plymale, Prezioso, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld and Carmichael (Mr. President)—24.

The nays were: Beach, Facemire, Jeffries, Miller, Palumbo, Romano and Woelfel—7.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 500) passed with its title.

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

Eng. Senate Bill 524, Relating to WV academic standards.

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

Pending discussion,

The question being "Shall Engrossed Senate Bill 524 pass?"

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Ojeda, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—23.

The nays were: Beach, Facemire, Jeffries, Miller, Palumbo, Plymale, Prezioso and Romano—8.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 524) passed.

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

Eng. Senate Bill 524—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-11, relating to West Virginia academic standards; defining “academic standards”; setting forth finding; prohibiting implementation of Common Core academic standards; requiring the West Virginia Board of Education to allow West Virginia educators the opportunity to participate in the development of academic standards prior to adoption; requiring cyclical review of any academic standards that are adopted by the board; requiring any proposed changes to academic standards for public schools comply with certain section of code requiring notice, written comments and public hearings in certain instances; and requiring withdrawal from the memorandum of agreement which required that Common Core represent eighty-five percent of the state’s standards in English language arts and mathematics.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Ojeda, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—23.

The nays were: Beach, Facemire, Jeffries, Miller, Palumbo, Plymale, Prezioso and Romano—8.

Absent: Mullins, Stollings and Takubo—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 524) takes effect from passage.

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

Eng. Senate Bill 554, Relating to false swearing in legislative proceeding.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—30.

The nays were: Miller—1.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 554) passed with its title.

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

Eng. Com. Sub. for Senate Bill 559, Relating to limited video lottery.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Romano, Rucker, Smith, Swope, Sypolt, Trump, Weld, Woelfel and Carmichael (Mr. President)—27.

The nays were: Boley, Hall, Prezioso and Unger—4.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 559) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Romano, Rucker, Smith, Swope, Sypolt, Trump, Weld, Woelfel and Carmichael (Mr. President)—27.

The nays were: Boley, Hall, Prezioso and Unger—4.

Absent: Mullins, Stollings and Takubo—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 559) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 581, Relating generally to administration of trusts.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 581) passed with its title.

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

Eng. Senate Bill 620, Relating to traffic regulations.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 620 pass?”

On the passage of the bill, the yeas were: Blair, Boso, Clements, Cline, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Rucker, Smith, Swope, Trump, Weld, Woelfel and Carmichael (Mr. President)—17.

The nays were: Azinger, Beach, Boley, Facemire, Hall, Maroney, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Sypolt and Unger—14.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 620) passed with its title.

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

Eng. Com. Sub. for House Bill 2028, Relating to the venue for suits and other actions against the state.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mullins, Stollings and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2028) passed.

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

Eng. Com. Sub. for House Bill 2028—A Bill to amend and reenact §14-2-2 of the Code of West Virginia, 1931, as amended, relating to the venue for suits and other actions against the state; and allowing a plaintiff to file a suit against the state, a state officer or state agency in the circuit court of a county in which a claim arose or, alternatively, in the circuit court of Kanawha County in suits where insurance coverage administered by the State Board of Risk and Insurance Management exists.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 290, Authorizing operators of distillery or mini-distillery offer for purchase and consumption of liquor on Sundays.

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

Senate Bill 608, Clarifying lawful business structures are unaffected by enactment of prohibitory legislation.

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

The Senate proceeded to the tenth order of business.

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 Com. Sub. for Senate Bill 27, Relating to microprocessor permit.

Com. Sub. for Senate Bill 36, Permitting school nurses to possess and administer opioid antagonists.

Com. Sub. for Senate Bill 216, Permitting exclusion, modification or limitation of warranties in sale of used motor vehicles.

Com. Sub. for Com. Sub. for Senate Bill 219, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act.

Com. Sub. for Com. Sub. for Senate Bill 341, Establishing WV business growth in low-income communities tax credit.

Senate Bill 468, Removing restrictions on where traditional lottery games may be played.

Com. Sub. for Senate Bill 480, Authorizing local government adopt energy efficiency partnership programs.

Senate Bill 547, Modifying fees paid to Secretary of State.

Com. Sub. for Senate Bill 548, Providing for specific escheat of US savings bonds.

Senate Bill 564, Relating to Statewide Independent Living Council.

Eng. House Bill 2300, Regulating step therapy protocols.

And,

Eng. Com. Sub. for House Bill 2447, Renaming the Court of Claims the state Claims Commission.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Rucker.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Ferns, unanimous consent being granted, leaves of absence for the day were granted Senators Stollings and Takubo.

Pending announcement of meetings of standing and select committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until Monday, March 18, 2017, at 11 a.m.

SENATE CALENDAR

**Monday, March 20, 2017
11:00 AM**

UNFINISHED BUSINESS

S. C. R. 43 - Eugene Lee "Gene" Burner Memorial Bridge

S. C. R. 44 - Tug Valley Students Memorial Bridge

THIRD READING

Eng. Com. Sub. for Com. Sub. for S. B. 290 - Authorizing operators of distillery or mini-distillery offer for purchase and consumption of liquor on Sundays

Eng. S. B. 608 - Clarifying lawful business structures are unaffected by enactment of prohibitory legislation

SECOND READING

Com. Sub. for Com. Sub. for S. B. 27 - Relating to microprocessor permit (original similar to HB2458)

Com. Sub. for S. B. 36 - Permitting school nurses to possess and administer opioid antagonists

Com. Sub. for S. B. 216 - Permitting exclusion, modification or limitation of warranties in sale of used motor vehicles (original similar to HB2578, SB217)

Com. Sub. for Com. Sub. for S. B. 219 - Relating to conspiracy to commit crimes under Uniform Controlled Substances Act (original similar to HB2541)

Com. Sub. for Com. Sub. for S. B. 341 - Establishing WV business growth in low-income communities tax credit

S. B. 468 - Removing restrictions on where traditional lottery games may be played

Com. Sub. for S. B. 480 - Authorizing local government adopt energy efficiency partnership programs

S. B. 547 - Modifying fees paid to Secretary of State

Com. Sub. for S. B. 548 - Providing for specific escheat of US savings bonds

S. B. 564 - Relating to Statewide Independent Living Council

Eng. H. B. 2300 - Regulating step therapy protocols

Eng. Com. Sub. for H. B. 2447 - Renaming the Court of Claims the state Claims Commission - (Com. amend. and title amend. pending)

Eng. H. B. 2766 - Establishing a new special revenue fund, designated the Adult Drug Court Participation Fund

FIRST READING

Com. Sub. for S. B. 243 - Relating to domestic relations (original similar to SB317)

Com. Sub. for S. B. 288 - Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person

Com. Sub. for Com. Sub. for S. B. 339 - Creating Legislative Coalition on Chronic Pain Management

Com. Sub. for Com. Sub. for S. B. 360 - Creating Legislative Coalition on Diabetes Management

Com. Sub. for S. B. 398 - Creating Emergency Volunteer Health Practitioners Act

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Monday, March 20, 2017

9 a.m.

Select Committee on Tax Reform

(Room 451M)