

**JOURNAL  
of  
THE SENATE  
State of West Virginia**

**EIGHTY-SECOND LEGISLATURE**

Regular Sixty-Day (and Extended) Session, 2015

**VOLUME I**



NOTE: The first volume of this three-volume Official Senate Journal starts with proceedings proper of the First Regular Session of the Eighty-Second Legislature from January 14, 2015, to February 28, 2015, ending with page 1198 of the Regular Session.

The Index of the Official Journal is shown in Volume III.



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# JOURNAL of THE SENATE State of West Virginia

**EIGHTY-SECOND LEGISLATURE**

Regular Sixty-Day (and Extended) Session, 2015



NOTE: The First Regular Session of the Eighty-Second Legislature convened on January 14, 2015, and concluded the sixty-day constitutional session at midnight, March 14, 2015. However, by proclamation of the Governor, the session was extended for passage of the annual Budget Bill and final adjournment came on March 18, 2015.

This session 1,617 bills were introduced in the two houses.

Members of the Legislature, officers and standing committee membership lists precede the Official Regular Session Journal and are shown hereinafter.

PUBLISHED UNDER THE DIRECTION OF  
CLARK S. BARNES, *Senate Clerk*

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**STAFF**

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Lori Nichols, *Journal Clerk*

Kristin Canterbury, *Bill History Clerk*

LEGISLATURE OF WEST VIRGINIA  
MEMBERS, OFFICERS AND STANDING COMMITTEES

**SENATE**

**REGULAR SESSION, 2015**

**OFFICERS**

*President:* William P. Cole III, (R), Bluefield  
*President Pro Tempore:* Donna J. Boley, (R), St. Marys  
*Clerk:* Clark S. Barnes, (R), French Creek  
*Sergeant-at-Arms:* Howard L. Wellman, (D), Bluefield  
*Doorkeeper:* Anthony Gallo, (D), Charleston

<b>District</b>	<b>Name</b>	<b>Address</b>
First	*Ryan J. Ferns, (R)	Wheeling
	Jack Yost, (D)	Wellsburg
Second	Jeffrey V. Kessler, (D)	Glen Dale
	*Kent Leonhardt, (R)	Fairview
Third	Donna J. Boley, (R)	St. Marys
	*David Nohe, (R)	Vienna
Fourth	Mitch Carmichael, (R)	Ripley
	*Mike Hall, (R)	Winfield
Fifth	Robert H. Plymale, (D)	Huntington
	*Michael A. Woelfel, (D)	Huntington
Sixth	William P. Cole III, (R)	Bluefield
	*Mark R. Maynard, (R)	Genoa
Seventh	Art Kirkendoll, (D)	Chapmanville
	*Ron D. Stollings, (D)	Madison
Eighth	*C. Edward Gaunch, (R)	Charleston
	Chris Walters, (R)	Nitro
Ninth	<sup>1</sup> Daniel J. Hall, (R)	Oceana
	*Jeff Mullins, (R)	Shady Spring
Tenth	William R. Laird IV, (D)	Oak Hill
	*Ronald F. Miller, (D)	Lewisburg
Eleventh	<sup>2</sup> Gregory S. Boso, (R)	Summersville
	*Robert J. Karnes, (R)	Tallmansville
Twelfth	Douglas E. Facemire, (D)	Sutton
	*Michael J. Romano, (D)	Clarksburg
Thirteenth	*Robert D. Beach, (D)	Morgantown
	Roman W. Prezioso, Jr., (D)	Fairmont
Fourteenth	*Dave Sypolt, (R)	Kingwood
	Bob Williams, (D)	Grafton
Fifteenth	Craig Blair, (R)	Martinsburg
	*Charles S. Trump IV, (R)	Berkeley Springs
Sixteenth	Herb Snyder, (D)	Shenandoah Junction
	*John R. Unger II, (D)	Martinsburg
Seventeenth	Corey Palumbo, (D)	Charleston
	* <sup>3</sup> Tom Takubo, (R)	South Charleston

\* Elected in 2014 to full four-year term.

<sup>1</sup> Changed party affiliation from Democrat to Republican on November 5, 2015.

<sup>2</sup> Appointed January 16, 2015, to unexpired term of Clark S. Barnes, who resigned January 14, 2015.

<sup>3</sup> Elected in 2014 to full four-year term following appointment of Opal Eloise Jack on November 25, 2014, to unexpired term of Brooks F. McCabe, Jr., who resigned on November 13, 2014.

Democrats	16
Republicans	<u>18</u>
Total	34

# STANDING AND SELECT COMMITTEES OF THE SENATE

2015

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## AGRICULTURE AND RURAL DEVELOPMENT

Senators D. Hall (*Chair*), Trump (*Vice Chair*), Blair, Karnes, Maynard, Sypolt, Beach, Laird, Miller, Williams and Woelfel.

## BANKING AND INSURANCE

Senators Nohe (*Chair*), Gaunch (*Vice Chair*), Ferns, D. Hall, M. Hall, Mullins, Trump, Facemire, Palumbo, Prezioso, Romano, Snyder and Woelfel.

## CONFIRMATIONS

Senators Boley (*Chair*), Boso, Mullins, Nohe, Takubo, Kessler, Miller, Palumbo and Plymale.

## ECONOMIC DEVELOPMENT

Senators Takubo (*Chair*), Ferns (*Vice Chair*), Blair, D. Hall, Leonhardt, Maynard, Mullins, Walters, Kessler, Plymale, Romano, Stollings, Woelfel and Yost.

## EDUCATION

Senators Sypolt (*Chair*), Boley (*Vice Chair*), Carmichael, D. Hall, M. Hall, Karnes, Takubo, Trump, Beach, Laird, Plymale, Romano, Stollings and Unger.

## ENERGY, INDUSTRY AND MINING

Senators Mullins (*Chair*), Nohe (*Vice Chair*), Blair, Boley, D. Hall, Maynard, Sypolt, Facemire, Kirkendoll, Snyder, Williams, Woelfel and Yost.

## SENATE COMMITTEES

### ENROLLED BILLS

Senators Maynard (*Chair*), Gaunch (*Vice Chair*), Boso, Miller and Unger.

### FINANCE

Senators M. Hall (*Chair*), Walters (*Vice Chair*), Blair, Boley, Boso, Carmichael, Mullins, Sypolt, Takubo, Facemire, Kessler, Laird, Plymale, Prezioso, Stollings, Unger and Yost.

### GOVERNMENT ORGANIZATION

Senators Blair (*Chair*), Walters (*Vice Chair*), Boso, Ferns, Gaunch, Leonhardt, Maynard, Mullins, Facemire, Miller, Palumbo, Snyder, Williams and Yost.

### HEALTH AND HUMAN RESOURCES

Senators Ferns (*Chair*), Takubo (*Vice Chair*), Gaunch, Karnes, Leonhardt, Trump, Walters, Laird, Palumbo, Plymale, Prezioso, Stollings and Unger.

### INTERSTATE COOPERATION

Senators Gaunch (*Chair*), Karnes (*Vice Chair*), Boso, Maynard, Kirkendoll, Palumbo and Unger.

### JUDICIARY

Senators Trump (*Chair*), Nohe (*Vice Chair*), Carmichael, Ferns, Gaunch, D. Hall, Karnes, Leonhardt, Maynard, Beach, Kirkendoll, Miller, Palumbo, Romano, Snyder, Williams and Woelfel.

### LABOR

Senators D. Hall (*Chair*), Ferns (*Vice Chair*), Blair, Gaunch, Karnes, Maynard, Laird, Prezioso, Stollings, Williams and Yost.

