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February 8, 2018  
THIRTIETH DAY



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Thursday, February 8, 2018

**THIRTIETH DAY**

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

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

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

The Clerk proceeded to read the Journal of Wednesday, February 7, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**H. B. 4009**, State Settlement and Recovered Funds Accountability Act,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. B. 4009** – “A Bill to repeal §5-3-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5-3A-1, §5-3A-2, §5-3A-3, §5-3A-4, §5-3A-5, and §5-3A-6, all relating to creating the state Settlement and Recovered Funds Accountability Act; providing a short title; setting forth legislative findings; directing that recovered funds and assets to be deposited into the State Treasury in the General Revenue Fund of the state, and exceptions; directing that certain recovered funds and assets be held in trust to be deposited into a special revenue account in the State Treasury; prohibiting agreements to settlement or agreement terms that are contrary to the depositing of funds in the State Treasury; requiring transfer of funds from the Consumer Protection Recovery Fund into the General Revenue Fund; authorizing the deposit and expenditure of attorney fees, expenses and costs awarded to the Attorney General from the fund; prohibiting agreements to settlement or agreement terms that are contrary to the provisions of law; requiring reporting by the Attorney General as to the receipts and expenditures of funds and disposition of matters; and repealing provisions governing the disposition of certain fees of the Attorney General taxed as costs in legal proceedings,”

With the recommendation that the committee substitute do pass.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

**H. B. 4402**, Relating to the prevention of sexual abuse of children,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 4402) was referred to the Committee on the Judiciary.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

**S. B. 62**, Adjusting requirements for hiring school attendance directors,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

**H. B. 4407**, Relating to eligibility for alternative program teacher certificate,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. B. 4407** – “A Bill to amend and reenact §18A-3-1f of the Code of West Virginia, 1931, as amended, relating to eligibility for alternative program teacher certificate; removing eligibility requirement to have academic major or occupational area the same as or similar to subject matter being hired to teach; and adding English Sign Language option to eligibility provisions for alternative program in American Sign Language,”

With the recommendation that the committee substitute do pass.

Delegate Fast, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

**H. B. 4351**, Classifying owner operators and independent contractors who contract with licensed and registered trucking companies as nonemployees,

And,

**H. B. 4368**, Relating to voluntary assignments of wages by state employees who have been overpaid,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4351 and H. B. 4368) were each referred to the Committee on the Judiciary.

Delegate Fast, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

**H. B. 4401**, Relating to the registration of business,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 4401) was referred to the Committee on Finance.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 4306**, Permitting local boards of health to combine without approval from the Commissioner of the Bureau for Public Health,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Health and Human Resources.

In accordance with the former direction of the Speaker, the bill (H. B. 4306) was referred to the Committee on Health and Human Resources.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 4238**, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 4238) was referred to the Committee on Government Organization.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 2755**, Requiring a seller of real property satisfy upon closing any unpaid charges owed,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 2755) was referred to the Committee on the Judiciary.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 4158**, Relating to municipal home rule,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 4158) was referred to the Committee on Government Organization.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**H. B. 4422**, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 4422) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**H. B. 4338**, Relating to the powers and authority of the Divisions of Administrative Services, and Corrections and Rehabilitation of the Department of Military Affairs and Public Safety,

And,

**H. B. 4396**, Permitting wagering on the results of certain professional or collegiate sports or athletic events,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended, but that they first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bills (H. B. 4338 and H. B. 4396) were each referred to the Committee on Finance.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**Com. Sub. for S. B. 267**, Increasing salaries of certain state employees,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

### Messages from the Senate

A message from the Senate, by

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

**Com. Sub. for S. B. 141** - "A Bill to amend and reenact §7-7-6e of the Code of West Virginia, 1931, as amended, relating to expanding the county assessment and collection of a head tax on breeding cows if the owner participates in the Coyote Control Program; and providing for notice requirements to the land owner"; which was referred to the Committee on Agriculture and Natural Resources then Finance.

