

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
TWENTY-EIGHTH DAY

Charleston, West Virginia, Tuesday, March 7, 2017

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Tom Bias, Retired United Methodist Clergy, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Randy E. Smith, a senator from the fourteenth district.

Pending the reading of the Journal of Monday, March 6, 2017,

At the request of Senator Palumbo, 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, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2459—A Bill to repeal §16-2D-5f of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13 and §16-2D-16 of said code, all relating to regulation of health care; updating the certificate of need process; defining terms; adding exemptions; clarifying exemptions; and clarifying the appeals process.

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, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2509—A Bill to amend and reenact §30-3-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-12d of said code, all relating to the practice of telemedicine; changing certain prescription limitations.

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, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 2590—A Bill to amend and reenact §11-24-3 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; and specifying effective dates.

Referred to the Committee on Finance.

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

Eng. House Bill 2594—A Bill to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act; and specifying effective dates.

Referred to the Committee on Finance.

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

Eng. House Bill 2653—A Bill to amend and reenact §60A-10-16 of the Code of West Virginia, 1931, as amended, relating to extending the Multi State Real-Time Tracking System.

Referred to the Committee on Health and Human Resources.

Executive Communications

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

Jim Justice
Governor of West Virginia
March 6, 2017

Senate Executive Message No. 4 Regular Session 2017

TO: The Honorable Members of the
West Virginia Senate

Ladies and Gentlemen:

I respectfully withdraw the following nomination from Senate Executive Message No. 3-T, Regular Session 2017, submitted by the Honorable Earl Ray Tomblin on January 13, 2017; the nominee was replaced on March 6, 2017:

- 1. For Member, Veterans' Council, James McCormick, New Haven, Mason County, for the term ending June 30, 2022.

Thank you for correcting your records.

Sincerely,

Jim Justice
Governor

Cc: Secretary of State
Senate Clerk

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

The Senate proceeded to the fourth order of business.

Senator Gaunch, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 168, Relating to surcharge on fire and casualty insurance policies to fund volunteer fire departments.

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

Com. Sub. for Senate Bill 168 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating to surcharge on fire and casualty insurance policies for purpose of funding volunteer fire departments; providing that surcharge be increased to one percent beginning January 1, 2018; and deleting obsolete language.

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,

C. Edward Gaunch,
Chair.

The bill (Com. Sub. for S. B. 168), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 235, Relating to motorcycle registration renewal.

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

Respectfully submitted,

Mike Hall,
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

Senate Bill 259, Requiring administrators of intestate estates to give bond and take oath.

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

Com. Sub. for Senate Bill 259 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §44-1-1, §44-1-6, §44-1-7, §44-1-8, §44-1-14a and §44-1-26 of the Code of West Virginia, 1931, as amended; and to amend and reenact §44-3-5 of said code, all relating generally to personal representatives of estates; waiving surety requirements for administrators of estates where grantee is sole beneficiary or sole distributee of the decedent; requiring county commission to hold hearing if application filed by interested party to compel nonresident executor otherwise exempt from bond requirements to post bond; requiring county commission to hold hearing if application filed by interested party to compel sole beneficiary to post surety; removing authority of clerk of county commission to require bond or surety upon knowledge; making executor or administrator not required to post surety liable upon his or her own personal recognizance in the event of default, failure or misadministration; requiring interested parties objecting to the qualifications of a personal representative or venue to file notice with the county commission sixty days after the date of first publication; authorizing action against bond surety when execution on judgment or decree against personal representative is returned without being satisfied; and making technical corrections.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 471, Relating to state ownership of wildlife.

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

Com. Sub. for Senate Bill 471 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-3 of the Code of West Virginia, 1931, as amended, relating to state ownership of wildlife; and making technical clarifications.

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,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 471), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 469, Prohibiting waste of game animals, birds or fish.

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

Com. Sub. for Senate Bill 469 (originating in the Committee on Natural Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i, relating to prohibiting the wanton waste of game animals, game birds and game fish or parts thereof; providing exclusions; and setting forth misdemeanor criminal penalties and fines.

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,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 469), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 473, Permitting collection and sale of naturally shed deer antlers.

