

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2017  
FORTY-FIFTH DAY

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Charleston, West Virginia, Friday, March 24, 2017

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Ryan Trescott, Calvary Baptist Church, Summersville, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Richard N. Ojeda II, a senator from the seventh district.

Pending the reading of the Journal of Thursday, March 23, 2017,

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

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

At the request of Senator Ferns, and by unanimous consent, the provisions of rule number fifty-four of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant Morgan Maynard, daughter of the Honorable Mark R. Maynard, a senator from the sixth district, privileges of the floor for the day.

The Senate proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 127**, Authorizing Department of Revenue to promulgate legislative rules.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

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

That §64-7-1, §64-7-2, §64-7-3, §64-7-4 and §64-7-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.**

**§64-7-1. Insurance Commissioner.**

(a) The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Insurance Commissioner (adoption of valuation manual, 114 CSR 98), is authorized.

(b) The legislative rule effective on May 16, 1997, authorized under the authority of section four, article twenty-five-a, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (utilization management, 114 CSR 51), is repealed.

(c) The legislative rule effective on December 28, 1981, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (Medicare supplement insurance coverage, 114 CSR 17), is repealed.

**§64-7-2. Racing Commission.**

(a) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section two, article twenty-three, chapter nineteen of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 19, 2016, relating to the Racing Commission (thoroughbred racing, 178 CSR 01), is authorized with the following amendment:

On pages 91 through 93, by striking out all of subdivision 49.3.m. and inserting in lieu thereof a new subdivision 49.3.m. to read as follows:

49.3.m. Multiple Medication Violations. A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with a Penalty Class A-~~D~~ C, as provided in the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI), Version 12.0 (revised ~~January April 8, 2014~~ 2016), set forth in table 178-1D at the end of this rule, shall be assigned points as follows:

Penalty Class	Points if Controlled Therapeutic Substance	Points if Non-Controlled Substance
<del>Class A (except for Class 1 and 2 environmental contaminants which shall be determined by the stewards or the Commission based upon the facts of the case)</del>	N/A	6
<b>Class B</b>	2	4
<b>Class C</b>	<u>4 ½ for first violation with an additional ½ point for each additional violation within 365 days. Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation.</u>	<u>2 1 for first violation with an additional ½ point for each additional violation within 365 days.</u>
<b>Class D</b>	<u>½ 0</u>	<u>4 0</u>

49.3.m.1. If the stewards or the Commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

~~49.3.m.1~~ 49.3.m.2. The points assigned to a medication violation by the stewards' or the Commission's ruling shall be included in the Association of Racing Commissioners International official database. ~~and the~~ The Association of Racing Commissioners International shall assign record points consistent with the table set forth under subdivision 49.3.m. ~~for advisory purposes for medication violations where points have not been assigned by regulatory action including, when appropriate, a designation that the points have been suspended for the medication violation.~~ Points assigned by such regulatory ruling ~~or by the Association of Racing Commissioners International~~ shall reflect, in the case of multiple positive tests as described in paragraph 49.3.m.3, whether they shall ~~thereafter~~ constitute a single violation. The stewards' or the Commission's ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

~~49.3.m.2~~ 49.3.m.3. A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official Association of Racing Commissioners International record and shall be considered by the stewards or the Commission in their determination to subject the trainer to the mandatory enhanced penalties as provided in this rule.

~~49.3.m.3.~~ 49.3.m.4. Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the stewards or the Commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the stewards or the Commission may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

~~49.3.m.4.~~ 49.3.m.5. The official Association of Racing Commissioners International record shall be used to advise the stewards or the Commission of a trainer's past record of violations and cumulative points. Nothing in this rule shall be construed to confer upon a trainer the right to appeal a violation for which the remedies have been exhausted or for which the appeal time has expired as provided by West Virginia Code §§ 19-23-16(c) and 19-23-17.

~~49.3.m.5.~~ 49.3.m.6. The stewards or the Commission shall consider all points for violations in all racing jurisdictions as contained in the trainers' official Association of Racing Commissioners International record when determining whether the mandatory enhancements provided in this rule shall be imposed.

~~49.3.m.6.~~ 49.3.m.7. In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a trainer based upon the cumulative points contained in his or her official Association of Racing Commissioners International record:

<b>Points</b>	<b>Suspension in days</b>
<del>3</del> <u>5-5.5</u>	<u>15 to 30</u>
6-8.5	<u>45 to 60</u>
9-10.5	<u>90 to 180</u>
11 or more	<u>180 to 360</u>

~~49.3.m.7.~~ 49.3.m.8. The multiple medication violation penalty system is not a substitute for the penalty system otherwise set forth in this rule and is intended to be an additional uniform penalty when a permit holder:

~~49.3.m.7.A.~~ 49.3.m.8.A. Has more than one violation for the relevant time period; and

~~49.3.m.7.B.~~ 49.3.m.8.B. Exceeds the permissible number of points.

49.3.m.9. The stewards and the Commission shall consider aggravating and mitigating factors, including the trainer's prior record for medication violations, when determining the appropriate penalty for the underlying offense. The multiple medication violation penalty is intended to be a separate and additional penalty for a pattern of violations.

~~49.3.m.8.~~ 49.3.m.10. The suspension periods as provided in the table set forth under paragraph 49.3.m.6. shall run consecutive to any suspension imposed for the underlying offense.

~~49.3.m.9.~~ 49.3.m.11. The stewards' or the Commission's ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a stewards' or Commission review of a trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

~~49.3.m.10.~~ 49.3.m.12. Any trainer who has received a medication violation may petition the Association of Racing Commissioners International to expunge the points received for the violation for the purpose of the multiple medication violation penalty system only. The points shall be expunged by the Association of Racing Commissioners International or upon request of the trainer Points shall expire as follows:

Penalty Classification	Time to Expungement
A	<del>Permanent</del> <u>3 years</u>
B	<del>3</del> <u>2</u> years
C	<del>2</del> <u>1</u> years
D	<del>1</del> year

49.3.m.-13. In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

(b) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 19, 2016, relating to the Racing Commission (pari-mutuel wagering, 178 CSR 05), is authorized.

### **§64-7-3. Lottery Commission.**

The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section four hundred two, article twenty-two-b, chapter twenty-nine of this code, modified by the Lottery Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 7, 2016, relating to the Lottery Commission (limited video lottery, 179 CSR 5), is authorized with the following amendments:

On page 4, subdivision 2.12.1., after the words "straight-line feet from", by inserting the words "the closest exterior wall of";

On page 4, subdivision 2.12.1., after the word "engine", by inserting the words "as determined by the commission during the license application review";

On page 4, paragraph 2.12.2.a., following the designation "(ii)", by striking out the word "with" and inserting in lieu thereof the word "has";

On page 4, paragraph 2.12.2.b., following the words “requirement in”, by striking out the words “section 2.12.2.” and inserting in lieu thereof the words “this subdivision 2.12.2. of this subsection.”;

On page 4, after paragraph 2.12.2.b., before the words “The provisions of any” by inserting “2.12.3.”;

And,

On page 4, subdivision 2.12.3. by striking out “2.12”.

#### **§64-7-4. Tax Division.**

(a) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (listing of interests in natural resources for purposes of first statewide appraisal, 110 CSR 1B), is repealed.