## SENATE COMMITTEES

### **MILITARY**

Senators Leonhardt (*Chair*), Boley (*Vice Chair*), Nohe, Sypolt, Walters, Facemire, Laird, Romano and Yost.

### **NATURAL RESOURCES**

Senators Karnes (*Chair*), Maynard (*Vice Chair*), Boso, M. Hall, Leonhardt, Nohe, Takubo, Beach, Facemire, Laird, Miller, Snyder and Williams.

### **PENSIONS**

Senators Gaunch (*Chair*), Trump (*Vice Chair*), M. Hall, Mullins, Kirkendoll, Plymale and Unger.

### **RULES**

Senators Cole (*Chair*), Blair, Carmichael, M. Hall, Sypolt, Trump, Kessler, Plymale, Prezioso, Stollings and Williams.

### **TRANSPORTATION AND INFRASTRUCTURE**

Senators Walters (*Chair*), Leonhardt (*Vice Chair*), Boley, Gaunch, Mullins, Beach, Kirkendoll, Plymale and Woelfel.

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### **SELECT COMMITTEE ON TAX REFORM**

Senators M. Hall (*Chair*), Ferns, Gaunch, Nohe, Prezioso, Stollings, Williams and Cole (*ex officio*).

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### **JOINT COMMITTEES**

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## SENATE COMMITTEES

### **GOVERNMENT AND FINANCE**

Senators Cole (*Cochair*), Carmichael, M. Hall, Trump, Kessler, Plymale and Prezioso.

### **GOVERNMENT OPERATIONS**

Senators Blair (*Cochair*), Walters (*Vice Cochair*), Gaunch, Palumbo and Snyder.

### **LEGISLATIVE RULE-MAKING REVIEW**

Senators Maynard (*Cochair*), Boley, Karnes, Sypolt, Miller and Snyder.

### **PENSIONS AND RETIREMENT**

Senators Gaunch (*Cochair*), Trump (*Vice Cochair*), M. Hall, Mullins, Kirkendoll, Plymale and Unger.

### **RULES**

Senators Cole (*Cochair*), Carmichael and Kessler.

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### **STATUTORY LEGISLATIVE COMMISSIONS**

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#### **COMMISSION ON ECONOMIC DEVELOPMENT**

Senators Mullins (*Cochair*), Takubo (*Vice Cochair*), Ferns, M. Hall, Maynard, Sypolt, Trump, Beach, Palumbo, Plymale, Stollings and Unger.

#### **COMMISSION ON INTERSTATE COOPERATION**

Senators Gaunch (*Cochair*), Boso, Karnes, Maynard, Kirkendoll, Palumbo and Unger.

SENATE COMMITTEES

**COMMISSION ON SPECIAL INVESTIGATIONS**

Senators Cole (*Cochair*), M. Hall, Trump, Kessler and Woelfel.

**FOREST MANAGEMENT REVIEW COMMISSION**

Senators Sypolt (*Cochair*), D. Hall, Karnes, Miller and Williams.

**LEGISLATIVE OVERSIGHT COMMISSION ON  
EDUCATION ACCOUNTABILITY**

Senators Sypolt (*Cochair*), Boley (*Vice Cochair*), D. Hall, M. Hall, Karnes, Plymale and Cole (*ex officio*).

**LEGISLATIVE OVERSIGHT COMMISSION ON  
HEALTH AND HUMAN RESOURCES ACCOUNTABILITY**

Senators Ferns (*Cochair*), Gaunch, Takubo, Trump, Prezioso, Stollings and Yost.

**LEGISLATIVE OVERSIGHT COMMISSION ON  
STATE WATER RESOURCES**

Senators Boso (*Cochair*), Gaunch, D. Hall, Palumbo and Unger.

**LEGISLATIVE OVERSIGHT COMMISSION ON  
WORKFORCE INVESTMENT FOR ECONOMIC  
DEVELOPMENT**

Senators Takubo (*Cochair*), Ferns, Maynard and Unger.

**LEGISLATIVE OVERSIGHT COMMITTEE ON THE  
REGIONAL JAIL AND CORRECTIONAL FACILITY  
AUTHORITY**

Senators Blair (*Cochair*), Boso, Nohe, Kirkendoll and Laird.



**HOUSE OF DELEGATES**  
**REGULAR SESSION, 2015**

**OFFICERS**

*Speaker:* Tim Armstead, (R), Elkview

*Clerk:* Stephen J. Harrison, (R), Cross Lanes

*Speaker Pro Tempore:* Everette W. Anderson, Jr., (R), Williamstown

*Sergeant-at-Arms:* Marshall Clay, (R), Fayetteville

*Doorkeeper:* Frank Larese, (R), Belle

<b>District</b>	<b>Name</b>	<b>Address</b>
First	Pat McGeehan, (R)	Chester
	Mark Zatezalo, (R)	Weirton
Second	Ryan W. Weld, (R)	Follansbee
Third	Shawn Fluharty, (D)	Wheeling
	Erikka Storch, (R)	Wheeling
Fourth	David E. Evans, (R)	Cameron
	Michael T. Ferro, (D)	McMechen
Fifth	Dave Pethtel, (D)	Hundred
Sixth	Roger Romine, (R)	Sistersville
Seventh	Lynwood Ireland, (R)	Pullman
Eighth	Everette W. Anderson, Jr., (R)	Williamstown
Ninth	Anna Border-Sheppard, (R)	Davisville
Tenth	Mike Azinger, (R)	Parkersburg
	Frank Deem, (R)	Vienna
	John R. Kelly, (R)	Parkersburg
Eleventh	Bob Ashley, (R)	Spencer
Twelfth	Steve Westfall, (R)	Ripley
Thirteenth	Scott Cadle, (R)	Letart
	Michael Ihle, (R)	Ravenswood
Fourteenth	Jim Butler, (R)	Henderson
Fifteenth	Geoff Foster, (R)	Winfield
Sixteenth	Sean Hornbuckle, (D)	Huntington
	Carol Miller, (R)	Huntington
	James H. Morgan, (D)	Huntington
Seventeenth	Doug Reynolds, (D)	Huntington
	Matthew Rohrbach, (R)	Huntington
Eighteenth	Kelli Sobonya, (R)	Barboursville
Nineteenth	Kenneth Hicks, (D)	Kenova
	Don C. Perdue, (D)	Prichard
Twentieth	Justin J. Marcum, (D)	Williamson
Twenty-first	Harry Keith White, (D)	Gilbert
Twenty-second	Jeff Eldridge, (D)	Alum Creek
	Michael Moffatt, (R)	Hurricane
Twenty-third	Joshua Nelson, (R)	Danville
Twenty-fourth	Rupert Phillips, Jr., (D)	Lorado
	Ralph Rodighiero, (D)	Logan
Twenty-fifth	Linda Goode Phillips, (D)	Pineville
Twenty-sixth	Clif Moore, (D)	Thorpe
Twenty-seventh	Joe Ellington, (R)	Princeton
	Marty Gearheart, (R)	Bluefield
	John Shott, (R)	Bluefield
Twenty-eighth	Roy G. Cooper, (R)	Wayside
	John D. O'Neal IV, (R)	Beckley
Twenty-ninth	Rick Moye, (D)	Crab Orchard
Thirtieth	Mick Bates, (D)	Beckley