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

Com. Sub. for Senate Bill 473 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-4 and §20-2-11 of the Code of West Virginia, 1931, as amended, all relating to wildlife; permitting the collection, possession and sale of naturally shed deer antlers; and clarifying the sale, trade or barter of wildlife or parts thereof.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 474, Exempting names of licensed hunters from public disclosure.

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

Com. Sub. for Senate Bill 474 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-27 of the Code of West Virginia, 1931, as amended, relating to hunting licenses; and exempting the list of names, addresses and contact information for license holders from public disclosure with certain exceptions.

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,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 474), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2740, Making a supplementary appropriation to the Department of Administration.

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 (Eng. Com. Sub. for H. B. 2740) 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.

On motion of Senator Ferns, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

The bill was read a second time and ordered to third reading.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2740) was then 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, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2740) passed with its 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, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2740) takes effect from passage.

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

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 Senator Takubo:

Senate Bill 526—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7b; to amend and reenact §5-16-9 of said code; to amend said code by adding thereto a new section, designated §5-16B-6f; to amend said code by adding thereto a new section, designated §9-5-25; to amend said code by adding thereto a new

section, designated §33-15-4p; to amend said code by adding thereto a new section, designated §33-16-3bb; to amend said code by adding thereto a new section, designated §33-24-7p; to amend said code by adding thereto a new section, designated §33-25-8n; and to amend said code by adding thereto a new section, designated §33-25A-8p, all relating to mandatory insurance coverage for inherited enzymatic disorders; providing a list of diagnosed conditions for which insurance coverage should extend; providing that coverage extends to medically necessary foods for home use when prescribed by a physician; defining terms; and providing for exclusions.

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

By Senators Stollings, Mann, Plymale, Romano and Mullins:

Senate Bill 527—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-41; to amend and reenact §18-10A-15 of said code; and to amend said code by adding thereto a new section, designated §18B-14-3, all relating to traumatic brain injury; setting forth findings; requiring State Board of Education, Higher Education Policy Commission and Council for Community and Technical College Education rules establishing Return-to-Learn protocols; requiring concussion management team any time a student suffers a concussion; setting forth members; prohibiting student from returning to participation in regular classroom activities without adaptive academic accommodations until authorized; requiring appropriate parental releases to foster communication and to allow data to be submitted to the Statewide Concussion Surveillance System; requiring county superintendent designee or designee of institution president, as applicable, to perform certain duties; requiring all school districts or state institutions of higher education, as applicable, to report certain information for inclusion in the Statewide Concussion Surveillance System; expanding provisions relating to the West Virginia University Center for Excellence in Disabilities central registry of persons who sustain certain head injuries; and requiring the West Virginia University Center for Excellence in Disabilities to establish a Statewide Concussion Surveillance System to house certain data.

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

By Senators Mann, Stollings, Romano and Mullins:

Senate Bill 528—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-8-1b, relating to establishing process for providing that a student is not eligible for either home instruction exemption after the complaint required after ten total unexcused absences from school is filed, for the duration of legal proceedings relating to failing to cause a certain child under eighteen to attend school and at any point after conviction of the same offense; allowing investigation to determine whether the child is a neglected child due to refusal, failure or inability to supply the child with necessary education; requiring report to Department of Health and Human Resources if investigation reveals reasonable cause to suspect that the child is an abused child or a neglected child or reveals conditions that are likely to result in abuse or neglect; requiring that if the investigation reveals reasonable cause to suspect that the child is a neglected child due to refusal, failure or inability to supply the child with necessary education the county board of education shall hold a hearing to determine whether the home instruction would result in the child not being provided with an adequate education; and excluding application of these provisions to certain children.

Referred to the Committee on Education.

By Senators Weld and Ferns:

Senate Bill 529—A Bill to amend and reenact §5-16-2 and §5-16-13 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto three new sections, designated §5-16-6, §5-16-27 and §5-16-28, all relating to the Public Employees Insurance Agency; requiring the agency and the finance board to purchase stop-loss insurance; requiring that spouses of persons eligible be required to enroll in an employer-sponsored plan if one is made available to them by their employer; limiting the employers and entities beyond the State of West Virginia which may purchase insurance through the Public Employees Insurance plan; creating a pilot program to allow larger state entities to offer self-insurance or purchase insurance coverage for their employees separate from the Public Employees Insurance plan; allowing rulemaking to establish and operate the pilot program; and establishing an effective date.

