

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
SEVENTEENTH DAY

Charleston, West Virginia, Friday, February 24, 2017

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Dick Corbin, Director of Church Relations, Union Mission of West Virginia, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Roman W. Prezioso, Jr., a senator from the thirteenth district.

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

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2404—A Bill to amend and reenact §36-1-20 of the Code of West Virginia, 1931, as amended; and to amend and reenact §42-4-2 of said code, all relating generally to barring persons who are convicted of certain criminal offenses from acquiring property from their victims through joint tenancy or inheritance; barring a person who has been convicted of an offense causing the death of an incapacitated adult as a principal, aider and abettor, or accessory before the fact from taking or acquiring real or personal property by survivorship when the joint tenant is a victim of the criminal offense; barring a person who has been convicted of an offense of abuse or neglect of an incapacitated adult, or a felony offense of financial exploitation of an elderly person, protected person or an incapacitated adult from taking or acquiring real or personal property by survivorship when the victim of the criminal offense if the joint holder of the title to the property and providing exceptions therefor; barring a person who has been convicted of an offense causing the death of an incapacitated adult taking or acquiring money, property, or any interest therein by descent and distribution, will, or any policy or certificate

of insurance; and barring a person who has been convicted of an offense of abuse or neglect of an incapacitated adult, or a felony offense of financial exploitation of an elderly person, protected person or an incapacitated adult from taking or acquiring money, property, or any interest therein by descent and distribution, will, or any policy or certificate of insurance and providing exceptions therefor.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2447—A Bill to repeal §14-2-6 and §14-2-18 of the Code of West Virginia, 1931, as amended; to repeal §14-2A-7 of said code; to amend and reenact §14-2-3, §14-2-4, §14-2-4a, §14-2-5, §14-2-7, §14-2-8, §14-2-9, §14-2-10, §14-2-11, §14-2-12, §14-2-13, §14-2-14, §14-2-15, §14-2-16, §14-2-17, §14-2-19, §14-2-20, §14-2-21, §14-2-22, §14-2-23, §14-2-24, §14-2-25, §14-2-26, §14-2-27 and §14-2-28 of said code; to amend said code by adding thereto a new section, designated §14-2-17a; and to amend and reenact §14-2A-5, §14-2A-6, §14-2A-9, §14-2A-10, §14-2A-11, §14-2A-12, §14-2A-13, §14-2A-14, §14-2A-15, §14-2A-16, §14-2A-17, §14-2A-18, §14-2A-19, §14-2A-19a, §14-2A-19b, §14-2A-20, §14-2A-21, §14-2A-25, §14-2A-26 and §14-2A-28 of said code, all relating to renaming the Court of Claims the state Claims Commission; renaming judges commissioners; modifying definitions; providing explicit powers of removal of commissioners; providing authority to the Joint Committee on Government and Finance for the hiring of a clerk, chief deputy clerk, and deputy clerks; and establishing a shortened procedure for certain road condition claims.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2465—A Bill to amend and reenact §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West Virginia, 1931, as amended, all relating to modifying the requirements that allow a child witness to testify by live, closed circuit television; defining terms; expanding the allowance of closed circuit testimony to other alleged criminal offenses; authorizing use for persons with certain intellectual disabilities; clarifying the use and requirements of closed-circuit television; granting the court discretion to allow testimony via live, closed circuit television; granting court discretion to decide whether it be through one-way or two-way closed-circuit television; setting forth findings to be made by the circuit court prior to ordering testimony through live, closed circuit television; granting the court discretion to appoint a psychiatrist, licensed psychologist or licensed social worker to provide an expert opinion regarding the factors and findings to be made by the court in deciding whether to order testimony through live, closed circuit television; requiring court-appointed expert witness to provide written report within established deadline; providing for the effect of failure to comply with filing deadline; revising the procedures required for taking testimony of child witness by live, closed-circuit television; setting forth the procedures for testimony by live, closed-circuit television; establishing a location for witness testimony and individuals allowed in the witness room; setting requirements for display in the courtroom; providing who may question the child witness and the procedures therefor; providing for requirement of electronic means for defendant to confer with counsel during the taking of the testimony; providing for instruction to jury regarding use of live, closed-circuit television; authorizing the defendant to waive jury instruction regarding use of live, closed-circuit television; prohibiting counsel from making comments in the presence of the jury; authorizing the court to