## HOUSE OF DELEGATES

Thirty-first	Karen Arvon, (R)	Bekley
Thirty-second	Tom Fast, (R)	Fayetteville
	Kayla Kessinger, (R)	Mount Hope
	David G. Perry, (D)	Oak Hill
Thirty-third	Roger Hanshaw, (R)	Wallback
Thirty-fourth	Brent Boggs, (D)	Gassaway
Thirty-fifth	Andrew D. Byrd, (D)	South Charleston
	John B. McCuskey, (R)	Charleston
	Eric Nelson, (R)	Charleston
	Chris Stansbury, (R)	Charleston
Thirty-sixth	Nancy Peoples Guthrie, (D)	Charleston
	Larry Rowe, (D)	Malden
	Brad White, (R)	Charleston
Thirty-seventh	Mike Pushkin, (D)	Charleston
Thirty-eighth	Patrick Lane, (R)	Cross Lanes
Thirty-ninth	Ron Walters, (R)	Charleston
Fortieth	Tim Armstead, (R)	Elkview
Forty-first	Jordan Hill, (R)	Summersville
Forty-second	George Ambler, (R)	Fort Spring
	Ray Canterbury, (R)	Ronceverte
Forty-third	Denise L. Campbell, (D)	Elkins
	William G. Hartman, (D)	Elkins
Forty-fourth	Dana L. Lynch, (D)	Webster Springs
Forty-fifth	Bill Hamilton, (R)	Buckhannon
Forty-sixth	Peggy Donaldson Smith, (D)	Weston
Forty-seventh	Danny Wagner, (R)	Philippi
Forty-eighth	Danny Hamrick, (R)	Clarksburg
	Tim Miley, (D)	Bridgeport
	Patsy Samuel Trecoast II, (D)	Clarksburg
	Theresa Waxman, (R)	Bridgeport
Forty-ninth	Amy Summers, (R)	Flemington
Fiftieth	Michael Caputo, (D)	Fairmont
	Linda Longstreth, (D)	Fairmont
	Tim Manchin, (D)	Fairmont
Fifty-first	Barbara Evans Fleischauer, (D)	Morgantown
	Cindy Frich, (R)	Morgantown
	Brian Kurcaba, (R)	Morgantown
	Amanda Pasdon, (R)	Morgantown
	Joe Statler, (R)	Core
Fifty-second	Larry A. Williams, (D)	Tunnelton
Fifty-third	Randy E. Smith, (R)	Terra Alta
Fifty-fourth	Allen V. Evans, (R)	Petersburg
Fifty-fifth	Isaac Sponaugle, (D)	Franklin
Fifty-sixth	Gary G. Howell, (R)	Keyser
Fifty-seventh	Ruth Rowan, (R)	Points
Fifty-eighth	Darryl E. Cowles, (R)	Berkeley Springs
Fifty-ninth	Saira Blair, (R)	Martinsburg
Sixtieth	Larry W. Faircloth, (R)	Inwood
Sixty-first	Walter E. Duke, (R)	Martinsburg
Sixty-second	John Overington, (R)	Martinsburg
Sixty-third	Michael Folk, (R)	Martinsburg
Sixty-fourth	Eric L. Householder, (R)	Martinsburg
Sixty-fifth	Jill Upson, (R)	Charles Town
Sixty-sixth	Paul Espinosa, (R)	Charles Town
Sixty-seventh	Stephen Skinner, (D)	Shepherdstown

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Democrats	36
Republicans	<u>64</u>
Total	100

## STANDING COMMITTEES OF THE HOUSE OF DELEGATES

2015

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### AGRICULTURE AND NATURAL RESOURCES

Delegates A. Evans (*Chair of Agriculture*), Romine (*Vice Chair of Agriculture*), Hamilton (*Chair of Natural Resources*), Ambler (*Vice Chair of Natural Resources*), Anderson, Border-Sheppard, Cadle, Canterbury, Cooper, Folk, Ireland, Miller, R. Smith, Summers, Wagner, Zatezalo, Eldridge (*Minority Chair of Agriculture*), L. Phillips (*Minority Vice Chair of Agriculture*), Lynch (*Minority Chair of Natural Resources*), Guthrie (*Minority Chair of Natural Resources*), Campbell, Fluharty, Rodighiero, H. White and Williams.

### BANKING AND INSURANCE

Delegates Walters (*Chair of Banking*), Frich (*Vice Chair of Banking*), McCuskey (*Chair of Insurance*), Westfall (*Vice Chair of Insurance*), Ashley, Azinger, Deem, Kurcaba, McGeehan, E. Nelson, O'Neal, Pasdon, Shott, Upson, Waxman, B. White, Moore (*Minority Chair of Banking*), Morgan (*Minority Vice Chair of Banking*), Skinner (*Minority Chair of Insurance*), Bates (*Minority Vice Chair of Insurance*), Hicks, Manchin, Perdue, Perry and Rowe.

### EDUCATION

Delegates Pasdon (*Chair*), Duke (*Vice Chair*), Ambler, Cooper, Ellington, Espinosa, D. Evans, Hamrick, Kelly, Kurcaba, Rohrbach, Romine, Rowan, Statler, Upson, Wagner, Perry (*Minority Chair*), Moye (*Minority Vice Chair*), Campbell, Hornbuckle, Perdue, Pushkin, Reynolds, Rodighiero and Trecost.

### ENERGY

Delegates Ireland (*Chair*), R. Smith, (*Vice Chair*), Ambler, Anderson, Border-Sheppard, Cadle, Canterbury, D. Evans, Kessinger, McCuskey, J. Nelson, Romine, Statler, Storch, Upson, Zatezalo,

## HOUSE COMMITTEES

Caputo (*Minority Chair*), Pethtel (*Minority Vice Chair*), Boggs, Eldridge, Lynch, Miley, L. Phillips, Reynolds and H. White.

## ENROLLED BILLS

Delegates McCuskey (*Chair*), Westfall (*Vice Chair*), Hanshaw, Marcum and Sponaugle.

## FINANCE

Delegates E. Nelson (*Chair*), Ashley (*Vice Chair*), Anderson, Butler, Canterbury, Espinosa, A. Evans, Frich, Gearheart, Hamilton, Householder, Miller, O'Neal, Storch, Walters, Westfall, Boggs (*Minority Chair*), Williams (*Minority Vice Chair*), Bates, Guthrie, Longstreth, Moye, Pethtel, L. Phillips and H. White.

## GOVERNMENT ORGANIZATION

Delegates Howell (*Chair*), Arvon (*Vice Chair*), Blair, Border-Sheppard, Cadle, Faircloth, Hamrick, Hill, Ihle, Kessinger, McGeehan, Moffatt, J. Nelson, R. Smith, Stansbury, Zatezalo, Morgan (*Minority Chair*), P. Smith (*Minority Vice Chair*), Caputo, Eldridge, Ferro, Hartman, Marcum, R. Phillips and Sponaugle.

## HEALTH AND HUMAN RESOURCES

Delegates Ellington (*Chair*), Householder (*Vice Chair*), Arvon, Ashley, Cooper, Faircloth, Hill, Kurcaba, Lane, Pasdon, Rohrbach, Sobonya, Stansbury, Summers, Waxman, Westfall, Fleischauer (*Minority Chair*), Campbell (*Minority Vice Chair*), Bates, Fluharty, Guthrie, Moore, Pushkin, Rodighiero and Skinner.

## INDUSTRY AND LABOR

Delegates Overington (*Chair*), Sobonya (*Vice Chair*), Azinger, Blair, Cowles, Ellington, Fast, Householder, Ihle, Kurcaba, McCuskey, J. Nelson, Shott, R. Smith, Statler, B. White, Ferro (*Minority Chair*),

## HOUSE COMMITTEES

Fluharty (*Minority Vice Chair*), Byrd, Caputo, Hicks, Manchin, Pushkin, Reynolds and Rowe.

### INTERSTATE COOPERATION

Delegates Storch (*Chair*), Faircloth (*Vice Chair*), Ellington, Hamrick, Romine, Ferro and P. Smith.