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

By Senator Karnes:

Senate Bill 530—A Bill to repeal §18-2-26 of the Code of West Virginia, 1931, as amended; to repeal §18-9A-8a of said code; to amend and reenact §5B-3-5 of said code; to amend and reenact §6C-2-2 of said code; to amend and reenact §16-4C-6c of said code; to amend and reenact §18-2-5b, §18-2-24 and §18-2-26a of said code; to amend and reenact §18-2A-3 and §18-2A-5 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-3 and §18-2I-4 of said code; to amend and reenact §18-5-22 of said code; to amend and reenact §18-5A-4 of said code; to amend said code by adding thereto a new article, designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5, §18-5F-6, §18-5F-7, §18-5F-8 and §18-5F-9; to amend and reenact §18-9A-10 of said code; to amend and reenact §18-9D-2 and §18-9D-3 of said code; to amend and reenact §18-9E-4 of said code; to amend and reenact §18A-3-1a, §18A-3-1b and §18A-3-11 of said code; to amend and reenact §18A-3A-1 of said code; to amend and reenact §29-1-3 of said code; to amend and reenact §30-21-2 of said code; and to amend and reenact §30-31-11 of said code, all relating to replacing regional education service agencies with education service centers; providing for transfer of property, equipment and records; changing meaning of the remaining code references to the agencies; setting forth legislative intent; setting forth services to be offered by the centers; designating the two most important responsibilities of the centers; designating initial school district membership for each center; providing certain school districts with flexibility to not be a member of a center; allowing districts to apply to be a member of a different center; requiring random selection system be used to determine center membership if a district is required to be a member of a center but is not; allowing centers to merge; allowing three or more counties from different centers to form a new center; establishing annual deadlines and effective date for any change in status of a district's membership; limiting change in membership status to once every four years; allowing districts to purchase services from any center that agrees to sell the services; abolishing a center and its regional council whenever it ceases to have fewer than three member districts; providing for a regional council to govern each center; allowing each regional council to hire an executive director, other officers and other staff; requiring each regional council to select one of its member county school districts to act as fiscal agent; allowing a regional council to form a nonprofit corporation; requiring each regional council to establish standards for service delivery; requiring each center to conform to the standards and requirements prescribed by the State Auditor; allowing centers to acquire and hold real property; requiring each center to continually explore possibilities for the delivery of services on a regional basis; requiring centers to develop an effective model for the regional delivery of instruction in certain subjects; requiring each center to submit a report and evaluation of the technical assistance and other services provided and utilized; allowing a school to submit evaluation of the services provided; allowing a center to receive and disburse funds from the state and federal governments, from member counties or