establish measures for the physical safety of the child witness and for the confidentiality of sensitive information; authorizing the court to allow accommodations for child witness testimony in court rather than by live, closed-circuit television; authorizing the allowance of a toy, blanket or similar item to be in possession of child witness while testifying; authorizing the allowance of a designated support person and seating of the support person in the courtroom; and providing requirements for allowance of a designated support person by motion.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

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

Com. Sub. for Senate Bill 4 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3E-14 of said code; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend said code by adding thereto a new section, designated §30-7A-6a; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend said code by adding thereto a new section, designated §30-16-7a; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing specified licensed health care professionals to donate time to the care of indigent and needy in a clinical setting; and providing for special volunteer license for licensed practical nurses and chiropractors and providing that a special volunteer license for any health care professional for which a special volunteer license is allowed is not required for a charitable function not exceeding seven days.

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

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

Senator 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 5, Disqualifying CDL for DUI conviction in certain cases.

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

Com. Sub. for Senate Bill 5 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17E-1-9 and §17E-1-13 of the Code of West Virginia, 1931, as amended, all relating to disqualification from holding commercial driver's license for certain convictions of driving a motor vehicle under the influence of alcohol or a controlled substance; clarifying that person committing disqualifying offense prior to possessing commercial driver's license are eligible for commercial driver's license once period of revocation and safety and treatment program have been completed; expanding range of offenses eligible for reinstatement after ten years and completion of safety and treatment program; providing that a person who committed certain offenses more than ten years before the initial issuance of a commercial driver's license by any state shall be deemed to have served the period of disqualification from holding a commercial driver's license if certain conditions are met; and setting forth conditions to be met.

Senate Bill 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court.

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

Com. Sub. for Senate Bill 225 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §48-27-402 of the Code of West Virginia, 1931, as amended, relating to permitting magistrates to modify, through a domestic violence protective order, a temporary custody order of the family court in circumstances where violence against a minor child or children is alleged.

Senate Bill 261, Relating to increasing salary or wages of judgment debtor.

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

Com. Sub. for Senate Bill 261 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §38-5B-2 of said code, all relating to suggestions of salary and wages of judgment debtors engaged in private and public employment; increasing the amount of salary or wages of persons engaged in private and public employment that are protected from a suggestee execution from thirty times the federal minimum hourly wage then in effect to fifty times the federal minimum hourly wage then in effect; requiring judgment creditor to provide additional personal information about the judgment debtor including, to the extent available, the present address and date of birth of the judgment debtor; and making technical changes.

And,

Senate Bill 337, Hiring correctional officers without regard to placement on correctional officer register.

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

Com. Sub. for Senate Bill 337 (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 §25-1-11f, relating to authorizing the hiring of correctional officers without regard to

his or her placement on the correctional officer register; and granting employment preference to otherwise qualified persons on a preference register.

With the recommendation that the four committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

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

Senate Bill 16, Repealing section related to wind power projects.

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

Respectfully submitted,

Randy E. Smith,
Chair.

The bill, 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 18, Requiring ACT and ACT Aspire to be used as comprehensive statewide student assessment.

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

Com. Sub. for Senate Bill 18 (originating in the Committee on Education)—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to 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 or the PARCC Assessment System 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; and 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.

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.

The bill (Com. Sub. for S. B. 18), 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

Senate Bill 180, Relating to PSC jurisdiction over certain telephone company and internet services.

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

Com. Sub. for Senate Bill 180 (originating in the Committee on Government Organization)—A Bill to amend and reenact §24-2-1 of the Code of West Virginia, 1931, as amended, relating to Internet protocol-enabled service and voice-over Internet protocol-enabled service; prohibiting Public Service Commission jurisdiction of Internet protocol-enabled service and voice-over Internet protocol-enabled service; and limiting Public Service Commission jurisdiction of certain telephone company transactions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Swope, from the Committee on the Workforce, submitted the following report, which was received:

Your Committee on the Workforce has had under consideration

Senate Bill 224, Repealing requirement for employer's bond for wages and benefits.