A message from the Senate, by

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

**Com. Sub. for S. B. 230** - "A Bill to amend and reenact §64-10-1, §64-10-2, §64-10-3, and §64-10-4 of the Code of West Virginia, 1931, as amended, relating generally to the Department of Commerce; authorizing certain agencies to promulgate rules as filed, modified, and amended by the Legislature; repealing a rule; authorizing the Division of Natural Resources to promulgate a legislative rule relating to controlling the public land corporation's sale, lease, exchange, or transfer of land or minerals; authorizing the Division of Natural Resources to promulgate a legislative rule relating to hunting, fishing, and other outfitters and guides; authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special migratory game bird hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to miscellaneous permits and licenses; authorizing the Division of Labor to promulgate a legislative rule relating to Zipline and Canopy Tour Responsibility Act; authorizing the Division of Labor to promulgate a legislative rule relating to bedding and upholstered furniture; authorizing the Division of Labor to promulgate a legislative rule relating to Amusement Rides and Amusement Attractions Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to Elevator Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to employer wage bonds; authorizing the Division of Labor to promulgate a legislative rule relating to registration of service persons and service agencies; authorizing the Division of Labor to promulgate a legislative rule relating to registration of weighing and measuring devices used by businesses in commercial transactions; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to operating diesel equipment in underground mines in West Virginia; and repealing the Division of Energy legislative rule relating to community development assessment and real property valuation procedures for Office of Coalfield Community Development"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**Com. Sub. for S. B. 361** - "A Bill to amend and reenact §62-15-6a of the Code of West Virginia, 1931, as amended, relating to treatment supervision under the Drug Offender Accountability and Treatment Act; expanding offender groups eligible for treatment supervision; including addition of the Administrative Office of the Supreme Court of Appeals, along with the Division of Justice and

Community Services, to consult with the Governor's Advisory Council on Substance Abuse to use appropriated funds to develop proposed substance abuse treatment plans to serve those offenders under treatment supervision in each judicial circuit and on parole supervision; and including the Administrative Office of the Supreme Court of Appeals, along with the Division of Justice and Community Services, in developing qualifications and other matters related to the quality and delivery of services to offenders"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**S. B. 371** - "A Bill to amend and reenact §27-5-2 of the Code of West Virginia, 1931, as amended, relating to proceedings for involuntary custody for examination; removing redundant language relating to civil liability for the rendering of an opinion as the result of an examination"; which was referred to the Committee on the Judiciary.

### **Resolutions Introduced**

Delegates Ward, Caputo, Longstreth and Summers offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

**H. C. R. 53** - "Requesting the Division of Highways to name bridge number 25-79-140.37 NB & SB (25A147, 25A148), locally known as Little Creek Road Overpass, carrying Interstate 79 over County Route 76 in Marion County, the 'Pastor Robert L. "Bob" Barker Memorial Bridge'."

Whereas, Robert L. Barker was born in Parkersburg, West Virginia, July 20, 1953, and went to be with the Lord on May 20, 2016; and

Whereas, Robert L. Barker graduated from Parkersburg South High School and went on to receive a Bachelor of Arts in Theology from Baptist University of America in Atlanta, Georgia in 1979; and

Whereas, Robert L. Barker founded Victory Baptist Church in Fairmont, West Virginia, in 1983 and was elected the first pastor of the church; and

Whereas, Robert L. Barker had a lifelong mission to spread the word of God in his community and beyond; and

Whereas, Robert L. Barker spread the word of God through outreach ministry weekly at local nursing homes and Union Mission in Fairmont, West Virginia; and

Whereas, Robert L. Barker and Victory Baptist Church supported nearly 200 missionaries around the world to teach God's word; and

Whereas, Robert L. Barker was affectionately known as a soul winner in his community; and

Whereas, The congregation of Victory Baptist Church would like to memorialize their beloved pastor; therefore, be it