from gifts and grants; setting forth the rate for center employees to be reimbursed for travel, meals and lodging; prohibiting county school board member from being employed by a center; excluding center employees from being eligible for or participating in Public Employee Insurance Agency insurance plans, the state Teachers Retirement System and the Teachers' Defined Contribution Retirement System; requiring at least half of regional council regular meetings be held during hours other than those of a regular school day; requiring the executive director to attend at least one meeting of each of the member of county boards of education; providing for compensation and reimbursement for travel of county board members serving on regional councils; removing reference to the agencies in required study of the feasibility of establishing common regional configurations for all purposes the Joint Commission on Economic Development considers feasible; removing the agencies from participation in the public employees grievance procedure; replacing the agencies with the centers as one of the entities the State Board of Education may delegate Medicaid provider status and subsequent reimbursement; replacing the agencies with the centers as it pertains to the purpose of the school health services advisory committee; replacing the two agency representatives on the school health services advisory committee with two center representatives; modifying the provisions pertaining to the structure to enhance collaboration between professional development providers to be consistent with replacing the agencies with the centers; modifying the provisions on the required regional meetings on shared services and functions to be consistent with replacing the agencies with the centers; modifying the provisions pertaining to instructional resource sample items to be consistent with replacing the agencies with the centers; modifying the provisions pertaining to allowing the establishment of an instructional resources selection team to be consistent with replacing the agencies with the centers; modifying the provisions pertaining to the adoption of indicators of efficiency by the state board to be consistent with replacing the agencies with the centers; replacing the agencies with the centers as an entity the state board may seek resources from in establishing early detection and intervention programs for underachieving schools and school systems; replacing the agencies with the centers as an entity for which the Office of Education Performance Audits may receive assistance; replacing agencies with the centers as the entity the Office of Education Performance Audits is to make staff development need recommendations to; replacing the agencies with the centers as an entity the state board may request special staff development programs from when it determines a school or school system has insufficient capacity to correct deficiency; replacing the agencies with the centers as a source of training and development activities including the goals and action plans required of a county board under state board intervention must include; replacing the agencies with the centers as the entities to which the state board must submit its master plan for professional development; replacing the agencies with the centers as to the entity for which its state board-approved plan must be included in the master plan for professional development; modifying the basis on which county school nurses are to meet on for the purposes of preparing recommendations; providing for electing a representative to serve on the council of school nurses to be consistent with replacing the agencies with the centers; modifying the selection of schools of excellence; modifying the sharing of services requirement for use of instructional improvement funds for personnel costs to be consistent with replacing the agencies with the centers; modifying the definition of "region" pertaining to the School Building Authority to be consistent with replacing the agencies with the centers; replacing agency with center as one of the entities the School Building Authority may contract for services for; replacing agency with center as one of the entities that may employ heating, ventilation and air-conditioning technicians at the discretion of the state board; replacing the agencies with the centers as one of the entities that have the option of contracting for heating, ventilation and air-conditioning services from prequalified vendors if more cost effective than certain other options; replacing agency with center as one of the entities a school or school district may partner with to offer a rigorous alternative program for teacher certification; modifying the preference for designating a person as a 21st Century Learner Fellow to be consistent with replacing the agencies with the centers;

replacing the agency executive director with a center representative on the Center for Professional Development Board; modifying the Commission on the Arts membership limitation to be consistent with replacing the agencies with the centers; modifying exclusions from the terms “practice of psychology” and “practice of school psychology” and modifying the definition of “school board” pertaining to psychologists and school psychologists to be consistent with replacing the agencies with the centers; and modifying exemptions from requirements pertaining to licensed professional counselors to be consistent with replacing the agencies with centers.

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

By Senator Sypolt:

Senate Bill 531—A Bill to amend and reenact §19-13-4 of the Code of West Virginia, 1931, as amended, relating to the renewal date for apiary certificates of registration.

Referred to the Committee on Agriculture and Rural Development.

By Senators Ojeda, Beach, Facemire, Plymale, Rucker, Swope, Unger, Stollings, Romano, Cline and Mullins:

Senate Bill 532—A Bill to amend and reenact §25-1-11c of the Code of West Virginia, 1931, as amended; to amend and reenact §31-20-27 of said code; and to amend and reenact §49-2-905 of said code, all relating to requiring correctional officers to be paid overtime for all hours worked beyond forty in a one-week work period.

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

By Senators Hall and Mullins:

Senate Bill 533—A Bill to amend and reenact §8-13-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-9d of said code; to amend and reenact §60-4-3b of said code; and to amend and reenact §60-8-4 of said code, all relating to the collection of taxes on wine and intoxicating liquors; providing that no wine or liquor excise tax shall be collected on purchases of wine or intoxicating liquors in the original sealed package for the purpose of resale, if the final purchase of such wine or intoxicating liquor is subject to the excise tax; providing that no liter tax shall be collected on wine sold in the original sealed package for the purpose of resale, if the subsequent sale of such wine is subject to the liter tax; and defining terms.

Referred to the Committee on Finance.

By Senators Palumbo, Gaunch, Jeffries, Romano, Stollings, Takubo and Cline:

Senate Bill 534—A Bill to amend and reenact §7-11B-3, §7-11B-4 and §7-11B-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §7A-2-4 of said code; to amend said code by adding thereto a new section, designated §7A-2-5; to amend and reenact §11-22-2 of said code; and to amend and reenact §31-20-10a of said code, all relating to incentives for consolidating local governments; amending certain terms to include municipalities that successfully consolidated; authorizing municipalities that successfully consolidate to be eligible for tax increment financing; allowing consolidation of local governments to include public school districts, library districts and fire districts; creating certain incentives for municipalities that consolidate; creating certain incentives for counties that consolidate; creating certain incentives for municipalities and counties that form metro governments by consolidation; setting an expiration date for the incentives created; authorizing counties that consolidate to impose an additional county excise tax on the transfer of real estate; and requiring the Division of Corrections

to pay for regional jail bills of counties that consolidate from the point of a felony conviction, rather than after sentencing.