### JUDICIARY

Delegates Shott (*Chair*), Lane (*Vice Chair*), Azinger, Deem, Fast, Folk, Foster, Hanshaw, Ireland, McCuskey, Overington, Sobonya, Summers, Waxman, Weld, B. White, Manchin (*Minority Chair*), Skinner (*Minority Vice Chair*), Byrd, Fleischauer, Fluharty, Hicks, Lynch, Moore and Rowe.

### PENSIONS AND RETIREMENT

Delegates Canterbury (*Chair*), Folk (*Vice Chair*), Hamilton, Kurcaba, Walters, Pethtel (*Minority Chair*) and Marcum.

### POLITICAL SUBDIVISIONS

Delegates Storch (*Chair*), Butler (*Vice Chair*), Anderson, Cowles, Duke, Folk, Gearheart, Hanshaw, Householder, Ihle, Lane, Moffatt, O'Neal, Sobonya, Stansbury, Weld, Moye (*Minority Chair*), Trecost (*Minority Vice Chair*), Boggs, Byrd, Hartman, Hornbuckle, Manchin, Morgan and Perry.

### ROADS AND TRANSPORTATION

Delegates Gearheart (*Chair*), Hamrick (*Vice Chair*), Ambler, Arvon, Butler, Cadle, Espinosa, A. Evans, D. Evans, Fast, Howell, Moffatt, Rohrbach, Statler, Summers, Wagner, L. Phillips (*Minority Chair*), Guthrie (*Minority Vice Chair*), Boggs, Longstreth, Moye, Reynolds, P. Smith, Sponaugle and Trecost.

## HOUSE COMMITTEES

### **RULE-MAKING REVIEW**

Delegates Sobonya (*Chair*), Frich (*Vice Chair*), Hanshaw, Moffatt, Fleischauer and Rowe.

### **SENIOR CITIZEN ISSUES**

Delegates Rowan (*Chair*), Border-Sheppard (*Vice Chair*), Canterbury, Deem, Duke, Faircloth, Hamilton, Hill, Kelly, E. Nelson, Overington, Rohrbach, Romine, Walters, B. White, Zatezalo, Williams (*Minority Chair*), Moyer (*Minority Vice Chair*), Campbell, Ferro, Moore, Perry, Pethel, R. Phillips and Rodighiero.

### **SMALL BUSINESS, ENTREPRENEURSHIP AND ECONOMIC DEVELOPMENT**

Delegates Miller (*Chair*), Espinosa (*Vice Chair*), Ashley, Blair, Ellington, Faircloth, Foster, Hanshaw, Hill, Kessinger, Lane, Pasdon, Stansbury, Storch, Waxman, Westfall, Skinner (*Minority Chair*), Rowe (*Minority Vice Chair*), Bates, Hornbuckle, Manchin, Miley, Morgan, H. White and Williams.

### **VETERANS AFFAIRS AND HOMELAND SECURITY**

Delegates J. Nelson (*Chair of Veterans Affairs*), Cooper (*Vice Chair of Veterans Affairs*), D. Evans (*Chair of Homeland Security*), McGeehan (*Vice Chair of Homeland Security*), Arvon, Ashley, Foster, Frich, Howell, Ireland, Kelly, Kessinger, Rowan, Upson, Wagner, Weld, Longstreth (*Minority Chair of Veterans Affairs*), Hornbuckle (*Minority Vice Chair of Veterans Affairs*), P. Smith (*Minority Chair of Homeland Security*), Pushkin (*Minority Vice Chair of Homeland Security*), Byrd, Ferro, Fleischauer, Lynch and Trecost.

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### **JOINT COMMITTEES**

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## HOUSE COMMITTEES

### **GOVERNMENT AND FINANCE**

Delegates Armstead (*Cochair*), Cowles, C. Miller, E. Nelson, Shott, Boggs and Miley.

### **GOVERNMENT OPERATIONS**

Delegates Howell (*Cochair*), Arvon, Moffatt, Morgan and Sponaugle.

### **LEGISLATIVE RULE-MAKING REVIEW**

Delegates Sobonya (*Cochair*), Frich (*Vice Cochair*), Hanshaw, Moffatt, Fleischauer and Rowe.

### **PENSIONS AND RETIREMENT**

Delegates Canterbury (*Cochair*), Folk (*Vice Cochair*), Hamilton, Kurcaba, Walters, Marcum and Pethtel.

### **RULES**

Delegates Armstead (*Cochair*), Cowles and Miley.

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### **STATUTORY LEGISLATIVE COMMISSIONS**

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#### **COMMISSION ON ECONOMIC DEVELOPMENT**

Delegates C. Miller (*Cochair*), Ellington, Espinosa, Hamilton, E. Nelson, Pasdon, Shott, Walters, Byrd, R. Phillips, Trecost and H. White.

#### **COMMISSION ON INTERSTATE COOPERATION**

Delegates Storch (*Cochair*), Faircloth (*Vice Cochair*), Ellington, Hamrick, Romine, Ferro and P. Smith.

HOUSE COMMITTEES

**COMMISSION ON SPECIAL INVESTIGATIONS**

Delegates Armstead (*Cochair*), Lane, Shott, Bates and Miley.

**FOREST MANAGEMENT REVIEW COMMISSION**

Delegates Overington (*Cochair*), A. Evans, Romine, Hartman and Lynch.

**LEGISLATIVE OVERSIGHT COMMISSION ON  
EDUCATION ACCOUNTABILITY**

Delegates Pasdon (*Cochair*), Anderson, Duke, Espinosa, D. Evans, Perry and Armstead (*ex officio*).

**LEGISLATIVE OVERSIGHT COMMISSION ON  
HEALTH AND HUMAN RESOURCES ACCOUNTABILITY**

Delegates Ellington (*Cochair*), Border-Sheppard, Householder, Rohrbach, Summers, Moye and Armstead (*ex officio*).

**LEGISLATIVE OVERSIGHT COMMISSION ON  
STATE WATER RESOURCES**

Delegates Ambler (*Cochair*), B. White, Zatezalo, Reynolds and Rowe.

**LEGISLATIVE OVERSIGHT COMMISSION ON  
WORKFORCE INVESTMENT FOR ECONOMIC  
DEVELOPMENT**

Delegates Espinosa (*Cochair*), C. Miller, Walters and R. Phillips.

**LEGISLATIVE OVERSIGHT COMMITTEE ON THE  
REGIONAL JAIL AND CORRECTIONAL FACILITY  
AUTHORITY**

Delegates McCuskey (*Cochair*), Shott, Sobonya, Weld and Lynch.



WEST VIRGINIA LEGISLATURE  
**SENATE JOURNAL**

EIGHTY-SECOND LEGISLATURE  
REGULAR AND EXTENDED SESSION, 2015

WEDNESDAY, JANUARY 14, 2015

Pursuant to section eighteen, article six of the Constitution of the State of West Virginia, which prescribes that the Legislature shall convene annually on the second Wednesday in January, the Legislature assembled in the state capitol in the City of Charleston on this the fourteenth day of January, two thousand fifteen, for the first annual session of the eighty-second Legislature.

The Senate met in its chamber at 12 o'clock Noon.

Pending organization of the Senate by the election of a President, under the provisions of section twenty-four, article six of the Constitution, the Senate was called to order by the Honorable Donna J. Boley, a senator from the third senatorial district, being the oldest member in point of continuous service.

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Kent Leonhardt, a senator from the second district.

The following communication was reported by the Clerk:

THE SENATE OF WEST VIRGINIA  
CHARLESTON

November 13, 2014

The Honorable Jeffrey V. Kessler  
President, West Virginia Senate  
State Capitol  
Charleston, West Virginia

Dear President Kessler:

Please accept this letter as official notification of my resignation as a member of the West Virginia Senate effective November 14, 2014.