(b) The legislative rule effective on May 13, 1987, authorized under the authority of section twenty-nine-a, article one-a, chapter eleven of this code, relating to the Tax Division (guidelines for assessors to assure fair and uniform nonutility personal property values, 110 CSR 1C), is repealed.

(c) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1D), is repealed.

(d) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review of appraisals by the county commission sitting as an administrative appraisal review board, 110 CSR 1E), is repealed.

(e) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (additional review and implementation of property appraisals, 110 CSR 1F), is repealed.

(f) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1G), is repealed.

(g) The legislative rule effective on June 29, 1964, authorized under the authority of article one, chapter eleven of this code, relating to the Tax Division (revision of levy estimates, 110 CSR 8), is repealed.

(h) The legislative rule effective on September 16, 1966, authorized under the authority of article ten, chapter eleven of this code, relating to the Tax Division (inheritance and transfer tax, 110 CSR 11), is repealed.

(i) The legislative rule effective on January 1, 1974, authorized under the authority of section five-a, article ten, chapter eleven of this code, relating to the Tax Division (annual tax on incomes of certain carriers, 110 CSR 12A), is repealed.

(j) The legislative rule effective on April 4, 1988, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (telecommunications tax, 110 CSR 13B), is repealed.

(k) The legislative rule effective on May 1, 1996, authorized under the authority of section three, article thirteen-i, chapter eleven of this code, relating to the Tax Division (tax credit for employing former members of Colin Anderson Center, 110 CSR 13I), is repealed.

(l) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-m, chapter eleven of this code, relating to the Tax Division (tax credits for new value-added, wood manufacturing facilities, 110 CSR 13M), is repealed.

(m) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-n, chapter eleven of this code, relating to the Tax Division (tax credits for new steel, aluminum and polymer manufacturing operations, 110 CSR 13N), is repealed.

(n) The legislative rule effective on May 1, 1995, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit, 110 CSR 13C), is repealed.

(o) The legislative rule effective on April 4, 1988, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes, 110 CSR 1), is repealed.

#### **§64-7-5. Banking Commissioner.**

(a) The legislative rule effective on April 23, 1982, authorized under the authority of section four, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Consumer Credit and Protection Act, 106 CSR 8), is repealed.

(b) The procedural rule effective on January 10, 1975, authorized under the authority of section two, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Board of Banking and Financial Institutions, 107 CSR 5), is repealed.;

And,

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

**Eng. Com. Sub. for Senate Bill 127**—A Bill to amend and reenact §64-7-1, §64-7-2, §64-7-3, §64-7-4 and §64-7-5 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain department of revenue legislative rules; repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards under the Department of Revenue which are no longer authorized or are obsolete; authorizing the Insurance Commissioner to promulgate a legislative rule relating to adoption of a valuation manual; repealing the Office of the Insurance Commissioner legislative rule relating to utilization management; repealing the Office of the Insurance Commissioner legislative rule relating to Medicare supplement insurance coverage; authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering; authorizing the Lottery Commission to promulgate a legislative rule relating to limited video lottery; repealing the Tax Division legislative rule relating to listing of

interests in natural resources for purposes of first statewide appraisal; repealing the Tax Division legislative rule relating to guidelines for assessors to assure fair and uniform nonutility personal property values; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to review of appraisals by the county commission sitting as an administrative appraisal review board; repealing the Tax Division legislative rule relating to additional review and implementation of property appraisals; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to revision of levy estimates; repealing the Tax Division legislative rule relating to inheritance and transfer tax; repealing the Tax Division legislative rule relating to annual tax on incomes of certain carriers; repealing the Tax Division legislative rule relating to the telecommunications tax; repealing the Tax Division legislative rule relating to tax credit for employing former members of Colin Anderson Center; repealing the Tax Division legislative rule relating to tax credits for new value-added, wood manufacturing facilities; repealing the Tax Division legislative rule relating to tax credits for new steel, aluminum and polymer manufacturing operations; repealing the Tax Division legislative rule relating to the business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit; repealing the Tax Division legislative rule relating to appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes; repealing the Banking Commissioner legislative rule relating to the West Virginia Consumer Credit and Protection Act; and repealing the Banking Commissioner procedural rule relating to West Virginia Board of Banking and Financial Institutions.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 127, as amended by the House of Delegates, was then 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, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 127) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.



So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 127) takes effect from passage.

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

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

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

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

Delegates Hanshaw, Moore and Isner.

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

**Eng. Com. Sub. for House Bill 2099**, Defining the act of leaving the scene of a crash involving death or serious bodily injury as a felony; Erin's Law.

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

Delegates Zatezalo, Hollen and Canestraro.

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 2519**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-25, relating to requiring West Virginia Bureau for Medical Services to enter into a compact with surrounding states to ensure providers receive payment for Medicaid services.

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. Com. Sub. for House Bill 2808**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §27-5A-1, §27-5A-2, §27-5A-3, §27-5A-4, §27-5A-5, §27-5A-6, §27-5A-7, §27-5A-8, §27-5A-9, §27-5A-10, §27-5A-11, §27-5A-12, §27-5A-13, §27-5A-14, §27-5A-15, and §27-5A-16, all relating to establishing assisted outpatient treatment of persons suffering from mental illness; providing the policy and purpose behind assisted outpatient treatment; defining terms; setting forth who may file a petition for assisted outpatient treatment of an adult individual or emancipated minor and when such a petition may be filed; providing that such a petition for assisted outpatient treatment must be in writing, executed under oath and include specified information; providing where a petition for assisted

outpatient treatment may be filed; providing the timeline and procedure that the court or mental hygiene commissioner must follow within twenty-four hours of the filing of the petition; stating who may inspect the petition, evaluation report, and other filed or issued documents related to the case filed with the circuit court or mental hygiene commissioner; providing that individual must be examined not more than seven days before the petition is filed and the process by which such an examination must occur; providing criminal penalties for a person who knowingly files, or causes to be filed, a petition that contains a false material statement or information; providing the procedure for which the notice of hearing and petition must be provided to the respondent and who else must be mailed the notice of hearing and petition; providing the assisted outpatient treatment hearing procedure; providing that the petitioner and respondent may proffer a mutually agreed upon proposed assisted treatment order; providing an alternative to a mutually agreed upon order in which the mental hygiene commissioner or circuit court judge shall find and enter an order stating where there is clear and convincing evidence to believe that the respondent, as a result of mental illness, requires necessary treatment; requires that any treatment ordered must be the least restrictive potentially effective treatment available; stating that such order for assisted outpatient may be up for one hundred and eighty calendar days; providing what treatment such an order for assisted outpatient treatment may contain; stating that the determination that a person is in need of assisted outpatient treatment is not a determination that the individual is legally incompetent or incapacitated for any purpose other than those set out in the order concerning treatment for mental illness or substance use disorder and clarifying that such orders are not to be reported to the West Virginia Central State Mental Health Registry or the National Instant Criminal Background Check System; providing for how the outpatient treatment will be paid for; providing procedures for conversion to and from involuntary hospitalization; providing procedures for how an assisted outpatient treatment order can be modified or reviewed; providing procedures for how an assisted outpatient treatment order can be renewed; explaining under what circumstances and how a patient under an assisted outpatient treatment order may be discharged from treatment and how such a discharge can occur; providing procedures to follow if a patient under an assisted outpatient treatment order fails to adhere to the order; and stating the options for the court or mental hygiene commissioner may order upon a finding of a failure to adhere to the requirements of an assisted outpatient treatment order.