Referred to the Committee on Government Organization.

By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):

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 of 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 the reorganization of the Division of Tourism; transferring all powers and duties of the Tourism Commission to the new West Virginia Tourism Office; requiring quarterly meetings; restructuring the Tourism Advertising Partnership Program as a cooperative advertising program administered by the West Virginia Tourism Office; vesting in the executive director all authority for expenditures of funds in the Tourism Promotion Fund; and requiring confidentiality of certain private information.

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

By Senators Maynard, Jeffries and Ferns:

Senate Bill 536—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i; and to amend and reenact §20-2-16 of said code, all relating to hunting; using leashed dogs to track mortally wounded deer or bear; and clarifying the handling of dogs caught chasing deer.

Referred to the Committee on Natural Resources.

By Senators Rucker, Azinger, Cline, Ferns, Karnes, Maynard, Ojeda, Smith and Sypolt:

Senate Bill 537—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.

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

Senators Unger, Plymale, Beach, Stollings, Romano, Cline, Prezioso and Rucker offered the following resolution:

Senate Resolution 32—Designating Tuesday, March 7, 2017, as West Virginia Alzheimer's Association Day at the Capitol.

Whereas, Nearly one in three senior citizens who dies each year has Alzheimer's or another dementia; and

Whereas, Over 5 million Americans are living with Alzheimer's and as many as 16 million Americans will have the disease by 2050; and

Whereas, In West Virginia in 2016, 37,000 West Virginians ages 65 and older had an Alzheimer's or dementia-related diagnosis. That number is expected to increase to 39,000 by 2020, and will continue to rise to 44,000 by 2025; and

Whereas, The cost of caring for those with Alzheimer's and other dementias was estimated to total \$236 billion in 2016 in the United States, increasing to \$1.1 trillion by midcentury; and

Whereas, There are more than 300,000 caregivers in West Virginia and 108,000 of those are caring for someone with Alzheimer's or another dementia. These caregivers provide almost \$2 billion in unpaid care each year; therefore, be it

Resolved by the Senate:

That the Senate hereby designates Tuesday, March 7, 2017, as West Virginia Alzheimer's Association Day at the Capitol; and, be it

Further Resolved, That the Senate hereby acknowledges the West Virginia Alzheimer's Association and the work they do to care for West Virginia residents living with Alzheimer's; and, be it

Further Resolved, That the Senate extends its sincere gratitude and appreciation to the West Virginia Alzheimer's Association for its dedication and commitment to helping those affected by Alzheimer's in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Alzheimer's Association.

At the request of Senator Unger, 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 Stollings regarding the adoption of Senate Resolution 32 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 proceeded to the seventh order of business.

Senate Concurrent Resolution 27, US Air Force Senior Airman Luke Christopher Wamsley Memorial Bridge.

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.

Com. Sub. for Senate Bill 236, Relating to damages for medical monitoring.

On third reading, coming up in regular order, with the right having been granted on Tuesday, February 28, 2017, for amendments to be received on third reading, was reported by the Clerk.

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

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

ARTICLE 7. ACTIONS FOR INJURIES.**§55-7-31. Limitations on medical monitoring damages.**

(a) In any civil action where a plaintiff who does not allege a present physical injury or disease seeks to recover future medical monitoring costs as damages, a defendant cannot be required to pay as damages or provide any other type of legal, injunctive or equitable relief for a plaintiff's future medical surveillance, screening tests or monitoring procedures only unless the plaintiff proves to a reasonable degree of certainty all of the requirements for the underlying cause of action and that:

(1) He or she has been significantly exposed;

(2) To a proven hazardous substance;

(3) Through the tortious conduct of the defendant;

(4) As a proximate result of the exposure, the plaintiff has suffered a significantly increased risk of contracting a serious latent disease relative to the general population of more than one hundred percent;

(5) The increased risk of disease makes it objectively medically necessary for the plaintiff to undergo periodic diagnostic medical examinations and such periodic diagnostic medical examinations are different from what would be prescribed in the absence of the exposure;

(6) Monitoring procedures exist that make the early detection of a disease possible; and

(7) Early detection is beneficial, meaning that a treatment exists that can significantly decrease the risk of death or the severity of the disease, according to contemporary scientific principles.