It has been a great honor and privilege to serve in the Senate and represent the citizens of the 17th Senatorial District. I look forward to continuing my public service as a member of the West Virginia Public Service Commission.

Sincerely,

Brooks F. McCabe, Jr.

**Executive Communications**

The following communication from His Excellency, the Governor, was reported by the Clerk:

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

November 25, 2014

The Honorable Natalie E. Tennant  
Secretary of State  
State Capitol  
Charleston, West Virginia

Dear Secretary Tennant:

Pursuant to W. Va. Code §3-10-5, I have this day appointed Opal Eloise Jack, #4 Greenview Drive, South Charleston, Kanawha County, West Virginia 25309, as a Senator representing the Seventeenth Senatorial District, to fill the vacancy created by the resignation of the Honorable Brooks F. McCabe, Jr., from this day through the remainder of the unexpired term of said office.

Sincerely,

Earl Ray Tomblin,  
*Governor.*

cc: The Honorable Jeffrey V. Kessler

The several oaths of office prescribed by the Constitution were administered by the Honorable Jennifer F. Bailey, Judge of the Thirteenth Judicial Circuit of West Virginia, to Opal Eloise Jack, of the County of Kanawha, on December 1, 2015.

The following communication was next reported by the Clerk:

THE SENATE OF WEST VIRGINIA  
CHARLESTON

December 15, 2014

The Honorable Joseph M. Minard  
Clerk, West Virginia Senate  
State Capitol  
Charleston, West Virginia

Dear Mr. Clerk:

Please be advised that I changed my party registration from Democrat to Republican on November 5, 2014.

Sincerely,

Daniel J. Hall,  
Ninth Senatorial District.

The Honorable Natalie E. Tennant, Secretary of State, appeared at the bar of the Senate and presented the official returns of the election held on the fourth day of November, two thousand fourteen, for members of the Senate for the State of West Virginia.

**CANDIDATES FOR STATE SENATOR  
FOR THE STATE OF WEST VIRGINIA  
APPEARING TO HAVE BEEN ELECTED  
NOVEMBER 4, 2014**

First Senatorial District: Ryan J. Ferns, of the County of Ohio;

Second Senatorial District: Kent Leonhardt, of the County of Monongalia;

Third Senatorial District: David C. Nohe, of the County of Wood;

Fourth Senatorial District: Mike Hall, of the County of Putnam;

Fifth Senatorial District: Michael A. Woelfel, of the County of Cabell;

Sixth Senatorial District: Mark R. Maynard, of the County of Wayne;

Seventh Senatorial District: Ron Stollings, of the County of Boone;

Eighth Senatorial District: C. Edward Gaunch, of the County of Kanawha;

Ninth Senatorial District: Jeff Mullins, of the County of Raleigh;

Tenth Senatorial District: Ronald F. Miller, of the County of Greenbrier;

Eleventh Senatorial District: Robert Karnes, of the County of Upshur;

Twelfth Senatorial District: Michael J. Romano, of the County of Harrison;

Thirteenth Senatorial District: Robert D. Beach, of the County of Monongalia;

Fourteenth Senatorial District: Dave Sypolt, of the County of Preston;

Fifteenth Senatorial District: Charles S. Trump IV, of the County of Morgan;

Sixteenth Senatorial District: John R. Unger II, of the County of Berkeley;

Seventeenth Senatorial District: Tom Takubo, of the County of Kanawha.

From the foregoing official returns of the election of members of the Senate, it appears that the persons therein named were elected to the Senate at the election held on the Tuesday next after the first Monday in November, two thousand fourteen.

Whereupon,

On the call of the roll of the Senate, the following members and members-elect answered to their names:

Barnes, Beach, Blair, Boley, Carmichael, Cole, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Yost.

Thirty-four present and prospective members having answered to their names, the Chair declared the presence of a quorum.

The following members-elect came forward to the Clerk's desk, taking and subscribing to the several oaths of office prescribed by the Constitution, which oaths were administered by the Honorable Allen H. Loughry II, Justice of the Supreme Court of Appeals of West Virginia: Ryan J. Ferns, of the County of Ohio; Kent Leonhardt, of the County of Monongalia; David C. Nohe, of the County of Wood; Mike Hall, of the County of Putnam; Michael A. Woelfel, of the County of Cabell; Mark R. Maynard, of the County of Wayne; Ron Stollings, of the County of Boone; C. Edward Gaunch, of the County of Kanawha; Jeff Mullins, of the County of Raleigh; Ronald F. Miller, of the County of Greenbrier; Robert Karnes, of the County of Upshur; Michael J. Romano, of the County of Harrison; Robert D. Beach, of the County of Monongalia; Dave Sypolt, of the County of Preston; Charles S. Trump IV, of the County of Morgan; John R. Unger II, of the County of Berkeley; and Tom Takubo, of the County of Kanawha.

The Senate then proceeded to its biennial organization.

The first order of business in the organization of the Senate being the election of a President,

For that office, Senator Carmichael nominated the Honorable William P. Cole III, of the County of Mercer; seconded by Senator Gaunch.

Senator Snyder then nominated the Honorable Jeffrey V. Kessler, of the County of Marshall; seconded by Senator Yost.

There being no further nominations, the Senate proceeded to the vote for the election of a President.

On the call of the roll, those voting for Senator Cole were: Barnes, Blair, Boley, Carmichael, Cole, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Plymale, Sypolt, Takubo, Trump and Walters—19.

Those voting for Senator Kessler were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—15.

The Chair announced the vote and declared that Senator Cole, having received a majority of the votes of all the members elected to the Senate had been elected President of the Senate.

On motion of Senator Carmichael, the Senate reconsidered the vote as to the election of the Office of President of the Senate.

The vote thereon having been reconsidered,

The question again being on the election of the Office of President of the Senate.

At the request of Senator Snyder, and by unanimous consent, Senator Snyder's nomination of the Honorable Jeffrey V. Kessler as President of the Senate was withdrawn.

At the request of Senator Yost, unanimous consent being granted, Senator Yost's seconding of Senator Snyder's nomination of the Honorable Jeffrey V. Kessler as President of the Senate was withdrawn.

The question now being on the nomination of the Honorable William P. Cole III as President of the Senate.

On motion of Senator Kessler, Senator Cole was elected President of the Senate by acclamation.

Whereupon, the Chair appointed Senators Carmichael, M. Hall and D. Hall a committee to escort the President-elect to the Chair.

A standing ovation was then accorded the President-elect, as he proceeded to the rostrum accompanied by the foregoing select committee.

Whereupon, Senator Cole qualified as President, by taking the several oaths of office prescribed by law and administered by the Honorable Allen H. Loughry II, Justice of the Supreme Court of Appeals of West Virginia.

Senator Cole (Mr. President) assumed the Chair and addressed the Senate as follows:

SENATOR COLE: Thank you. Thank you all. I am honored. I'm humbled to stand at this podium as the person you have elected to be the leader of this distinguished body. It has been a tremendous privilege to serve this state as a Senator, and I am grateful to you for placing your trust in me to lead us through this historic session of our Legislature.

Before I get into further remarks, I need to first recognize my family: My wife Brownie. I've been missing in action since about November 5. She's held down the homefront, and I am forever grateful. My daughters Elizabeth and Taylor. Son Jason, his wife Jessica. Other son Lee, his wife Laura. My mom and dad, who without their diligent hard work, today wouldn't have been possible. I appreciate that, Mom and Dad. My brother Mayor Tom Cole, Mayor of Bluefield. My brother Charlie, his wife Terri. Extended family. All my friends who have come to share with me this day. Thank you all so very much.