Referred to the Committee on Health and Human Resources; and then 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 2857**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8, §21-3E-9, §21-3E-10, §21-3E-11, §21-3E-12, §21-3E-13, §21-3E-14, §21-3E-15 and §21-3E-16, all relating to creating West Virginia Safer Workplace Act; permitting employers to test employees and prospective employees for drugs and alcohol; providing a short title; defining terms; declaring public policy; clarifying exceptions to the applicability of the West Virginia Safer Workplace Act for employers covered by other drug and alcohol testing statutes; determining a collection of samples, scheduling of tests and testing procedures; providing for ability to request split sample be tested to challenge a positive test result; establishing responsibility for cost of split sample testing; setting forth testing policy requirements; providing for disciplinary procedures; providing for sensitive employees; providing protection from liability; prohibiting certain causes of action for employers who have established a program in accordance with the West Virginia Safer Workplace Act; providing exceptions; providing for confidentiality; providing for termination of employment; providing for forfeiture of

certain benefits; clarifying that the drug and alcohol testing provisions of the West Virginia Safer Workplace Act cannot be used to show intoxication pursuant to section two, article four, chapter twenty-three of this code; and requiring employers to have drug and alcohol testing policies and procedures when implementing drug and alcohol testing.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 3009**—A Bill to amend and reenact §60A-9-5 of the Code of West Virginia, 1931, as amended, relating to access by the Office of Health Facility Licensure and Certification to the Controlled Substances Monitoring Program database for use in certification, licensure and regulation of health facilities.

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. Com. Sub. for House Bill 3061**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5E-8, relating to encouraging mastery-based education through the Innovation In Schools program; making findings and stating purpose; providing definitions; specifying duties of Department of Education with respect to program; providing for Innovation In Education/Mastery Based designations for award of grants and other financial assistance; requiring participation in incubator process; prohibiting penalties for student who transfers from mastery-based to nonmastery-based schools; and requiring institutions of higher education to recognize and accept high school diplomas on equal footing.

Referred to the Committee on Education.

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 3089**—A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new section, designated §18-2A-10, relating to the adoption of instructional resources for use in the public schools; providing for transition to new provisions for instructional resources adoption; defining instructional resources; requiring state board policy on required criteria included in instructional resources and requiring resources adopted to substantially cover; requiring pricing statement to be filed with state superintendent by person, firm or corporation desiring to sell instructional resources; prohibiting adoption or use unless of person firm or corporation not complying; disqualification of person, firm or corporation for failure to honor terms of filing; supplementary resources exempted; provisions for furnishing necessary instructional resources to students; requiring county board policy on instructional resources adoption and specifying minim provisions; and prohibiting board of education member or employee from acting as sales agents for person, firm or corporation filing statement with superintendent.

Referred to the Committee on Education.

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

**House Concurrent Resolution 8**—Requesting the Division of Highways to name Bridge Number 27-35-17.37 (27A117) (38.83117, -82.14255), locally known as US 35-WV 2 Overpass Bridge, carrying US 35 over WV Route 2 in Mason county, the “Dr. Roy and Marian Eshenaur Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 25**—Requesting the Division of Highways to name bridge number 50-052-21.27 (50A001), carrying United States Route 52 over Hurricane Creek in Wayne County, beginning at latitude 38.192421, longitude – 82.599808 and ending at latitude 38.191797, longitude – 82.600180, the “U.S. Army PVT Charles E. Ellis and U.S. Army PVT Ira V. Ellis Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 27**—Requesting the Division of Highways to name the bridge on West Virginia Route 10 over Buffalo Creek in Logan County, Bridge Number 23-10-25.88 (23A041), latitude 37.89636, longitude -81.99435, locally known as the Chief Logan Box Culvert, the “U.S. Army 1LT Patricia Simon Bridge.”

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 46**—Requesting that the Division of Highways name the bridge numbered 19-0.01 24A293, (at 37.41606, -81.43625), originally known as the “Northfork Bridge,” located in Northfork, McDowell County, carrying County Route 24-52 over Elkhorn Creek, the “Blue Demon Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 48**—Requesting the Division of Highways to name bridge number 23-119-15.56 NBSB (23A095-23A371) (37.97487, -82.01675), locally known as Chapmanville Route 10 Overpass, carrying US 119 over WV 10 in Logan County, the “U.S. Army SPC David H. Stamper Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure

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

**House Concurrent Resolution 58**—Requesting the Division of Highways to name the Section of U.S. Route 60 in Cabell County from the Guyan Golf and Country Club to the Huntington City Limits, the “William C. Campbell Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

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

**House Concurrent Resolution 66**—Requesting the Joint Committee on Government and Finance to study the sustainability of the state’s current system of higher education and how the state can better support the public institutions of higher education.

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

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

**House Concurrent Resolution 87**—Requesting the Division of Highways rename the section of U.S. Route 119 that runs through Lincoln County the “Deputy Sheriff SGT. Justin Alan Thompson Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

#### **Executive Communications**

The Clerk then presented communications from His Excellency, the Governor, advising that on March 23, 2017, he had approved **Enr. Committee Substitute for House Bill 2167, Enr. Committee Substitute for House Bill 2301, Enr. House Bill 2431, Enr. Committee Substitute for House Bill 2542, Enr. House Bill 2590 and Enr. House Bill 2594.**

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 23rd day of March, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. 302)**, Supplemental appropriation of federal funds from Treasury to Division of Human Services.

Respectfully submitted,

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

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 69**, Creating Sexual Assault Victims' Bill of Rights.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 69) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 167**, Relating to DNA evidence.

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

**Com. Sub. for Senate Bill 167** (originating in the Committee on the Judiciary)—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.

**Senate Bill 217**, Relating to disclaimers of warranties which are subject of consumer transaction.

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

**Com. Sub. for Senate Bill 217** (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 §46A-6-107a, relating to disclaimers of warranties with respect to used manufactured

homes generally; providing that a consumer who purchases a used manufactured home may waive a warranty for a particular defect or malfunction which the merchant has disclosed in writing; providing waiver and disclosure requirements; and providing a definition.