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

Com. Sub. for Senate Bill 224 (originating in the Committee on the Workforce)—A Bill to repeal §21-5-14, §21-5-14a and §21-5-16 of the Code of West Virginia, 1931, as amended; and to amend and reenact §21-5-15 of said code, relating to repealing the requirement for an

employer's bond for wages and benefits for certain designated employers; and related requirements.

And,

Senate Bill 239, Limiting use of wages by employers and labor organizations for political activities.

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

Com. Sub. for Senate Bill 239 (originating in the Committee on the Workforce)—A Bill to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-1A-4 of said code; and to amend and reenact §21-5-1 of said code, all relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities; prohibiting any person from coercing or intimidating any employee into making a political contribution or engaging in any form of political activity; prohibiting employers and any other persons responsible for the disbursement of wages and salaries from withholding or diverting any portion of an employee's wages or salary for political activities without express, written authorization; providing that the prohibition against withholding or diverting wages for political activities applies to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2017; providing for criminal penalties; setting forth requirements for employees to provide written authorization for disbursement of wages and salaries by an employer or other person for political activities; requiring the Secretary of State to promulgate forms; defining terms "political activities" and "agency shop fees"; modifying definition of "deductions" to exclude amounts for union or club dues; and making it an unfair labor practice under the Labor-Management Relations Act for the Private Sector for a labor organization to use agency shop fees paid by nonmembers for political activities, unless expressly authorized by the individual.

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

Respectfully submitted,

Chandler Swope,
Chair.

The bills (Com. Sub. for S. B. 224 and 239), under the original double committee references, were then referred to the Committee on the Judiciary.

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

The Senate again proceeded to the fourth order of business.

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 235, Relating to motorcycle registration renewal.

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

Respectfully submitted,

Craig Blair,
Chair.

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

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 257 (originating in the Committee on Military), Relating to Civil Air Patrol leave and protection of employees performing missions.

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

Com. Sub. for Com. Sub. for Senate Bill 257 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-1K-3, §15-1K-4, §15-1K-5, §15-1K-6, §15-1K-7, §15-1K-8 and §15-1K-9, all relating to Civil Air Patrol leave and protection of employees performing Civil Air Patrol missions; providing that employers may not discriminate based on an employee's membership in the Civil Air Patrol; and providing that an employee may bring a civil action to enforce the provisions of this article but shall not recover monetary damages.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 345 (originating in the Committee on Natural Resources), Allowing hunting and trapping on Sundays.

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

Com. Sub. for Com. Sub. for Senate Bill 345 (originating in the Committee on the Judiciary)—A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §20-2-5i; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting; repealing limitations on

trappers on Sundays; eliminating local option election regarding hunting on Sunday on private land; permitting hunting on Sunday on private land; clarifying hunting on Sunday on public lands is unlawful; and superseding ballot measures relating to Sunday hunting that have passed or failed prior to the effective date of the amendments.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 346, Relating generally to jurisdiction of PSC over motor carriers.

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

Respectfully submitted,

Craig Blair,
Chair.

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 347, Relating to modernization of Physician Assistant Practice Act.

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

Com. Sub. for Senate Bill 347 (originating in the Committee on Health and Human Resources)—A Bill to repeal §30-3E-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3-5 of said code; to amend and reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-6, §30-3E-7, §30-3E-9, §30-3E-10, §30-3E-11, §30-3E-12, §30-3E-15, §30-3E-16 and §30-3E-17 of said code; and to amend said code by adding thereto a new section, designated §30-3E-12a, all relating to modernization of the Physician Assistant Practice Act; modifying the Board of Medicine to add an additional physician assistant to the board; substituting “collaborating physician” for “supervising physician”; defining terms; modifying the prescriptive authority of physician assistants; eliminating the requirement that physician assistants be required to take a recertification exam after passing the initial exam; allowing for reimbursement rates from insurance plans and public payers at the same rate physicians and advance practice registered nurses in specified circumstances; adding requirements to the practice agreement; granting physician assistants signatory authority on certain forms; and making conforming amendments.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Tom Takubo,
Chair.