Cass Gilbert was one of the greatest architects in the United States if not the world. As most of you are aware, he designed the spectacular building where we sit today. Gilbert once wrote about how a building such as this one was not just a building. It was, he wrote, also "an inspiration toward patriotism and good citizenship,



it encourages just pride in the state and is an education to oncoming generations to see these things, imponderable elements of life and character, set before the people for their enjoyment and betterment . . . . It is a symbol of the civilization, culture, and ideals of our country.”

As beautiful as our capitol is, as majestic as it stands as our seat of state government, Gilbert was disappointed because he felt as if it was still not finished. He believed that there was still work to be done. I believe the very same thing can be said about this great state of ours.

As beautiful and majestic as our state is, it is still an unfinished work of art. To put it bluntly, the time for studies is over. I do not believe the problems we face as West Virginians are ones that can be solved by commissioning another study that will tell us what we already know: We have work to do.

As members of this dignified, revered body, we must rise to the level of trust and responsibility we have been given by those who elected us to be their voice. We must speak for those who cannot speak for themselves, and we must defend with honor the values of life and liberty that all West Virginians cherish.

The voters of this state demanded a change in November. Change can be difficult to navigate, and it will not be easy. There will be growing pains along the way, and we will not be perfect in every decision. But we cannot fall into the comfortable routines that have weighed us down in the past.

We must embrace this change with fresh eyes and open minds. Solutions to our problems will not be found in silence. Instead, solutions will be found through open and honest dialogue, and I encourage all of us to remember that when we tackle the challenges that lay before us. We must communicate. Both with our fellow legislators and with the people who have sent us here to be their representatives.

I believe a good government starts with a transparent government. I'd like to thank my predecessor, Senator from Marshall, for helping bring these cameras into the Senate Chamber. Completion of the installation is scheduled for mid-session. When the system is up and running, people will be able to see our efforts from anywhere in the state. The work we do in this Chamber will be watched by many, and we must expect for them to hold us accountable.

What we as the Senate do today becomes history. Legislation that we pass during this session will guide the future of this state and, in turn, chart its course. It is up to us to choose our direction. While we may not always agree on how to get there, I am confident that we all want the same thing and that is a brighter future for our state.

Just a few weeks ago, families across this state gathered to celebrate Christmas. Parents and grandparents had their loved ones under the same roof sharing in fellowship and in time-honored family traditions. And, then, at the end of the weekend, many of those children and grandchildren got into their cars, said their goodbyes and went back to the cities and the states that they now call home.

It is time our children no longer call West Virginia the place they visit on special occasions or the place that they were from. It should be a place they and their children can forever call their home.

It is time our children finish school and look with anticipation toward the bountiful opportunities that lay before them in these hills and not look with anticipation to the interstate highway that will take them away.

It is time, quite simply, for us to work together to find every way possible to keep our kids home. We will do this by realizing that, first and foremost, before we're Democrats, before we're Republicans, we're all West Virginians.

Now is the time to address the causes of West Virginians: Schools that prepare our children to compete, businesses that provide our

hard-working men and women with a great living, the development of our state's abundant natural resources and a legal and regulatory environment that invites job-creating companies to call West Virginia home.

Winston Churchill said, "We shape our buildings; thereafter they shape us." As we sit at these desks—the same desks that generations of Senators before us have used—and we debate in this Chamber, we must let its dignity and its majesty shape us.

We must rise to these challenges with respect and reverence, and we must prove that we are worthy of the privilege that we have been given.

We have a short window of time to accomplish these goals, and I hope you share my sentiment. It's time for us to get to work!

May God bless all of you, and may God bless our great State of West Virginia. Thank you.

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At the request of Senator Carmichael, and by unanimous consent, the foregoing acceptance remarks by Senator Cole (Mr. President) were ordered extended in the Journal.

The next order of business being the election of a Clerk,

For that office, Senator Sypolt nominated the Honorable Clark S. Barnes, of the County of Randolph; seconded by Senator Nohe.

Senator Facemire then nominated the Honorable Joseph M. Minard; seconded by Senator Kessler.

There being no further nominations, the Senate proceeded to the vote for the election of a Clerk.

On the call of the roll, those voting for Senator Barnes were: Barnes, Blair, Boley, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Those voting for the Honorable Joseph M. Minard were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The Chair announced the vote and declared that Senator Barnes, having received a majority of the votes of all the members elected to the Senate had been elected Clerk of the Senate.

The following communication was reported by the Clerk:

THE SENATE OF WEST VIRGINIA  
CHARLESTON

January 14, 2015

The Honorable William P. Cole III  
President, West Virginia Senate  
State Capitol  
Charleston, West Virginia

Dear Mr. President:

It has been a sincere pleasure to have served in this Body for the past 10 years. I thank the people of West Virginia, and particularly those from Senate Districts 15 and 11 for allowing me to serve and for the support I have been afforded.

Following thoughtful consideration and deliberation, I offer my resignation as the Senior Senator from the 11th Senatorial District effective immediately.

I wish you and the members of this Body all the best.

Sincerely,

Clark S. Barnes

Whereupon, Mr. Barnes came forward to the Clerk's desk, taking and subscribing to the several oaths of office prescribed by the Constitution, which oaths were administered by the Honorable Allen H. Loughry II, Justice of the Supreme Court of Appeals of West Virginia.

The next order of business being the election of a Sergeant at Arms,

For that office, Senator M. Hall nominated the Honorable Howard L. Wellman, of the County of Mercer; seconded by Senator Prezioso.

On motion of Senator Kessler, Mr. Wellman was reelected Sergeant at Arms of the Senate by acclamation.

Whereupon, Mr. Wellman came forward to the Clerk's desk, taking and subscribing to the several oaths of office prescribed by the Constitution, which oaths were administered by the Honorable Allen H. Loughry II, Justice of the Supreme Court of Appeals of West Virginia.

The last order of business in the biennial organization of the Senate being the election of a Doorkeeper,

For that office, Senator D. Hall nominated the Honorable Anthony Gallo, of the County of Kanawha; seconded by Senator Walters.

On motion of Senator Kessler, Mr. Gallo was reelected Doorkeeper of the Senate by acclamation.

Whereupon, Mr. Gallo came forward to the Clerk's desk, taking and subscribing to the several oaths of office prescribed by the Constitution, which oaths were administered by the Honorable Allen

H. Loughry II, Justice of the Supreme Court of Appeals of West Virginia.

With the completion of organization of the Senate, by the election of officers for the eighty-second Legislature,

The first organizing resolution was then offered, Senator Carmichael submitting the following:

**Senate Resolution No. 1—Adopting Rules of the Senate.**

*Resolved by the Senate:*

That the Rules of the Senate be adopted as follows and shall govern the proceedings of the Senate during the eighty-second Legislature, subject to amendment as provided in the rules:

**RULES OF THE SENATE**

**QUORUM**

1. A majority of the members elected to the Senate shall constitute a quorum and a quorum shall be necessary to proceed to business, but two members may adjourn, and three members may order a call of the Senate, send for absentees and make any order for their censure or discharge. On a call of the Senate, the doors shall not be closed against any member until his or her name shall have been twice called.

2. In case a less number than a quorum of the Senate shall convene, the members present are hereby authorized to send the Sergeant at Arms, or any other person or persons by them authorized, for any and all absent members as the majority of such members shall agree, at the expense of such absent members, respectively, unless such excuse for nonattendance shall be made as the Senate, when a quorum is convened, shall judge sufficient; and, in that case, the expense shall be paid out of the contingent fund of

the Senate. This rule shall apply, as well to the first meeting of the Senate at the legal time of meeting, as to each day of the session, after the hour has arrived to which the Senate stood adjourned.