And,

**Senate Bill 376**, Requiring certain persons comply with registration requirements of Sex Offender Registration Act.

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

**Com. Sub. for Senate Bill 376** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15-12-1a, §15-12-2, §15-12-2a, §15-12-2b, §15-12-3a and §15-12-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-5-103 of said code, all generally relating to amending the Sex Offender Registration Act; clarifying intent of Sex Offender Registration Act; requiring juveniles to register as a sex offenders if adjudicated delinquent of certain sex crimes; imposing additional disclosure and registration requirements for persons required to register as sex offenders; requiring juveniles adjudicated delinquent of certain sex crimes to sign in open court a statement acknowledging their understanding of the requirements of the Sex Offender Registration Act; expanding the types of sex crimes that qualify as sexually violent offenses; permitting courts to designate certain juveniles adjudicated delinquent of sex crimes as sexually violent predators; establishing procedures for juveniles to appeal sexually violent predator designation; establishing length of time juveniles adjudicated delinquent of sex crimes must comply with provisions of Sex Offender Registration Act; and creating exception to the confidentiality of juvenile records to facilitate compliance with the Sex Offender Registration Act.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bills (Com. Sub. for S. B. 167, 217 and 376) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 210**, Renaming Local Powers Act the County Local Powers Act.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 210) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Education has had under consideration

**Senate Bill 273**, Establishing Education Savings Account Program.

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

**Com. Sub. for Senate Bill 273** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25; and to amend said code by adding thereto a new article, designated §18-31-1, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7 and §18-31-8, all relating to establishing education expenses income tax credits; enacting an Educational Savings Account Pilot Program; providing a short title and definitions; limiting number of eligible students who may receive an account at any one time; setting forth conditions for qualifying for an account; requiring parent of student with disability to make certain acknowledgement; requiring roll over of account funds and closure of account in certain instances; allowing education savings account student to return to district school; requiring forfeiture of account for failure to comply with article or certain rules relating to the program; providing that certain students are exempt from compulsory school attendance; providing that account funds do not constitute taxable income; providing that nothing in article prohibits a parent from making certain payments from a source other than account; providing that certain persons who do not apply for, and receive an account are eligible to apply for an income tax credit; setting forth formula for determining the annual amount of funds to be deposited in an account; allowing State Treasurer to create standard application form; allowing State Treasurer to qualify private financial management firms to manage accounts; allowing State Treasurer to contract with qualified organizations to administer the program or specific functions of the program; allowing State Treasurer to conduct or contract for auditing of accounts; allowing State Treasurer to make any parent of an eligible student ineligible for the program for substantial misuse of funds; allowing State Treasurer to deduct a limited amount from accounts to cover the costs of administering the program or any aspect of the program; requiring State Treasurer to maintain a list of participating entities; requiring State Treasurer to adopt rules, regulations and procedures necessary for administration of the program; requiring State Treasurer under certain conditions to make quarterly deposits into the accounts of education savings account students; requiring State Treasurer to develop a system for parents to use account funds to pay participating entities and education service providers by electronic funds transfer or by individual warrant; allowing State Treasurer to make limited partial payment to participating entity prior to the first quarterly payment of the year in which the account is awarded in certain instance; requiring State Treasurer to make annual report to the legislative oversight commission on education accountability; allowing the State Treasurer to propose rules for legislative approval to designate certain technical education or certifications eligible to participate, to determine qualified purchases and to provide a method for disqualification of private schools, vendors or suppliers who violate certain provisions or rules; setting forth requirements for participating entity to be eligible to accept payments from an account; requiring State Treasurer to provide a participating entity with certain eligibility requirements upon request and make the requirements available online; allowing the State Treasurer to bar a participating entity from the program in certain instances; requiring notification of parents and education account students if participating entity is barred; providing



that nothing in article limits the independence of a participating entity or makes the actions of a participating entity the actions of the state government; prohibiting any state agency from regulating the educational program of a participating entity that accepts funds from an account; requiring that participating entities be given the maximum freedom to provide for the educational needs of education savings account student without governmental control; providing that nothing in article expands the regulatory authority of the state, its officers or any county school district to impose any additional regulation of participating entities beyond those necessary to enforce the requirements of the program; requiring resident school district to provide a participating entity that has enrolled an education savings account student with a complete copy of the student's school records while complying with the Family Educational Rights and Privacy Act of 1974; and setting forth certain provisions pertaining to legal proceedings.

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,

Kenny Mann,  
*Chair.*

Senator Beach moved that the bill (Com. Sub. for S. B. 273) contained in the foregoing report from the Committee on Education be recommitted to the Committee on Education.

Following discussion,

The question being on the adoption of Senator Beach's aforestated motion, the same was and did not prevail.

Thereafter, the bill (Com. Sub. for S. B. 273), under the original double committee reference, was then referred to the Committee on Finance.

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 380**, Creating 2-year pilot program to allow all-terrain or recreational vehicles in Cabwaylingo State Forest.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 380) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Education has had under consideration

**Senate Bill 401**, Allowing county board of education base employment decisions on individual's qualifications.

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

Respectfully submitted,

Kenny Mann,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 401) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Senate Bill 416**, Relating to Public-Private Transportation Facilities Act.

**Senate Bill 417**, Removing financial limitations on number of design-build projects undertaken by DOH.

**Senate Bill 421**, Increasing amount of authorized federal Grant Anticipation Notes for which DOH may apply.

And,

**Senate Bill 614**, Relating to expansion of broadband service.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bills (S. B. 416, 417, 421 and 614) contained in the preceding report from the Committee on Finance were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Senate Bill 484**, Relating generally to taxation.

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

**Com. Sub. for Senate Bill 484** (originating in the Committee on Finance)—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended; relating generally to taxation; eliminating exemption from consumers sales and service tax for certain purchases of materials acquired for use in state highway projects.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 484) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Education has had under consideration

**Senate Bill 537**, Relating to exemptions from mandated immunizations.

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

**Com. Sub. for Senate Bill 537** (originating in the Committee on Education)—A Bill to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18B-1-12; and to amend and reenact §21-1A-3 of said code, all relating to exemptions from mandated immunizations setting forth conditions within each section.

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

Respectfully submitted,

Kenny Mann,  
*Chair.*

Senator Ferns requested unanimous consent that the bill (Com. Sub. for S. B. 537) contained in the preceding report from the Committee on Education be taken up for immediate consideration.

Which consent was not granted, Senator Plymale objecting.

Thereafter, on motion of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 537) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading and, under the original

double committee reference, was then referred to the Committee on Health and Human Resources.

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 576**, Providing exception to waste for certain oil and gas development.

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

**Com. Sub. for Senate Bill 576** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §37-7-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, §37B-1-4, §37B-1-5, §37B-1-6, §37B-1-7, §37B-1-8, §37B-1-9, §37B-1-10 and §37B-1-11 all relating generally to real property; providing an exception to waste for certain oil and gas development; providing a short title; providing declarations of public policy and legislative findings; providing definitions; providing that consent for the lawful use of the oil and gas mineral property by three-fourths of the royalty interests in oil and gas mineral property is permissible, not waste and not trespass; allowing non-consenting cotenants to elect a production royalty interest or a working interest share of production; providing for the joint development of multiple contiguous oil and gas leases by horizontal drilling unless development is expressly prohibited by agreement; limiting jointly developed leases to 640 acres with a 10% tolerance; requiring a \$100,000 payment, as indexed to the consumer price index, to a surface owner whose surface tract is damaged by horizontal drilling; allowing for a net acreage fractional share royalty interest, free of post-production expenses, for multiple contiguous leases jointly developed; providing for timely payment of royalties and requiring specified information to be remitted with such payments; requiring quarterly reporting of production data for horizontal wells drilled pursuant to the provisions herein; providing that cotenants are not liable for damages as a result of the lawful use of oil and gas mineral property; requiring surface use agreements in specified circumstances and preserving common law rights; and providing for severability of provisions.