The Senate proceeded to the sixth order of business.

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

By Senators Blair and Boso:

Senate Bill 427—A Bill to amend and reenact §22-2-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-11 of said code; to amend and reenact §22-4-22, §22-4-23 and §22-4-26 of said code; to amend and reenact §22-6-29 of said code; to amend and reenact §22-11-10 and §22-11-25 of said code; to amend and reenact §22-12-9 of said code; to amend and reenact §22-14-18 and §22-14-19 of said code; to amend and reenact §22-15A-9 of said code; to amend and reenact §22-16-12 of said code; to amend and reenact §22-17-20, §22-17-21 and §22-17-22 of said code; to amend and reenact §22-18-22 of said code; and to amend and reenact §22C-2-3 of said code, all relating to special revenue funds administered or used by the Department of Environmental Protection; providing that expenditures from certain funds are not authorized from collections but shall be authorized only by line item appropriation by the Legislature; eliminating authorization for certain funds to be expended for administrative purposes; the Abandoned Land Reclamation Fund; the Special Reclamation Water Trust Fund; the Bond Pooling Fund; the Quarry Reclamation Fund; the Quarry Inspection and Enforcement Fund; the Oil and Gas Operating Permit and Processing Fund; the Oil and Gas Reclamation Fund; the Water Quality Management Fund; the Natural Resources Game Fish and Aquatic Life Fund; the Groundwater Protection Fund; the Groundwater Remediation Fund; the Dam Safety Fund; the Dam Safety Rehabilitation Revolving Fund; the A. James Manchin Fund; the Closure Cost Assistance Fund; the Underground Storage Tank Administrative Fund; the Leaking Underground Storage Tank Response Fund; the Underground Storage Tank Insurance Fund; the Hazardous Waste Management Fund; and the West Virginia Water Pollution Control Revolving Fund.

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

By Senators Weld, Stollings and Takubo:

Senate Bill 428—A Bill to amend and reenact §30-5-27 of the Code of West Virginia, 1931, as amended, relating to partial filling of prescriptions; permitting partial filling of prescriptions for controlled substances listed in Schedule II under certain circumstances; setting conditions for partial filling of prescriptions for controlled substances listed in Schedule II; permitting remaining portion of prescription to be filled within thirty days of first partial filling; setting forth steps to be followed if pharmacist is unable to fill remaining portion of prescription; and prohibiting further quantities from being supplied beyond seventy-two hours in absence of new prescription.

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

By Senators Blair, Maroney and Trump:

Senate Bill 429—A Bill to amend and reenact §25-1-17 and §25-1-18 of the Code of West Virginia, 1931, as amended, all relating to eliminating the need for a court order prior to receiving recordings or copies of inmate communications under certain circumstances; and the monitoring of inmates' electronic communications.

Referred to the Committee on the Judiciary.

By Senators Takubo and Boso:

Senate Bill 430—A Bill to amend and reenact §16-5G-2, §16-5G-3, §16-5G-4 and §16-5G-6 of the Code of West Virginia, 1931, as amended, all relating to hospital open meetings; expanding the definition of a hospital's "governing body"; requiring notice to those persons who are the subject of the proceedings; setting forth what the notice must contain; providing for a time frame of the notice; providing that an affected party may attend an executive session of the hospital's governing body; and eliminating a requirement that a person who brings a frivolous action against the governing body may have to pay the governing body's costs and attorney fees.

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

By Senators Gaunch, Romano, Stollings and Facemire:

Senate Bill 431—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-18f, relating to county boards of education; licensed school psychologists; and providing that maximum licensed school psychologist-pupil ratio is one thousand five hundred pupils for each licensed school psychologist.

Referred to the Committee on Education.