### OFFICERS

3. The Senate, at the commencement of each new Legislature, shall elect as its officers a President, Clerk, Sergeant at Arms and Doorkeeper. If at any time the President is obligated to act as Governor pursuant to Article VII, Section 16 of the Constitution of West Virginia ~~Constitution~~, the Senate shall immediately elect one of its remaining members to serve as Acting President. The Acting President shall act and serve at all times when the duly elected President is acting as Governor and shall perform all of the duties of the office of Senate President without limitation, including any duties imposed by the Constitution of West Virginia ~~Constitution~~, any statute, the Senate Rules and any adopted Joint Rules of the Senate and House of Delegates, and he or she shall receive the compensation and expenses of the President of the Senate as provided in article two-a, chapter four of the Code of West Virginia. The Acting President shall not be in the line of succession to act as Governor under the provisions of Article VII, Section 16 of the Constitution of West Virginia ~~Constitution~~. The ~~vote of a majority~~ vote of all the members elected to the Senate shall be necessary for the election of these officers and the vote shall be by voice vote and be ~~entered upon~~ recorded in the Journal.

4. The President of the Senate or ~~acting~~ Acting President shall appoint a President *pro Tempore*, who, during the absence of the President or ~~acting~~ Acting President, if any, shall preside and perform all the duties of the President.

5. The ~~President~~ presiding officer may call a member to the chair who shall perform the duties of the chair until the ~~President~~ presiding officer returns to the chair, but no member by virtue of such appointment shall preside for a longer period than three consecutive legislative days.

6. The Clerk of the Senate shall not allow any records or papers to be taken from the table or out of his or her custody except by a ~~chairperson~~ chair of a committee to which they may have been referred and then only upon a proper receipt therefor and except as required by these rules or by the Joint Rules of the Senate and House of Delegates.

#### ORDER OF BUSINESS AND PROCEDURE

7. The order of business of the Senate shall be:

1. To read, correct and approve the Journal.
2. Introduction of guests.
3. To dispose of communications from the House of Delegates and the Executive.
4. To receive reports from standing committees.
5. To receive reports from select committees.
6. To receive bills, resolutions, motions and petitions.
7. To act upon unfinished business of the preceding day and resolutions lying over from the previous day, and no resolution shall lose its place on the calendar by not being acted upon on the day following that on which it was offered.
8. Senate and House bills and joint resolutions on third reading.
9. Senate and House bills and joint resolutions on second reading.
10. Senate and House bills and joint resolutions on first reading.



11. Introduction of guests.
12. Remarks by members of the Senate.
13. Miscellaneous business.

8. Every member desiring to speak shall stand in his or her own place, address the **President** presiding officer and, upon being recognized, shall proceed, confining oneself to the question under debate, avoiding all indecorous or disrespectful language. The **President** presiding officer may recognize the member by name; but no member in debate or remarks shall designate another by name.

9. If the question in debate contains several points, any member may have the same divided. On motion to strike out and insert, it shall not be in order to move for a division of the question.

10. The rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition and shall not prevent a subsequent motion to simply strike out. The rejection of a motion simply to strike out shall not prevent a subsequent motion to strike out and insert.

11. No question shall be debated until it has been propounded by the **President** presiding officer. The **President** presiding officer, after calling a member to assume the chair, the mover of the question, the ~~chairperson~~ chair of the committee that reported the matter or the sponsor of the bill or resolution, in that order of preference, shall have the right to explain his or her views in preference to any other member.

12. No member shall speak more than twice upon the same question without leave of the Senate or more than once until every member choosing to speak shall have spoken, except that the mover of the question shall have the right to close the debate thereon.

13. While the **President** presiding officer is putting the question, any member who has not spoken before to the matter may speak to the question before the negative is put.

## BILLS AND RESOLUTIONS

14. No Senate bill, other than a Senate supplementary appropriation bill, and no Senate joint resolution shall be introduced in the Senate after the forty-first day of a regular session unless permission to introduce the bill or the joint resolution be given by a Senate resolution, setting out the title to the bill or the joint resolution and adopted by a two-thirds vote of the ~~Senate~~ members present. When permission is requested to introduce a bill or joint resolution under the provisions of this rule, duplicate copies of the bill or the joint resolution shall accompany the resolution when introduced and all such bills or joint resolutions shall be filed electronically with the Clerk's office.

~~A standing committee~~ Standing and select committees of the Senate may originate a bill or joint resolution and report the same after the forty-first day.

The forty-first day of the regular session held in the year one thousand nine hundred seventy-seven and every fourth year thereafter shall be computed from and include the second Wednesday of February of such years.

15. Each bill or resolution for introduction shall be presented in duplicate and electronically, bearing the name of the member or members by whom it is to be introduced, and shall be filed with the Clerk not later than twelve o'clock meridian on the legislative day next preceding its introduction: *Provided*, That the pre-filing requirement shall not apply to the first day of any session of the Legislature. A bill may be introduced by request. All bills introduced by request shall bear the words "~~by request~~" "By Request", following the designation of the name or names of the bill sponsor or sponsors.

The Clerk shall designate one copy of a bill or resolution the official copy and it shall constitute the official bill or resolution for use of committees and for the permanent files of the Senate. One copy shall be used for printing.

Each bill or resolution shall be numbered, edited and corrected as to form by the Clerk and reported by the Clerk to the Senate on the next legislative day, under the sixth order of business. In case of urgency, on motion for leave agreed to by a majority of the members present, a member may introduce a bill or resolution from the floor.

~~15a. Prior to final consideration, by any committee in the Senate, of reporting a bill to the floor, any bill which either increases or decreases the revenue or fiscal liability of the State or any county, municipality or other subdivision of the State or in any manner changes or modifies any existing tax or rate of taxation, such bill shall have attached thereto a fiscal note, if available, which "Fiscal Note" shall conform to the requirements as to form and content prescribed by the "Fiscal Note Manual", prepared and adopted by the Committee on Rules to govern preparation of fiscal notes to bills introduced in the Senate.~~

~~It shall be the responsibility of the legislator introducing a bill to obtain such note when required. Such note shall be attached to the bill when filed for introduction, if at all possible, and shall accompany any bill requiring such note when the same is reported from committee, which shall conform to the requirements as to form and content as prescribed by the Clerk.~~

The jackets of all measures with fiscal notes attached or requiring such notes shall have the words "Fiscal Note" or the initials "FN" clearly stamped or endorsed thereon.

15b. Upon the introduction of any legislation which has a potential impact on the state's economy, the presiding officer may request from any institution under the authority of the West Virginia Higher Education Policy Commission, including, but not limited to, West Virginia University and Marshall University, a review of the proposed legislation for purposes of preparing a "Jobs Impact Statement". Any such statement shall be based on generally accepted methodology and shall conform to the requirements as to form and content as prescribed by the Clerk.

The phrase “Jobs Impact Statement” or the initials “JS” must be clearly stamped or endorsed on the jackets of all bills that have statements attached to them. No act is void or voidable if it does not contain a “Jobs Impact Statement” even when requested.

16. All concurrent and simple resolutions when introduced shall lie on the table at least one day, and then be referred to the appropriate committee unless the Senate directs otherwise by ~~a vote~~ of a majority vote of the members present.

It is hereby declared to be the policy of the Senate that concurrent resolutions be limited to the general purposes of expressing the sentiments of the Legislature, for authorizing expenditures incidental to the sessions and business of the Legislature, for agreeing upon adjournments beyond the constitutional limitation, for creating special joint committees, for raising a joint assembly and other inferior and incidental purposes of legislation, and such other purposes as the Legislature may deem proper. The adoption of such resolutions must be concurred in by both houses.

Concurrent resolutions shall be restricted to expressions of sentiments and actions having a bearing upon matters incident to legislative business and the functioning of the legislative process insofar as possible.