And,

**Senate Bill 637**, ABC licensing of resorts with multiple locations.

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

**Com. Sub. for Senate Bill 637** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60-7-2 and §60-7-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8-27 of said code, all relating to private club operations requirements, generally; defining terms; permitting certain private club licensees that operate tourist destination and resort facilities to obtain one private resort hotel license for the lawful sale and consumption of alcoholic liquors and non-intoxicating beer in designated and approved areas throughout the licensed premises but within the confines of the property; permitting certain private club licensees that operate golf or country clubs to obtain one private golf club license for the lawful sale and consumption of alcoholic liquors and non-intoxicating beer; and permitting patrons seventeen years of age to enter the licensed premises unaccompanied by a parent or legal guardian at private resort hotels and private golf clubs under limited circumstances, subject to certain conditions, and certain private clubs with designated non-alcohol areas.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bills (Com. Sub. for S. B. 576 and 637) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 578**, Relating generally to copies of health care records furnished to patients.

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

Respectfully submitted,

Tom Takubo,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 578) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 601** (originating in the Committee on Banking and Insurance), Relating to requirements for making consumer loans.

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

**Com. Sub. for Com. Sub. for Senate Bill 601** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-4-101 and §46A-4-107 of the Code of West Virginia, 1931, as amended, all relating to requirements for making consumer loans in West Virginia; modifying the authority to make regulated consumer loans; providing that a person must first obtain a license from the Commissioner of Banking authorizing him or her to make regulated consumer loans before engaging in the business of making regulated consumer loans, taking assignments of or undertaking direct collection of payments from or enforcement of rights against consumers arising from regulated consumer loans; and adjusting threshold amounts of consumer loans for which certain finance charges can be imposed.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 601) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Education has had under consideration

**Senate Bill 609**, Creating additional flexibility for school systems in use of school aid funds.

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

**Com. Sub. for Senate Bill 609** (originating in the Committee on Education)—A Bill to amend and reenact §11-8-6f and §11-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9, §18-9A-10 and §18-9A-11 of said code; and to amend said code by adding thereto a new section, designated §18-9A-25, all relating to public school support; removing limit on increase in total property tax revenues if the current regular levy rates of the county boards of education were to be imposed; requiring each county board of education to establish its regular levy rates each year up to the statutory maximum levy rates; allowing a county board to change its proposed regular levy rates from the original proposed levy rates in its required statement to the Auditor; deleting required periodic legislative review of definition of “net enrollment”; changing term “levies for general current expense purposes” to “maximum levies for general current expense purposes” and modifying the definition to mean ninety percent of the maximum levy rates for county boards of education; determining allowance for fundable professional educators at set ratio, rather than the number employed subject to a limit; providing for determination of allowance for fundable positions in excess of number employed; deleting expired provisions; basing minimum professional instructional personnel required on percent of fundable professional educators, or the number employed, whichever is less; providing for prorating professional instructional personnel among participating counties in joint school or program or service; removing penalty for not meeting applicable professional instructional personnel ratio for 2017-2018 school year; deleting expired provisions; deleting required periodic legislative review of density category ratios; determining allowance for fundable service personnel at set ratio, rather than number employed subject to a limit; providing for determination of allowance for fundable positions in excess of number employed; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance to calculation of Teachers Retirement Fund allowance; basing Teachers Retirement Fund allowance on average retirement contribution rate of each county and defining “average rate”; allowing limited portion of funds for bus purchases to be used for facility and equipment repair maintenance and improvement or replacement or other current expense priorities if requested and approved by state superintendent following verification; changing calculation of allowance for current expense from percent allowances for professional and service personnel to county’s state average costs per square footage per student for operations and maintenance; basing the allowance to improve instructional programs and instructional technology on the portion of the increase in local share amount for the next school year that is due to an increase in assessed values only; removing

authorization for use of instructional improvement funds for implementation and maintenance of the uniform integrated regional computer information system; removing requirement for fully utilizing applicable provisions of allowances for professional and service personnel before using instructional improvement funds for employment; removing restriction limiting use of new instructional improvement funds for employment except for technology system specialists until certain determination made by state superintendent; authorizing use of instructional technology improvement funds for employment of technology system specialists and requiring amount used to be included and justified in strategic technology plan; specifying when certain debt service payments are to be made into School Building Capital Improvement Fund; authorizing use of percentages of allocations for improving instructional programs and improving instructional technology for facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes; requiring amounts used to be included and justified in respective strategic plans; and basing the computation of local share on the maximum levies for general current expense purposes.

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,

Kenny Mann,  
*Chair.*

Senator Ferns requested unanimous consent that the bill (Com. Sub. for S. B. 609) contained in the preceding report from the Committee on Education be taken up for immediate consideration.

Which consent was not granted, Senator Unger objecting.

Senator Ferns then moved that the bill (Com. Sub. for S. B. 609) contained in the preceding report from the Committee on Education be taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, be referred to the Committee on Finance.

The question being on the adoption of Senator Ferns' aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Mullins, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—21.

The nays were: Beach, Blair, Jeffries, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Stollings, Unger and Woelfel—13.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns aforestated motion had prevailed.

Thereafter, the bill (Com. Sub. for S. B. 609) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to

second reading and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Education has had under consideration

**Senate Bill 621**, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations.

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

Respectfully submitted,

Kenny Mann,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 621) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 628** (originating in the Committee on the Judiciary), Relating to providing funding for Statewide Interoperable Radio Network.

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

**Com. Sub. for Com. Sub. for Senate Bill 628** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-29; to amend and reenact §50-3-2 of said code; and to amend and reenact §62-5-10 of said code, all relating to creating a special revenue account in the State Treasury known as the Statewide Interoperable Radio Network Account; setting forth funding sources; providing for appropriation of moneys into the account; providing purposes for which the moneys may be used; providing for quarterly accounting; and providing funding for the Statewide Interoperable Radio Network through additional court costs to be imposed in criminal cases.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 628) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.



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

Your Committee on Education has had under consideration

**Senate Bill 630**, Establishing Accessibility and Equity in Public Education Enhancement Act.

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

**Com. Sub. for Senate Bill 630** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5 and §18-5F-6, all relating to establishing the Accessibility and Equity in Public Education Enhancement Act; setting forth legislative findings and purpose; defining terms; allowing a county board or a multicounty consortium to create a virtual instruction program for one or more schools serving any composition of grades kindergarten through twelve by adopting a policy creating the program; allowing the county board or multicounty consortium after adopting the policy to contract with virtual school providers; delaying participation of eligible students in grades kindergarten through five until after the program has been in operation for one full school year; requiring eligible students to be counted in the net enrollment of the school district for the purposes of calculating and receiving state aid, be subject to the same state assessment requirements as other students in the school district and receive a diploma upon completing the same coursework required of regular public school students in the district; exempting, to a limited extent, certain students, parents and school districts from certain laws and state board policies that pertain to requiring the student to be in a school building receiving instruction for any set period of time; providing that a participating eligible student be considered to be attending a certain school; allowing the eligible student to participate in any cocurricular and extracurricular activities of the school under the same participation requirements imposed on traditional students attending the school; exempting a county board from certain provisions of law or state board rule to the extent any conflict with the delivery of the program; exempting a county board from certain online course restrictions; requiring coursework offered through a program be aligned to certain academic standards; requiring the assessment results of a student be included in the assessment results of the school and the school district in which the student is considered to be enrolled for purposes of accountability; and requiring report to the Legislative Oversight Commission on Education Accountability on all aspects of the program.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Kenny Mann,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 630) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 631**, Relating to prosecuting violations of municipal building code.