By Senators Boley, Maynard, Boso and Cline:

Senate Bill 432—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to the demonstration of proficiency in civics as a condition of receiving a high school diploma, Test Assessing Secondary Completion diploma or equivalent diploma.

Referred to the Committee on Education.

By Senator Trump:

Senate Bill 433—A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to permitting counties to increase the excise tax on the privilege of transferring real property.

Referred to the Committee on Government Organization.

By Senators Gaunch and Boso:

Senate Bill 434—A Bill to amend and reenact §33-26-2, §33-26-3, §33-26-4, §33-26-5, §33-26-8, §33-26-9, §33-26-10, §33-26-11, §33-26-12, §33-26-13, §33-26-14 and §33-26-18 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Insurance Guaranty Association Act; modifying scope and construction of act; adding and amending definitions; clarifying and adding powers, duties and rights of association; modifying provisions concerning effect of paid claims, exhaustion of coverage, prevention of insolvencies and stay of proceedings; changing due date of annual financial report; limiting covered claims; expanding association's right to recover and be reimbursed; providing for confidentiality of financial information; and exempting certain reports and recommendations from Freedom of Information Act.

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

By Senators Weld, Miller, Ojeda, Palumbo, Swope, Takubo, Trump, Woelfel, Boso, Facemire and Romano:

Senate Bill 435—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, §47-12-6 and §47-12-7, all relating to the Youth Mental Health Protection Act; legislative findings; purpose; definitions; prohibition on conversion therapy; referral services; and discipline.

Referred to the Committee on Health and Human Resources.

By Senators Gaunch, Blair, Maroney, Trump, Unger, Boso, Takubo, Rucker, Cline, Facemire and Romano:

Senate Bill 436—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6, relating to Attorney General's investigators; and allowing them to carry firearms under certain circumstances.

Referred to the Committee on the Judiciary.

By Senators Karnes, Boso, Cline, Trump and Blair:

Senate Bill 437—A Bill to amend and reenact §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-8, §29-22C-10, §29-22C-27 and §29-22C-27a of said code, all relating generally to horse and dog racing lottery; discontinuing the West Virginia Racing Commission special account known as the West Virginia Greyhound Breeding Development Fund; transferring all moneys in the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon transfer of moneys from the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund, a certain amount be withheld and deposited in the special account known as the Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs to include Spaying and Neutering Account; requiring that all moneys previously required to be directed to the West Virginia Greyhound Breeding Development Fund be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that all moneys previously required to be directed into any fund or paid for the purpose of funding purses, awards or provide any other funding for greyhound races be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to qualify for such license; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to contract to receive telecasts and accept wagers; eliminating the requirement that a video lottery licensee at a dog track must hold a racing license to renew a video lottery license or racetrack table games license; eliminating the requirement, for a video lottery licensee at a dog track, that operational video lottery must be located in the same building or structure as a racetrack and area where pari-mutuel wagering is permitted; eliminating the requirement that an applicant for a video lottery license or license renewal at a dog track must provide evidence of the existence of an agreement regarding proceeds from lottery terminals with certain parties; eliminating the requirement that a racetrack table games licensee at a dog track must race a minimum number of dates; and eliminating the requirement that a video lottery licensee at a dog track must hold a racing license to conduct simulcast racing.

Referred to the Committee on Finance.

By Senators Trump, Smith, Weld and Blair:

Senate Bill 438—A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating generally to Uniform Unclaimed Property Act; clarifying intent of Legislature that the state's insurance laws regulating insurance apply to proceeds of unclaimed life or endowment insurance policies and annuities payable upon death; eliminating any perceived inconsistency between insurance laws and Uniform Unclaimed Property Act; eliminating unintended interpretation of law expressed in the case of State of West Virginia ex rel. John D. Perdue v. Nationwide Life Insurance Company, No. 14-0100 (W. Va. June 16, 2015); clarifying that law as it existed prior to such decision regarding when presumption of abandonment arises with respect to a life or endowment insurance policy or annuity payable upon proof of death be consistent with insurance laws; and providing that this amendment has retroactive effect given its intent to restate and clarify law as it did exist and was intended to exist prior to above-referenced court decision.