*Resolved by the Legislature of West Virginia:*



That the Division of Highways is hereby requested to name bridge number 25-79-140.37 NB & SB (25A147, 25A148), locally known as Little Creek Road Overpass, carrying Interstate 79 over County Route 76 in Marion County, the "Pastor Robert L. 'Bob' Barker Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "Pastor Robert L. 'Bob' Barker Memorial Bridge"; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

Mr. Speaker (Mr. Armstead) offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

**H. C. R. 54** - "Requesting the Division of Highways to name a portion of County Route 3/5, known as Wills Creek Road, in Kanawha County, the 'U. S. Army SPC 4 Thurman "Duwayne" Young Memorial Road'."

Whereas, Specialist Thurman "Duwayne" Young was born on April 23, 1949, in Elkview, West Virginia, a son of Carrie Marie Chaplan of Uniontown, Ohio, and the late Benjamin Thurman Young; and

Whereas, Specialist Young graduated from Herbert Hoover High School before entering the Army in 1969. He went to Vietnam serving as an Armored Personnel Carrier Operator and Infantry and was honorably discharged in 1971. Upon returning from serving his country, Specialist Young married Linda Szeles, and they spent twenty-nine loving years together. They were the parents of three sons, Jeffery, James, and Roger, and five daughters, Carol, Lisa Anne, Claire V., Jeannie M., and Christine (deceased); and

Whereas, On August 17, 2011, at the age of sixty-two Specialist Young lost his hard-fought battle with cancer caused by exposure to Agent Orange; and

Whereas, Naming this road is an appropriate recognition of Specialist Young's contributions to his country, state and community; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of County Route 3/5, known as Wills Creek Road, in Kanawha County, the "U. S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the "U. S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road"; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Secretary of the Department of Transportation.

Delegates Phillips, Rodighiero and Marcum offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

**H. C. R. 55** - "Requesting the Division of Highways to name bridge number 23-10-12.56 NB & SB (23A377, 23A378), locally known as Lyburn Bridge, carrying WV 10 over Land Relief in Logan County, the 'U. S. Army SSG Henry Kilgore Bridge'."

Whereas, Sergeant Henry Kilgore was born on December 22, 1922, in Draffin, Kentucky, one of ten children in his family; and

Whereas, Like many in the Appalachian region at the time, Sergeant Kilgore's family struggled to make ends meet and at age fourteen, Henry left school to work in the coal mines to support his family; and

Whereas, Due to a lack of modern equipment, Sergeant Kilgore mined coal with a pick and shovel and hauled it out with a mule and a cart; and

Whereas, At the age of twenty, Sergeant Kilgore was drafted into the U. S. Army to serve his country during World War II. He served in the 33<sup>rd</sup> Sig Light Construction where he ultimately reached the rank of Staff Sergeant; and

Whereas, Sergeant Kilgore served in Normandy, Northern France, Ardennes, Rhineland, and Central Europe. He was also present at the Battle of the Bulge and arrived on the beaches of Iwo Jima as American soldiers famously raised an American flag; and

Whereas, Sergeant Kilgore was honorably discharged from the Army on December 19, 1945; and

Whereas, Sergeant Kilgore came home to go back into the coal mines to continue to work for the rest of his working life; and

Whereas, Sergeant Kilgore married his soul mate, Leona Bartley Kilgore, on February 6, 1946. They were blessed to raise six daughters; and

Whereas, Sergeant Kilgore selflessly worked in the mines to support his family, even though working conditions were frequently unsafe. He was injured numerous times while on the job, including an occasion where his head was pinned in a roof fall. He was hospitalized for an extended period of time after the accident, suffering broken bones in his face and severe injuries to his eye; and

Whereas, Sergeant Kilgore also acted many times, both during his service in the war and his job as a miner, without concern for his own safety; and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of Sergeant Kilgore; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 23-10-12.56 NB & SB (23A377, 23A378), locally known as Lyburn Bridge, carrying WV 10 over Land Relief in Logan County, the "U. S. Army SSG Henry Kilgore Bridge"; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "U. S. Army SSG Henry Kilgore Bridge"; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Howell, Hill, Hamrick, Summers, Moore, Criss, Maynard, Householder, Butler, Espinosa and Atkinson offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 56** - "Requesting the Joint Committee on Government and Finance study the Public Employees Insurance Agency and potential alternative methods to control healthcare costs."