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

**Com. Sub. for Senate Bill 631** (originating in the Committee on Government Organization)—  
A Bill to amend and reenact §8-12-13 and §8-12-16 of the Code of West Virginia, 1931, as amended, all relating to the process for prosecution of violations of municipal building code; clarifying the process by which municipal governments may abate unsafe, unsanitary or dangerous dilapidated structures that are detrimental to the public safety or welfare; creating a method of issuing misdemeanor citations for violation of the building code with proper due process; permitting complaints to be filed; establishing a procedure; requiring notice; granting hearings; permitting the recovery for costs for instituting an action; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 631) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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 634**, Relating generally to certain agreements between DHHR and two largest state universities.

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

**Com. Sub. for Senate Bill 634** (originating in the Committee on Government Organization)—  
A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9a, relating generally to certain agreements between the Department of Health and Human Resources and the two largest state universities; and exempting such agreements from the requirements of the State Purchasing Division.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 634) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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 671**, Relating to WV Anatomical Board.

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

**Com. Sub. for Senate Bill 671** (originating in the Committee on Government Organization)—A Bill to amend and reenact §18B-4-8 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Anatomical Board; providing that the board be reestablished under the authority of the Higher Education Policy Commission; modifying composition of the board; defining terms; modifying powers and responsibilities of the board; requiring the board to make requisition for, receiving and making disposition of dead human bodies for certain uses and purposes; requiring the board to keep full and complete records of certain information, which shall be open at all times for inspection of the Attorney General and any prosecuting attorney in the state; authorizing the Higher Education Policy Commission to promulgate legislative rules; providing that members of the board shall not be entitled to or receive compensation for services rendered in their capacity; requiring the board to operate in compliance with the Revised Anatomical Gift Act; eliminating requirement that certain dead human bodies buried at the public's expense be delivered to the board; eliminating procedures and requirements related to unclaimed bodies subject to requisition by the board; eliminating bond requirements of the board; and eliminating a criminal misdemeanor offense, penalties and the imposition of liability for certain conduct.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 671) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 685** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b, relating to creating a one-day special license for charitable events to sell nonintoxicating beer; setting fee for license; and authorizing commissioner to waive certain restrictions by rule or order.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 685) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Senate Bill 686** (originating in the Committee on Finance)—A Bill to amend and reenact §5A-3-1 and §5A-3-3 of the Code of West Virginia, 1931, as amended, all relating to facilities providing direct patient care services that are managed, directed, controlled and governed by the Secretary of the Department of Health and Human Resources; exempting such facilities from statewide purchasing requirements and from the otherwise required oversight and review by the Purchasing Division of the Department of Administration; and requiring the Legislative Auditor to audit purchasing made by facilities and report the findings to the Joint Committee on Government and Finance.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 686) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Finance has had under consideration

**Senate Joint Resolution 4**, County Economic Development Amendment.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the resolution (S. J. R. 4) contained in the preceding report from the Committee on Finance was taken up for immediate

consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

Senators Rucker, Unger and Beach offered the following resolution:

**Senate Resolution 51**—Designating March 24, 2017, as Jefferson County Day at the Capitol.

Whereas, Jefferson County was formed from Berkeley County in 1801 and named for Thomas Jefferson, author of the Declaration of Independence and third President of the United States; and

Whereas, Jefferson County's municipalities include Charles Town, the county seat (established in 1789 by George Washington's brother, Charles); Ranson (1910); Harpers Ferry (1851); Bolivar (1825); and Shepherdstown (1762); and

Whereas, From John Brown's raid in Harpers Ferry to Johnstown, believed to be the first free black community in West Virginia, and from Civil War battle sites to the courthouse in Charles Town being the only courthouse in America to have held two trials for treason, Jefferson County is rich in history. In 1906, Storer College in Harpers Ferry was the site of the Niagra Movement's (later merged with the National Association for the Advancement of Colored People) first meeting on United States soil. The meeting was later described by W. E. B. Du Bois as "one of the greatest meetings that American Negroes ever held"; and

Whereas, Today, Jefferson County is an economic engine for the State of West Virginia, with a booming population that has grown from 21,280 in 1970 to 53,498 after the 2010 census; and

Whereas, Jefferson County has a vibrant tourism industry, drawing hundreds of thousands of visitors from around the world each year to enjoy whitewater rafting, zip lining, camping and hiking along the Appalachian Trail, shopping at farmers' markets or taking in the many national historical sites around the county; and

Whereas, Jefferson County has been home to Shepherd University for 145 years, which has evolved into a thriving school of 4,000 students, 60% of which are West Virginia natives; and

Whereas, It is fitting to recognize Jefferson County for its history, culture, economy, natural beauty and future development in the State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates March 24, 2017, as Jefferson County Day at the Capitol; and, be it

*Further Resolved,* That the Senate acknowledges the many important contributions the citizens and businesses of Jefferson County make in the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials representing Jefferson County.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Rucker regarding the adoption of Senate Resolution 51 were ordered printed in the Appendix to the Journal.

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

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Boso, Stollings, Gaunch, Sypolt, Romano, Unger, Beach and Plymale offered the following resolution:

**Senate Resolution 52**—Designating March 24, 2017, as Firefighters Day as the Capitol.

Whereas, West Virginia's firefighters are a vital part of the emergency response system serving our communities, residents and visitors throughout this great state; and

Whereas, West Virginia's firefighters invest countless hours training, planning and preparing to respond to various emergencies at times of greatest need; and

Whereas, Each of the over 9,000 West Virginia firefighters are a valued and cherished asset to the residents and visitors of the state, always answering the call of duty to a myriad of emergencies, including, but not limited to, fire, motor vehicle accident, hazardous material accident, high angle rescue and medical incidents; and

Whereas, The West Virginia public at large expects firefighters to be available to respond to the varying types of emergencies promptly when called upon; and

Whereas, West Virginia firefighters provide a selfless benefit to the communities and counties in which they serve and are truly the quiet heroes as they place themselves in harm's way and subject themselves to personal risk; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates March 24, 2017, as Firefighters Day as the Capitol; and, be it

*Further Resolved,* That the Senate hereby acknowledges the vital importance of West Virginia firefighters situated throughout the state; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to firefighters throughout the state of West Virginia for their dedicated public service; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials representing Firefighters Day at the Capitol.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Boso and Romano regarding the adoption of Senate Resolution 52 were ordered printed in the Appendix to the Journal.

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

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order, which agenda includes the making of main motions.

At the request of Senator Ferns, unanimous consent being granted, the Senate returned to the consideration of

**Com. Sub. for Senate Bill 637**, Relating to private club operations requirements.

Having been received as a report from the Committee on the Judiciary and taken up for immediate consideration, read a first time and ordered to second reading in earlier proceedings today.

On motion of Senator Ferns, the Senate reconsidered the vote by which Committee Substitute Senate Bill 637 was taken up for immediate consideration, read a first time and ordered to second reading.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Ferns' request that Committee Substitute for Senate Bill 637 be taken up for immediate consideration, read a first time and ordered to second reading.

At the request of Senator Ferns, unanimous consent being granted, his aforesaid request was withdrawn.

On motion of Senator Ferns, the Senate reconsidered its action by which in earlier proceedings today it received the Committee on the Judiciary report for Committee Substitute for Senate Bill 637.

The action thereon having been reconsidered,

At the request of Senator Trump, and by unanimous consent, the report from the Committee on the Judiciary for Committee Substitute for Senate Bill 637 was withdrawn.