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

By Senators Trump, Clements, Facemire, Maroney and Romano:

Senate Bill 439—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1-9, relating to venue for civil and criminal actions at the Salem Correctional Center.

Referred to the Committee on the Judiciary.

By Senators Trump and Blair:

Senate Bill 440—A Bill to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating to the use and investment of Regional Jail and Correctional Facility Authority funds.

Referred to the Committee on Finance.

By Senators Sypolt, Boso and Smith:

Senate Bill 441—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to municipal home rule; establishing the Municipal Home Rule Pilot Program as a permanent program; allowing all municipalities to participate in the Municipal Home Rule Program; and allowing municipalities to use their own city collector's offices to administer, enforce and collect a sales and use tax levied pursuant to the Municipal Home Rule Program.

Referred to the Committee on Government Organization.

Senators Romano, Facemire and Stollings offered the following resolution:

Senate Concurrent Resolution 22—Requesting the Division of Highways name bridge number 17-9-0.35 (17A053), (39.28632, -80.38919), locally known as Wilsonburg T-beam Bridge, carrying County Route 9 over Limestone Run in Harrison County, the "Walter E. Swiger, Jr., Memorial Bridge".

Whereas, Walter E. Swiger, Jr., is a lifelong resident of Harrison County, a graduate of Victory High School and West Virginia Business College; and

Whereas, Walter E. Swiger, Jr., retired after 43 years in petroleum marketing having operated his own business; and

Whereas, Walter E. Swiger, Jr., was appointed to the Harrison County Solid Waste Authority in 1990 by the Harrison County Commission and served as chairman of the authority; and

Whereas, Walter E. Swiger, Jr., was chosen as the Volunteer of the Year by the Association of West Virginia Solid Waste Authorities during their twelfth annual conference in the fall of 2000; and

Whereas, Walter E. Swiger, Jr., was an outstanding community leader with many years of service in various organizations serving the local emergency planning committee, Clarksburg Lions Club, Central West Virginia Community Action Association and others; and

Whereas, As chairman, Walter E. Swiger, Jr., worked to help develop a recycling ordinance for the county and established a recycling hotline and was recognized in several issues of The Solid Waste Reporter for his leadership in "one of the top integrated waste management programs in West Virginia"; and

Whereas, Walter E. Swiger, Jr., worked with county education leaders through the solid waste authorities' efforts as Partner in Education with 10 county schools; and

Whereas, It is fitting that a permanent memorial be established to honor the work of Walter E. Swiger, Jr.; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-9-0.35 (17A053), (39.28632, -80.38919), locally known as Wilsonburg T-beam Bridge, carrying County Route 9 over Limestone Run in Harrison County, the "Walter E. Swiger, Jr., Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the "Walter E. Swiger, Jr. Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 20, Curtis 'Pap' and Millie 'Mammie' Asbury Bridge.

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 21, US Army CPL Daniel Frederick Mehringer Memorial Bridge.

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

Senate Resolution 19, Expressing support for confirmation of Judge Neil M. Gorsuch to US Supreme Court.

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

At the request of Senator Trump, 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 Blair, and by unanimous consent, the remarks by Senator Trump regarding the adoption of Senate Resolution 19 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 41, Extending time person may be subject to probation.

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

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

The nays were: None.

Absent: Beach, Plymale and Sypolt—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 41) 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 113, Authorizing DEP promulgate legislative rules.

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

On the passage of the bill, the yeas were: Azinger, 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, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Sypolt—2.

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. 113) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, 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, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Sypolt—2.

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. 113) takes effect from passage.

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

Eng. Senate Bill 325, Relating to crossbow hunting.

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

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Sypolt—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 325) 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 9, Regulating unmanned aircraft systems.

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 80, Equalizing criminal penalty for entering without breaking regardless of time of day.

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

Senate Bill 164, Relating to traffic regulations and special load limits.

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 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses.

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

Senate Bill 231, Relating to State Board of Education and Medicaid-eligible children.

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 236, Relating to damages for medical monitoring.

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

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

Senate Bill 330, Relating to WV Workplace Freedom Act.