Whereas, The State of West Virginia provides health insurance to its employees through the Public Employees Insurance Agency. As healthcare costs rise, PEIA must continue to search for ways to provide healthcare to all of its members in the most cost-efficient manner possible, without solely relying on increasing premiums and deductibles. In doing so, PEIA should consider new and innovative ways to control costs while adequately serving the needs of its members, including telehealth services and employment of medical providers that specifically serve PEIA members in local areas; and

Whereas, The Legislature finds that, considering the enormity, fiscal impact and complexity of the issues involved in PEIA health insurance coverage facing this state, it should study the feasibility of alternative and innovative methods of reducing healthcare costs; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the PEIA and methods used to offset rising healthcare costs, including, but not limited to, telehealth services and onsite health services for minor ailments; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation, be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Overington, Blair, Butler, Ellington, Espinosa, A. Evans, Fast, Folk, Foster, Frich, Gearheart, Graves, Hamilton, Hamrick, Harshbarger, Higginbotham, Hill, Householder, Howell, Kessinger, Martin, Maynard, Pack, Paynter, Phillips, Queen, Rohrbach, C. Romine, R. Romine, Sobonya, Statler, Storch, Summers, Sypolt, Walters, Ward, Westfall, Wilson and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

**H. C. R. 57** - "Applying to the Congress of the United States to call a convention for proposing amendments pursuant to Article V of the United States Constitution limited to proposing amendments that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress; and adopting certain reservations, understandings and declarations limiting the application."

SECTION 1. Application for a convention for proposing amendments.

Whereas, Executive orders by the President of the United States have become a vehicle through which the President may overstep the limits of his constitutional authority; and

Whereas, The concentration of power at the federal level has had the effect of making federal officials less responsive to the will of the people and more readily influenced by lobbyists, wealthy corporations and special interests in Washington, D.C.; and

Whereas, Much of federal law is now enacted by federal bureaucrats who were never chosen by the people and have no accountability to the people whatsoever; and

Whereas, Policy decisions made at the state level tend to be more responsive to the needs and desires of the people; and

Whereas, The federal government has created a crushing national debt through improper and imprudent spending; and

Whereas, The federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, many of which are unfunded to a great extent; and

Whereas, The states have the ability to restore the responsiveness of government to the people and to restrain abuses of federal power by proposing amendments to the Constitution of the United States through a limited Convention of the States under Article V; therefore, be it

*Resolved by the Legislature of West Virginia:*

That it hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress; and, be it

*Further Resolved,* That the Clerk of the House of Delegates forward a copy of this resolution, Legislative Call and application to the President and Secretary of the United States Senate and to the Speaker and Clerk of the United States House of Representatives, and copies to the members of the said Senate and House of Representatives from this State; also to transmit copies hereof to the presiding officers of each of the legislative houses in the several states, requesting their cooperation; and, be it

*Further Resolved,* That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two thirds of the several states have made applications on the same subject.

## SECTION 2. Reservations, understandings and declarations.

The West Virginia Legislature adopts this application expressly subject to the following reservations, understandings and declarations:

1. An application to the Congress of the United States to call an amendment convention of the states pursuant to Article V of the United States Constitution confers no power to Congress other than the power to call such a convention. The power of Congress to exercise this ministerial duty consists solely of the authority to name a reasonable time and place for the initial meeting of a convention;

2. Congress shall perform its ministerial duty of calling an amendment convention of the states only upon the receipt of applications for an amendment convention for the substantially same purpose as this application from two thirds of the legislatures of the several states;