### **Petitions**

Senator Miller presented a petition from Harris Sams and numerous West Virginia residents, urging the Legislature to ensure access to good, affordable health care for all West Virginians.

Referred to the Committee on Health and Human Resources.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 35**, Urging Congress reassess federal definition of industrial hemp.

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

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

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

**Senate Concurrent Resolution 46**, Requesting study on consumer complaints regarding safety of aftermarket crash parts.

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

**Senate Concurrent Resolution 47**, US Army PFC Dell Dingess Lane.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 18**, Requiring new comprehensive statewide student assessment.

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 18 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump and Carmichael (Mr. President)—18.

The nays were: Beach, Facemire, Hall, Jeffries, Mann, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, Weld and Woelfel—16.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 18) passed.

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

**Eng. Com. Sub. for Senate Bill 18**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to modifying finding to declare that it is clearly within the Legislature’s authority to mandate, at any level of specificity, appropriate academic standards to be adopted by the West Virginia Board of Education; prohibiting the state board from adopting any national or regional testing program or academic curriculum standards tied to federal funding without approval granted by Act of the Legislature; adding digital literacy skills to the list of areas the state board is required to adopt certain high-quality education standards in; requiring the state board to use a new comprehensive statewide student assessment program beginning with the



2017-2018 school year; setting forth requirements for the new assessment program; removing authorization to require student proficiencies be measured through the ACT EXPLORE and the ACT PLAN assessments or other comparable assessments; allowing state board to waive certain requirements for the new assessment program if less than two vendors submit bids; clarifying that state board may issue more than one request for proposals and contract with more than one vendor; prohibiting the Smarter Balance Assessment System, the PARCC Assessment System or certain other assessments from being used; requiring the state board to include in its rule accountability measures for students taking the comprehensive statewide assessment; prohibiting certain summative assessments from taking more than two percent of a student's instructional time; prohibiting a student from being required to complete a greater number of summative assessments than is required by the Every Student Succeeds Act; providing exception; prohibiting collection of personal data as part of the assessment process except for what is necessary for the students' instruction, academic and college and career search needs; and requiring the state board to provide online assessment preparation for any online assessment.

Senator Ferns moved that the bill take effect July 1, 2017.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump and Carmichael (Mr. President)—19.

The nays were: Beach, Facemire, Jeffries, Mann, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, Weld and Woelfel—15.

Absent: None.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Ferns aforesated motion had not prevailed.

*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 61**, Providing consumers sales and service tax and use tax exemption for certain services and tangible personal property sold for repair, remodeling and maintenance of aircraft.

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 61 pass?"

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, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 61) 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 76**, Creating WV Second Chance for Employment Act.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 76 pass?”

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, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 76) 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 Palumbo, and by unanimous consent, the remarks by Senators Trump, Jeffries and Gaunch regarding the passage of Engrossed Committee Substitute for Senate Bill 76 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Senate Bill 183**, Transferring Division of Forestry from Department of Commerce to Department of Agriculture.

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 183 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maroney, Maynard, Mullins, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—22.

The nays were: Beach, Facemire, Jeffries, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—12.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 183) passed with its title.

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

**Com. Sub. for Senate Bill 419,** Creating special revenue fund sources for Division of Labor to meet statutory obligations.

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, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 419) 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 464,** Eliminating taxation on annuity consideration received by life insurer.

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, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 464) 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 Com. Sub. for Senate Bill 486,** Relating to health care provider taxes.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 486) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2017.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 486) takes effect July 1, 2017.

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

**Eng. Senate Bill 504**, Defining “special aircraft property”.

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

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

**Eng. Com. Sub. for Senate Bill 535**, Reorganizing Division of Tourism.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 535 pass?”

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, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 535) passed.

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

**Eng. Com. Sub. for Senate Bill 535**—A Bill to repeal §5B-2-8, §5B-2-8a, §5B-2-9, §5B-2-11, §5B-2-12 and §5B-2-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-1-2 of said code; and to amend said code by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7 and §5B-2I-8, all relating to tourism promotion generally; continuing the West Virginia Division of Tourism Office; creating the West Virginia Tourism Act of 2017; creating the position of Executive Director of the West Virginia Tourism Office and setting forth the authority of the executive director; authorizing the Governor to appoint the executive director and set his or her salary; clarifying that the executive director shall serve as Commissioner of Tourism until establishment of the West Virginia Tourism Office; making the position of executive director one of will and pleasure; establishing qualifications for the position of executive director; establishing powers and duties of the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to enter into private-public agreements and to change and collect fees for goods and services it supplies; authorizing the West Virginia Tourism Office to retain services necessary to carry out its duties; establishing criteria for retaining services; authorizing the executive to employ necessary personnel and to contract for professional, technical and consulting services and purchase equipment and supplies; authorizing the executive director, at the consent of the Secretary of Commerce, to compile a list on classified service exempt positions; requiring the West Virginia Tourism Office to publish and disseminate an annual report; directing the West Virginia Tourism office and its director to collaborate with the West Virginia Development Office; authorizing cancellation of contracts and joint venture agreements without further obligation of the state and setting the conditions precedent therefor; continuing the Tourism Promotion Fund in the State Treasury; directing that moneys in the fund be spent solely for tourism promotion; defining terms; exempting unspent moneys in fund from reverting to the General Revenue Fund; eliminating the Tourism Advertising Partnership Program effective July 1, 2017, with exceptions for resolution of outstanding obligations; directing the establishment of a cooperative advertising program within the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to establish a fee schedule for participants in the cooperative advertising program; creating a requirement that if bonds authorized for improvements to Cacapon State Park and Beech Fork State Park have not been issued and sold and a contract for one of more of the projects at Cacapon State Park and Beech Fork State Park have not been entered into or before January 1, 2018, all spending authority from the fund shall cease and all moneys in the fund shall revert to the General Revenue Fund; continuing an independent Tourism Commission within the Department of Commerce; establishing membership of Tourism Commission; requiring that gubernatorial appointments to the board be subject to the advice and consent of the Senate; setting forth qualifications of board members; establishing duties of the commission; and providing that documents, data and other writings related to furnishing assistance to businesses, other than agreements entered into by the West Virginia Tourism Office or West Virginia Development Office which obligate public funds, are exempt from disclosure under the Freedom of Information Act.

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

**Eng. Com. Sub. for Senate Bill 538**, Creating special conditions of parole.

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, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 538) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 74**, Allowing fire departments to charge fees for service calls.

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

**Com. Sub. for Senate Bill 388**, Relating to dangerous weapons.

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

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

**Com. Sub. for Senate Bill 428**, Relating to partial filling of prescriptions.

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

**Senate Bill 433**, Permitting counties increase excise tax on privilege of transferring real property.

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

**Com. Sub. for Senate Bill 477**, Increasing State Road Fund by raising DMV fees and motor fuel excise taxes.

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

At the request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill 602**, Creating uniform system of recording and indexing fictitious names used by sole proprietors.

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

**Com. Sub. for Senate Bill 622**, Relating generally to tax procedures and administration.

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

**Senate Bill 658**, Establishing procedure for retitling mobile and manufactured homes.

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

**Eng. Com. Sub. for House Bill 2486**, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order.

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

On motion of Senator Romano, the following amendment to the bill was reported by the Clerk:

On page one, section one, line eight, after the word "Rules" by changing the comma to a period and striking out the remainder of the sentence.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 2486) was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2811**, Relating to the definition of above ground storage tanks.