(b) In any civil action in which a court orders a defendant to pay for a plaintiff's future medical surveillance, screening tests, or monitoring procedures in the absence of a present physical injury or disease, no plaintiff shall be awarded or paid any moneys to cover the cost of his or her future medical surveillance, screening tests or monitoring procedures until such surveillance, tests or monitoring procedures have been completed. With respect to payments for such damages in the future, the court shall order that the liable defendant make periodic payments into a fund established sufficient to timely pay the cost of future medical surveillance, screening tests or monitoring procedures that are required by the judgment of the court. The court shall determine how such fund will be administered. The court shall also determine the date after which such future medical surveillance, screening tests or monitoring procedures are no longer required, and, after that date, any moneys remaining in the fund that are not needed to pay for medical surveillance, screening tests or monitoring procedures completed prior to such termination date shall be repaid to the liable defendant who paid such amounts into the fund. If there are multiple such defendants, then repayments shall be made in proportion to the total contributions of each defendant into the fund.

(c) The damage award authorized by this section is not available in a civil action brought against an employer pursuant to paragraph (B), subdivision (2), subsection (d), section two, article four, chapter twenty-three of this code.

(d) No award of punitive damages shall be made with respect to damages awarded under this section.

(e) It is a defense to the award of damages authorized in this section that the benefits of medically monitoring the exposed population are outweighed by the costs of the monitoring. In making this determination, the finder of fact may consider:

(1) The number of people likely to benefit from the monitoring in relation to the population to be monitored;

(2) Whether early diagnosis of the latent disease is likely to lead to better treatment outcome;

(3) Whether treatment currently exists for the disease that is the subject of medical monitoring or whether the condition diagnosed is an irreversible and untreatable disease; and

(4) Whether the assets of the defendant are limited such that the available funds should be reserved to compensate those who have or develop injury.

(f) Notwithstanding any provision of this code to the contrary, the venue for any civil action brought pursuant to the provisions of this section shall lie in the county where the significant exposure allegedly occurred.

Following discussion,

The question being on the adoption of Senator Palumbo's amendment to the bill, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 236 was then 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, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

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. 236) passed.

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

Eng. Com. Sub. for Senate Bill 236—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-31, relating to claims or damages for medical monitoring; providing for certain elements for a claim for medical monitoring damages

in addition to the underlying cause of action that must be shown in order to recover; establishing requirements for an order for payment of medical monitoring expenses; declaring that medical monitoring is not available in certain civil actions; prohibiting awards of punitive damages with respect to medical monitoring awards; establishing a defense if the benefits of medical monitoring are outweighed by the costs of the monitoring; detailing factors that may be considered in assessing the defense established; and requiring any civil action for medical monitoring be brought in the county where the alleged exposure occurred.

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

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

Pending extended discussion,

Senator Unger moved that the bill (Eng. Com. Sub. for S. B. 239) be referred to the Committee on Finance.

Following discussion,

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

The roll being taken, the yeas were: Beach, Facemire, Jeffries, Miller, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger and Woelfel—12.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maynard, Mullins, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—21.

Absent: Maroney—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Unger's aforesated motion had not prevailed.

The question now being "Shall Engrossed Committee Substitute for Senate Bill 239 pass?"

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Hall, Karnes, Mann, Maynard, Mullins, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld and Carmichael (Mr. President)—21.

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

Absent: Maroney—1.

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. 239) 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 392, Relating to Municipal Police Officers and Firefighters Retirement System.

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, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 392) 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 442, Relating generally to crimes against persons.

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, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

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. 442) 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 456, Relating to standards for termination of parental rights in child abuse and neglect cases.

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, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

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. 456) passed with its 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, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

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. 456) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2318, Relating generally to human trafficking.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2318 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2318) passed.