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

Senate Bill 349, Repealing outdated code related to Division of Corrections.

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

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 125, Authorizing DHHR promulgate legislative rules.

Com. Sub. for Senate Bill 214, Adopting Uniform Electronic Legal Material Act.

Senate Bill 321, Reporting requirements of employee information to CPRB.

And,

Senate Bill 426, Repealing DNR legislative rule on litter control grant program.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Prezioso.

The Senate then proceeded to the thirteenth order of business.

On motion of Senator Ferns, a leave of absence for the day was granted Senator Sypolt.

Senator Carmichael (Mr. President) announced the replacement of Senator Boso on the Committee on Energy, Industry and Mining with Senator Ferns; the replacement of Senator Boso as Vice Chair on the Committee on Natural Resources with Senator Mann; and the replacement of Senator Boso on the Committee on Pensions with Senator Maroney.

At the request of Senator Unger, the name of Senator Unger was removed as a sponsor of **Senate Bill 394** (*Relating generally to applied associate of science degrees targeting workforce needs*).

Pending announcement of meetings of standing and select committees of the Senate, including a minority party caucus,

On motion of Senator Ferns, the Senate adjourned until Monday, February 27, 2017, at 11 a.m.

SENATE CALENDAR

**Monday, February 27, 2017
11:00 AM**

SPECIAL ORDER OF BUSINESS Thursday, March 09, 2017 – 11:00 AM

Consideration of executive nominations

UNFINISHED BUSINESS

S. C. R. 22 - Walter E. Swiger Memorial Bridge

THIRD READING

Eng. Com. Sub. for S. B. 80 - Equalizing criminal penalty for entering without breaking regardless of time of day

Eng. S. B. 164 - Relating to traffic regulations and special load limits

Eng. Com. Sub. for S. B. 204 - Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses (original similar to SB205)

Eng. S. B. 231 - Relating to State Board of Education and Medicaid-eligible children (original similar to HB2420)

Eng. S. B. 330 - Relating to WV Workplace Freedom Act

Eng. S. B. 349 - Repealing outdated code related to Division of Corrections

SECOND READING

Com. Sub. for S. B. 9 - Regulating unmanned aircraft systems (original similar to SB218)

Com. Sub. for S. B. 125 - Authorizing DHHR promulgate legislative rules (original similar to HB2261)

Com. Sub. for S. B. 214 - Adopting Uniform Electronic Legal Material Act

Com. Sub. for S. B. 236 - Relating to damages for medical monitoring (original similar to HB2580)

S. B. 321 - Reporting requirements of employee information to CPRB (original similar to HB2604)

S. B. 426 - Repealing DNR legislative rule on litter control grant program

FIRST READING

- Com. Sub. for S. B. 4 - Allowing licensed professionals donate time to care of indigent and needy in clinical setting (original similar to HB2692)
- Com. Sub. for S. B. 5 - Disqualifying CDL for DUI conviction in certain cases
- Com. Sub. for S. B. 180 - Relating to PSC jurisdiction over certain telephone company and internet services
- Com. Sub. for S. B. 225 - Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court
- Com. Sub. for Com. Sub. for S. B. 257 - Relating to Civil Air Patrol leave and protection of employees performing missions (original similar to SB280)
- Com. Sub. for S. B. 261 - Relating to increasing salary or wages of judgment debtor
- Com. Sub. for S. B. 337 - Hiring correctional officers without regard to placement on correctional officer register
- Com. Sub. for Com. Sub. for S. B. 345 - Allowing hunting and trapping on Sundays
- S. B. 346 - Relating generally to jurisdiction of PSC over motor carriers
- Com. Sub. for S. B. 347 - Relating to modernization of Physician Assistant Practice Act

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Monday, February 27, 2017

| | | |
|---------|--------------------------------|-------------|
| 10 a.m. | Select Committee on Tax Reform | (Room 451M) |
| 3 p.m. | Finance | (Room 451M) |

Tuesday, February 28, 2017

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|--------|-----------|-------------|
| 2 p.m. | Education | (Room 451M) |
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