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

The Senate proceeded to the tenth order of business.

The following bills and joint resolution 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 60**, Relating to eligibility and fraud requirements for public assistance.

**Com. Sub. for Com. Sub. for Senate Bill 281**, Increasing number of limited video lottery machines allowed at retail location.

**Com. Sub. for Senate Bill 316**, Requiring individuals receiving unemployment compensation apply for and accept seasonal employment.

**Com. Sub. for Senate Bill 412**, Relating to WV Jobs Act reporting requirements.

**Com. Sub. for Senate Bill 437**, Discontinuing WV Greyhound Breeding Development Fund.

**Com. Sub. for Senate Bill 453**, Adding classification and base salaries of certain civilian employees of WV State Police Forensic Laboratory.

**Senate Bill 493**, Providing increase in compensation for conservation officers.

**Com. Sub. for Senate Bill 539**, Relating to regulation and control of financing elections.

**Senate Bill 566**, Claims against state.

**Com. Sub. for Senate Bill 586**, Changing fees for custom slaughters from annual to triennial.

**Com. Sub. for Senate Bill 647**, Relating generally to additional county excise taxes on real property transfer.

**Senate Joint Resolution 10**, Eliminating Office of Surveyor of Lands Amendment.

**Eng. Com. Sub. for House Bill 2001**, Relating to ethics and transparency in government.

**Eng. Com. Sub. for House Bill 2506**, Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria.

And,

**Eng. Com. Sub. for House Bill 2868**, Relating generally to Uniform Unclaimed Property Act.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Beach and Rucker.

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

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

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

On motion of Senator Ferns, the Senate adjourned until tomorrow, Saturday, March 25, 2017, at 10 a.m.

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## SENATE CALENDAR

Saturday, March 25, 2017  
10:00 AM

### THIRD READING

- Eng. Com. Sub. for S. B. 74 - Allowing fire departments to charge fees for service calls (original similar to HB2638)
- Eng. Com. Sub. for S. B. 428 - Relating to partial filling of prescriptions (original similar to HB2989)
- Eng. S. B. 433 - Permitting counties increase excise tax on privilege of transferring real property (original similar to HB2461, SB647)
- Com. Sub. for S. B. 477 - Increasing State Road Fund by raising DMV fees and motor fuel excise taxes - (With right to amend) (original similar to HB2814)
- Eng. S. B. 504 - Defining "special aircraft property"
- Eng. Com. Sub. for S. B. 602 - Creating uniform system of recording and indexing fictitious names used by sole proprietors
- Eng. Com. Sub. for S. B. 622 - Relating generally to tax procedures and administration
- Eng. S. B. 658 - Establishing procedure for retitling mobile and manufactured homes
- Eng. Com. Sub. for H. B. 2486 - Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order
- Eng. Com. Sub. for H. B. 2811 - Relating to the definition of above ground storage tanks

### SECOND READING

- Com. Sub. for Com. Sub. for S. B. 60 - Relating to eligibility and fraud requirements for public assistance (original similar to HB2741)
- Com. Sub. for S. B. 69 - Creating Sexual Assault Victims' Bill of Rights
- Com. Sub. for S. B. 167 - Relating to DNA evidence
- Com. Sub. for S. B. 210 - Renaming Local Powers Act the County Local Powers Act
- Com. Sub. for S. B. 217 - Relating to disclaimers of warranties regarding used manufactured homes (original similar to HB2464, HB2578, SB216)

Com. Sub. for Com. Sub. for S. B. 281 - Increasing number of limited video lottery machines allowed at retail location

Com. Sub. for S. B. 316 - Requiring individuals receiving unemployment compensation apply for and accept seasonal employment

Com. Sub. for S. B. 376 - Relating generally to Sex Offender Registration Act (original similar to HB2915)

Com. Sub. for S. B. 380 - Creating 2-year pilot program to allow all-terrain or recreational vehicles in Cabwaylingo State Forest

Com. Sub. for S. B. 388 - Relating to dangerous weapons

S. B. 401 - Allowing county board of education base employment decisions on individual's qualifications

Com. Sub. for S. B. 412 - Relating to WV Jobs Act reporting requirements

S. B. 416 - Relating to Public-Private Transportation Facilities Act (original similar to HB2721)

S. B. 417 - Removing financial limitations on number of design-build projects undertaken by DOH (original similar to HB2722)

S. B. 421 - Increasing amount of authorized federal Grant Anticipation Notes for which DOH may apply (original similar to HB2878)

Com. Sub. for S. B. 437 - Discontinuing WV Greyhound Breeding Development Fund

Com. Sub. for S. B. 453 - Adding classification and base salaries of certain civilian employees of WV State Police Forensic Laboratory (original similar to HB3065)

Com. Sub. for S. B. 484 - Relating generally to taxation (original similar to HB2816)

S. B. 493 - Providing increase in compensation for conservation officers - (Com. amend. pending)

Com. Sub. for S. B. 539 - Relating to regulation and control of financing elections

S. B. 566 - Claims against state

Com. Sub. for S. B. 576 - Providing exception to waste for certain oil and gas development (original similar to HB3094)

S. B. 578 - Relating generally to copies of health care records furnished to patients

Com. Sub. for S. B. 586 - Changing fees for custom slaughters from annual to triennial

Com. Sub. for Com. Sub. for S. B. 601 - Relating to requirements for making consumer loans

S. B. 614 - Relating to expansion of broadband service

S. B. 621 - Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations

Com. Sub. for Com. Sub. for S. B. 628 -	Relating to providing funding for Statewide Interoperable Radio Network
Com. Sub. for S. B. 630 -	Establishing Accessibility and Equity in Public Education Enhancement Act
Com. Sub. for S. B. 631 -	Prosecuting violations of municipal building code
Com. Sub. for S. B. 634 -	Relating generally to certain agreements between DHHR and two largest state universities
Com. Sub. for S. B. 647 -	Relating generally to additional county excise taxes on real property transfer (original similar to HB2461, SB433)
Com. Sub. for S. B. 671 -	Relating to WV Anatomical Board
S. B. 685 -	Creating a one-day special license for charitable events sell nonintoxicating beer
S. B. 686 -	Exempting facilities governed by DHHR that provide direct patient care
S. J. R. 10 -	Eliminating Office of Surveyor of Lands Amendment
Eng. Com. Sub. for H. B. 2001 -	Relating to ethics and transparency in government - (Com. amend. and title amend. pending)
Eng. Com. Sub. for H. B. 2506 -	Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria
Eng. Com. Sub. for H. B. 2868 -	Relating generally to Uniform Unclaimed Property Act - (Com. amend. and title amend. pending)

## **ANNOUNCED SENATE COMMITTEE MEETINGS**

### **Regular Session 2017**

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**Saturday, March 25, 2017**

8 a.m.	Natural Resources	(Room 451M)
8 a.m.	Government Organization	(Room 208W)
9 a.m.	Education	(Room 451M)
30 Minutes Upon Adjournment of Senate Floor Session	Finance	(Room 451M)
30 Minutes Upon Adjournment of Senate Floor Session	Judiciary	(Room 208W)