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

Eng. Com. Sub. for House Bill 2318—A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend and reenact §15-12-2 of said code; to amend and reenact §49-1-201 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and to amend and reenact §62-1D-8 of said code, all relating

generally to human trafficking; designating the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; adding offenses that require registration under the Sex Offender Registration Act; defining terms; creating criminal felony offenses and penalties for human trafficking of an individual; creating criminal felony offenses and penalties for using victim of human trafficking in forced labor; creating criminal felony offenses and penalties for using victim of human trafficking in debt bondage; creating criminal felony offenses and penalties for compelling a victim of human trafficking through coercion to engage in commercial sexual activity; creating a criminal felony offense for maintaining or making available a minor victim of human trafficking for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offenses; creating a criminal felony offense of unknowingly patronizing an individual victim of human trafficking to engage in commercial sexual activity; creating offense of patronizing a minor victim of human trafficking; creating criminal penalties; clarifying that each victim constitutes a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for forfeiture of profits from human trafficking and debarment from state and local government contracts for persons or entities convicted of human trafficking offenses; making certain victims of human trafficking eligible for compensation under the Crime Victims Compensation Fund; specifying the notification procedure to be followed by a law-enforcement officer upon encountering a child who appears to be a victim of an offense under this article; providing for immunity for offense of prostitution for minors; defining a minor victim of sex trafficking as an abused child and establishing a child's eligibility for services therefor; providing for expungement of prostitution conviction for victims of trafficking; and authorizing the use of wiretaps to conduct investigations of human trafficking offenses.

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.

Senate Bill 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas.

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 280, Moving administration of Civil Air Patrol to Adjutant General.

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 338, Relating to medical professional liability.

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 358, Relating generally to trustee sale of timeshare estates.

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

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Com. Sub. for Senate Bill 173, Relating to autocycles.

Senate Bill 185, Allowing spending units designate fund into which proceeds from sale of surplus property must be deposited.

Com. Sub. for Senate Bill 206, Expanding definition of "kidnapping" to include taking or gaining custody of, confining or concealing person by force.

Com. Sub. for Senate Bill 220, Relating to offenses and penalties under Uniform Controlled Substances Act.

And,

Senate Bill 365, Maintaining solvency of Unemployment Compensation Fund.

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

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 Maroney.

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

On motion of Senator Ferns, the Senate adjourned until tomorrow, Wednesday, March 8, 2017, at 11 a.m.

SENATE CALENDAR

**Wednesday, March 08, 2017
11:00 AM**

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

Consideration of executive nominations

THIRD READING

- Eng. S. B. 198 - Expanding Health Sciences Program to allow certain medical practitioners in underserved areas
- Eng. Com. Sub. for S. B. 280 - Moving administration of Civil Air Patrol to Adjutant General
- Eng. Com. Sub. for S. B. 338 - Relating to medical professional liability (original similar to HB2682, HB2757)
- Eng. Com. Sub. for S. B. 358 - Relating generally to trustee sale of timeshare estates (original similar to HB2782)

SECOND READING

- Com. Sub. for Com. Sub. for S. B. 173 - Relating to autocycles (original similar to HB2530, HB2576)
- S. B. 185 - Allowing spending units designate fund into which proceeds from sale of surplus property must be deposited
- Com. Sub. for S. B. 206 - Expanding definition of "kidnapping" to include taking or gaining custody of, confining or concealing person by force
- Com. Sub. for S. B. 220 - Relating to offenses and penalties under Uniform Controlled Substances Act (original similar to HB2003, HB2643, HB2645)
- S. B. 365 - Maintaining solvency of Unemployment Compensation Fund (original similar to HB2784)

FIRST READING

- S. B. 235 - Relating to motorcycle registration renewal
- Com. Sub. for S. B. 259 - Requiring administrators of intestate estates to give bond and take oath
- Com. Sub. for S. B. 473 - Permitting collection and sale of naturally shed deer antlers

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Wednesday, March 8, 2017

10 a.m.	Workforce	(Room 208W)
10 a.m.	Interstate Cooperation	(Room 451M)
Upon Adjournment	Confirmations	(Room 208W)
2 p.m.	Agriculture & Rural Development	(Room 208W)