3. Congress does not have the power or authority to determine any rules for the governing of an amendment convention of the states called pursuant to Article V of the United States Constitution. Congress does not have the power to set the number of delegates to be sent by any state to such a convention, nor does it have the power to name delegates to such a convention. The power to name delegates remains exclusively within the authority of the legislatures of the several states;

4. By definition, an amendment convention of the states means that states shall vote on the basis of one state, one vote;

5. A convention of the states convened pursuant to this application shall be limited to consideration of the topics specified herein and no other. This application is made with the express understanding that an amendment that in any way seeks to amend, modify, or repeal any provision of the Bill of Rights shall not be authorized for consideration at any stage. This application shall be void *ab initio* if ever used at any stage to consider any change to any provision of the Bill of Rights;

6. Pursuant to Article V of the United States Constitution, Congress may determine whether proposed amendments shall be ratified by the legislatures of the several states or by special state ratification conventions. The West Virginia Legislature recommends that Congress select ratification by the legislatures of the several states; and

7. The West Virginia Legislature may provide further instructions to its delegates and may recall its delegates at any time for a breach of a duty or a violation of the instructions provided.

### **Bills Introduced**

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

**By Delegates Harshbarger, Cooper, Maynard, Paynter, Eldridge, Phillips, Martin, Ward and Thompson:**

**H. B. 4470** - "A Bill to amend and reenact §11-15-3c of the Code of West Virginia, 1931, as amended, relating to exempting from the sales tax all-terrain vehicles and utility terrain vehicles used as farm equipment"; to the Committee on Agriculture and Natural Resources then Finance.

**By Delegate Ward:**

**H. B. 4471** - "A Bill to amend and reenact §11-15-3a of the Code of West Virginia, 1931, as amended, relating to establishing a one percent tax on food for five years; requiring the tax proceeds be used to fund the Public Employees Insurance Agency; permitting the tax to end sooner if other funding sources are utilized; prohibiting municipalities from imposing a sales tax on food"; to the Committee on Banking and Insurance then Finance.

**By Delegates Sobonya, C. Miller, Rowan, Ward and Rohrbach:**

**H. B. 4472** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-1A-11a; and to amend and reenact §60-3-9 of said code, all relating to the creation of the West Virginia Addictions Treatment and Recovery Fund by collecting and transferring five cents per ounce of the uniform price of alcoholic liquors sold in this state to the fund; setting forth the uses of the fund; and authorizing rule-making"; to the Committee on Prevention and Treatment of Substance Abuse then Finance.

**By Delegates Sobonya, C. Romine, Westfall, Overington, Ambler, Butler, C. Miller, Rowan, Ward, Householder and Rohrbach:**

**H. B. 4473** - "A Bill to amend and reenact §6B-2B-1, §6B-2B-2 and §6B-2B-4 of the Code of West Virginia, 1931, as amended, all relating to use of state funds for advertising to promote a public official

or government office; defining terms; and clarifying limitations on the production of educational materials and press releases produced with public funds”; to the Committee on the Judiciary.

**By Delegate Eldridge:**

**H. B. 4474** - “A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting all monetary benefits derived from retirement income from personal income tax obligations for individuals moving into the state who had not lived in the state for one year immediately preceding the move”; to the Committee on Senior Citizen Issues then Finance.

**By Delegates Shott and Ellington:**

**H. B. 4475** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, §11-28-3, §11-28-4, §11-28-5, §11-28-6, §11-28-7, and §11-28-8, all relating to allowing counties and municipalities to levy a sales tax on food and beverages sold at restaurants; providing for county and municipality options; limiting the total tax to three percent; limiting a municipal tax to two percent; setting forth the procedures for counties or municipalities to use to impose the tax; requiring publication; setting forth how the collected tax may be used; setting forth apportionment of the tax between local jurisdictions; setting forth exemptions from the tax; defining terms; and providing criminal penalties”; to the Committee on Political Subdivisions then Finance.

**By Delegate Eldridge:**

**H. B. 4476** - “A Bill to amend and reenact §49-2-101 of the Code of West Virginia, 1931, as amended, and to amend and reenact §62-15A-2 of said code, all relating to permitting persons who voluntarily enroll in a drug rehabilitation program to be included in an existing pilot program; and authorizing the Department of Health and Human Resources to care for the children of those persons who voluntarily enroll in a drug rehabilitation program included in that pilot program”; to the Committee on Health and Human Resources then Finance.

**By Delegates Wagner, Jennings and Ferro:**

**H. B. 4477** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3tt, relating to allowing county commissions to impose an amusement tax”; to the Committee on Political Subdivisions then Finance.

**By Delegates Lovejoy, Rohrbach, Hanshaw, Hornbuckle, Williams, Byrd, Canestraro, R. Miller, Robinson, Rowe and Isner:**

**H. B. 4478** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5D-5, relating to authorizing public schools to distribute excess food to students and others who suffer from food insecurity; providing for establishing ‘The Shared Table’ initiative; providing for the State Board of Education to provide policies to guide county schools to provide excess food to students and others; assuring all food distribution meets federal and local health requirements; and providing that this section is covered by the Good Samaritan Food Donation Act”; to the Committee on Education then Finance.

**By Delegates Westfall, A. Evans, Hartman and White:**

**H. B. 4479** - “A Bill to repeal §33-26B-1, §33-26B-2, §33-26B-3, §33-26B-4, §33-26B-5, §33-26B-6, §33-26B-7, §33-26B-8, §33-26B-9, §33-26B-10, §33-26B-11, §33-26B-12, §33-26B-13, §33-26B-14, §33-26B-15, and §33-26B-16 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-26A-2, §33-26A-3, §33-26A-5, §33-26A-6, §33-26A-7, §33-26A-8, §33-26A-9, §33-26A-11, §33-26A-12, §33-26A-14, and §33-26A-19, all relating to the West Virginia Life And Health Insurance Guaranty Association Act”; to the Committee on Banking and Insurance then the Judiciary.

## House Calendar

### Third Reading

**H. B. 4332**, Relating to home peritoneal renal dialysis; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 65**), and there were—yeas 96, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Gearheart and Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4332) passed.

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

**Com. Sub. for H. B. 4350**, Eliminating the regulation of upholstery; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 66**), and there were—yeas 65, nays 31, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Hartman, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Boggs, Gearheart and Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4350) passed.

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

### Second Reading

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

**Com. Sub. for H. B. 4023**, Relating to the regulation of dialysis technicians,

**H. B. 4025**, Permitting reciprocity for licensure as a pharmacy technician,

**Com. Sub. for H. B. 4186**, Relating generally to guaranteed asset protection waivers,

**Com. Sub. for H. B. 4236**, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division,

**Com. Sub. for H. B. 4276**, Allowing magistrates to grant work release privileges,

And,

**H. B. 4410**, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

### **First Reading**

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

**Com. Sub. for H. B. 2841**, Requiring board members to have attended a board meeting in order to be compensated for the meeting,

**Com. Sub. for H. B. 4142**, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment,

**Com. Sub. for H. B. 4320**, Limiting the ability of an agent under a power of attorney to take self-benefiting actions,

**H. B. 4380**, Making a supplementary appropriation to the Department of Agriculture,

**H. B. 4381**, Making a supplementary appropriation to the Department of Education,

**H. B. 4384**, Making a supplementary appropriation to the Department of Transportation,

And,

**H. B. 4386**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Boggs, Gearheart and Hanshaw.

### **Miscellaneous Business**

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Butler during Remarks by Members
- Delegate Fluharty during Remarks by Members
- Delegate Howell during Remarks by Members
- Delegate Hornbuckle during Remarks by Members
- Delegate Folk during Remarks by Members
- Delegate Sobonya during Remarks by Members



Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be added as a cosponsor of the following bills:

- Delegate Foster for H. B. 4313
- Delegate Frich for H. B. 4470 and H. B. 4472
- Delegate Longstreth for H. B. 4471

Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be removed as a cosponsor of the following bills:

- Delegates A. Evans, Hamilton and Rowan for H. B. 4344
- Delegate Rohrbach for H. B. 4413
- Delegate Westfall for H. B. 4454

Delegate Walters noted to the Clerk that he was absent on yesterday when the vote was taken on Roll No. 61, and that had he been present, he would have voted "Yea" thereon.

At 12:58 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 9, 2018.

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



## **SPECIAL CALENDAR**

**Friday, February 9, 2018**

**31<sup>st</sup> Day**

**11:00 A. M.**

### **THIRD READING**

- Com. Sub. for H. B. 4023 - Relating to the regulation of dialysis technicians (HOWELL) (REGULAR)
- H. B. 4025 - Permitting reciprocity for licensure as a pharmacy technician (HOWELL) (REGULAR)
- Com. Sub. for H. B. 4186 - Relating generally to guaranteed asset protection waivers (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4236 - Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division (HOWELL) (REGULAR)
- Com. Sub. for H. B. 4276 - Allowing magistrates to grant work release privileges (SHOTT) (REGULAR)
- H. B. 4410 - Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids (SHOTT) (REGULAR)

### **SECOND READING**

- Com. Sub. for H. B. 2841 - Requiring board members to have attended a board meeting to be compensated for the meeting (NELSON) (REGULAR)
- Com. Sub. for H. B. 4142 - Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment (NELSON) (REGULAR)
- Com. Sub. for H. B. 4320 - Limiting the ability of an agent under a power of attorney to take self-benefiting actions (SHOTT) (REGULAR)
- H. B. 4380 - Making a supplementary appropriation to the Department of Agriculture (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 4381 - Making a supplementary appropriation to the Department of Education (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 4384 - Making a supplementary appropriation to the Department of Transportation (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 4386 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services (NELSON) (EFFECTIVE FROM PASSAGE)

## **FIRST READING**

- S. B. 62 - Adjusting requirements for hiring school attendance directors (ESPINOSA) (EDUCATION COMMITTEE AMENDMENT PENDING) (REGULAR)
- Com. Sub. for S. B. 267 - Increasing salaries of certain state employees (NELSON) (FINANCE COMMITTEE AMENDMENT PENDING) (JULY 1, 2018)
- Com. Sub. for H. B. 4009 - State Settlement and Recovered Funds Accountability Act (NELSON) (REGULAR)
- Com. Sub. for H. B. 4407 - Relating to eligibility for alternative program teacher certificate (ESPINOSA) (REGULAR)

**HOUSE CALENDAR**

**Friday, February 9, 2018**

**31<sup>st</sup> Day**

**11:00 A. M.**

**No BILLS**



**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**FRIDAY, FEBRUARY 9, 2018**

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**HOUSE CONVENES AT 11:00 A.M.**

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**PUBLIC HEARING-COMMITTEE ON THE JUDICIARY  
8:30 A.M. – HOUSE CHAMBER  
H. B. 4268, CO-TENANCY MODERNIZATION AND MAJORITY  
PROTECTION ACT.**

**COMMITTEE ON FINANCE  
8:30 A.M. – ROOM 460M**

**COMMITTEE ON EDUCATION  
9:00 A.M. – ROOM 434M**

**COMMITTEE ON GOVERNMENT ORGANIZATION  
9:00 A.M. – ROOM 215E**

**COMMITTEE ON THE JUDICIARY  
9:15 A.M. – ROOM 418M**

**COMMITTEE ON RULES  
10:45 A.M. – BEHIND HOUSE CHAMBER**

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**MONDAY, FEBRUARY 12, 2018**

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**PUBLIC HEARING-COMMITTEE ON THE JUDICIARY  
8:30 A.M. – HOUSE CHAMBER  
H. B. 4001, RELATING TO ELIGIBILITY AND FRAUD REQUIREMENTS  
FOR PUBLIC ASSISTANCE.**

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