Concurrent resolutions shall not embrace congratulatory expressions to individuals, organizations, associations or other entities having no relation to the Legislature or public affairs generally, athletic events, scholastic contests, or any other matter not related to the scope and areas of legislative business: *Provided*, That this rule shall not bar the introduction of resolutions memorializing deceased members of the Legislature and public officials or commending or congratulating public officials on actions in connection with governmental affairs.

~~Before any concurrent resolution is introduced, it shall be submitted to the Clerk for determination of compliance with this rule.~~

~~If the Clerk determines that it is in compliance with this rule, the concurrent resolution shall be introduced. If the Clerk determines that it is not in compliance with this rule, or if the Clerk is in doubt about its compliance, the Clerk shall submit it to the Committee on Rules for this determination, and then the concurrent resolution shall be introduced only if the Committee determines that it is in compliance with this rule.~~

17. Unless otherwise directed by the Committee on Rules all bills, resolutions or business originating in the Senate shall be considered at the appropriate order of business in the order in which they are introduced, and all bills and resolutions received from the House of Delegates shall be introduced in the order in which they are received and shall be considered at the appropriate order of business in their numerical order.

~~18. All bills and resolutions passed or adopted by and reported from the House of Delegates shall be read by their titles and referred to the appropriate committee unless the Senate directs otherwise by a vote of a majority of the members present. They shall then be proceeded with in the same manner as Senate bills or resolutions. All bills and joint resolutions introduced shall be read by their titles and referred to the appropriate committee ~~without printing~~ and shall be treated in committee as resolutions of inquiry. If the committee reports a bill or resolution different, either by amendment or substitution, from the one introduced, it shall be received and treated by the Senate as the original bill or resolution. All Senate bills and joint resolutions reported by a committee shall be printed made available, with the proposed committee amendments printed on the foot thereof, and shall be then read a first time, unless in any of the aforesaid cases the Senate directs otherwise by ~~a vote of a majority~~ vote of the members present. All bills and resolutions passed or adopted by and reported from the House of Delegates shall be read by their titles and referred to the appropriate committee unless the Senate directs otherwise by majority vote of the members present.~~

18a. Any bill, resolution or business which does not follow the procedures of Rule Nos. 17 and 18 shall remain in the possession of the ~~Senate~~ Committee on Rules.

19. All bills shall be read on three different days, unless in case of urgency, by ~~a vote of four-fifths~~ four-fifths vote of the members present, taken by yeas and nays, on each bill, this rule be dispensed with. Joint resolutions proposing amendments to the Constitution of West Virginia shall be read on three different days which readings shall not be suspended.

20. All engrossed bills shall be fully and distinctly read when put upon their passage.

21. On each reading of the bill the Clerk shall state whether it is the first, second or third reading of such bill, but no bill shall be put upon its second reading until the same shall have been ~~printed and delivered~~ made available to the members of the Senate at least one day previous to such reading, unless the Senate directs otherwise by ~~a vote of a~~ majority ~~vote~~ of the members present.

21a. Upon motion of any member, on any legislative day or the day preceding, the Senate may, by ~~a vote of two-thirds~~ two-thirds vote of those present, establish a period of time known as "Bill Reading Docket".

Such motion shall state each bill to be read, the time and order for such bill reading docket to commence and to conclude, and may provide for the adjournment or recess of the Senate for not more than one legislative day, during which reading of the docket no motion, except a motion to postpone the reading of the bills, by two-thirds vote of those elected, shall be heard. A quorum shall not be required during the reading of the docket. Any and all members requesting that a bill be read shall be present at all times in the Chamber during its reading.

All bills read on the bill reading docket shall be considered as having been read fully and distinctly.

22. On the first reading of a bill, a motion to reject the bill shall be in order.

23. If a committee shall have reported adversely to a bill or resolution, the ~~President~~ presiding officer immediately after the report of said committee is read shall put the question, “Shall the bill be rejected?” or “Shall the resolution be rejected?” which question shall have precedence over all motions, except a motion to adjourn.

24. A bill or joint resolution shall be amended only on second reading: Provided, That after the passage of a bill or adoption of a joint resolution, amendments to its title may be offered. When a bill or joint resolution is being read for amendment, it shall be read section by section on the demand of any two members. When the amendments which may be moved shall be disposed of, the question shall be taken on ordering a Senate bill or joint resolution to be engrossed and ordered to third reading and on ordering a House bill or joint resolution to third reading. If a Senate bill or joint resolution should be ordered to its engrossment and third reading, and amendments thereto have been made, ~~the type from which the bill was originally printed~~ or joint resolution shall be changed to conform to the amendments. ~~The bill shall then be reprinted and shall be~~ become the engrossed bill or joint resolution. If no amendments are made, the original bill ~~as originally printed~~ or joint resolution may be ordered to its third reading and shall become the engrossed bill or joint resolution. All Senate bills or joint resolutions so ordered shall be jacketed, endorsed with their number, title, by whom introduced, and if the bill or joint resolution is finally passed or adopted, the date of its passage or adoption and the signature of the Clerk. If a Senate bill or joint resolution should be passed or adopted by the House and returned to the Senate without amendments, or if amended, and the amendments should be agreed to, the bill or joint resolution shall be enrolled by the Clerk, ~~and~~ Enrolled Senate bills shall be delivered to the Joint Committee on Enrolled Bills. In the case of a House bill or joint resolution on second reading if the same be amended, the amendment or amendments shall be noted in full ~~in typewriting on slips of paper~~ and attached to the bill or joint resolution at the proper place by the Clerk before the bill or joint resolution is returned to the House, and all amendments shall appear in the Senate Journal.

25. When a bill or joint resolution is put upon its passage or adoption, respectively, the ~~President~~ presiding officer shall propound the question, "Shall the bill pass?" or "Shall the resolution be adopted?" On the passage or adoption, respectively, of every bill or joint resolution, the vote shall be taken by yeas and nays. ~~When the bill or joint resolution is on second reading and the question is upon striking out, the President shall propound the question, "Shall these words be stricken out?"~~

26. When a Senate bill or Senate joint resolution passed by the Senate shall be amended by the House of Delegates, the question on agreeing to the bill or joint resolution, as amended, shall be again voted on by yeas and nays in the Senate. In all such cases the affirmative ~~vote of a~~ majority vote of all the members elected to the Senate shall be necessary.

## COMMITTEES

27. At the commencement of each Legislature, the following standing committees shall be appointed, each committee to and shall consist of the number of members indicated in the parentheses following the naming name of the committee. ~~The following committees shall be named:~~

1. On Agriculture and Rural Development (11).
2. On Banking and Insurance (13).
3. On Confirmations (9).
4. On Economic Development (14).
5. On Education (14).
6. On Energy, Industry and Mining (13).
7. On Enrolled Bills (5).



8. On Finance (17).
9. On Government Organization (14).
10. On Health and Human Resources (13).
11. On Interstate Cooperation (7); ~~(the presiding officer of the Senate is to be ex officio co-chairperson).~~
12. On the Judiciary (17).
13. On Labor (11).
14. On Military (9).
15. On Natural Resources (13).
16. On Pensions (7).
17. On Rules (11); (the presiding officer of the Senate is to be ex officio ~~chairperson~~ chair).
18. On Transportation and Infrastructure (9).

28. All standing committees shall be appointed by the President. The President shall designate the ~~chairperson~~ chair of each standing committee and may also designate a vice ~~chairperson~~ chair of any standing committee ~~when the President may deem it advisable.~~

The ~~chairperson~~ chair of each standing committee of the Senate shall cause a record to be kept of every meeting of such committee, wherein shall be entered:

- (a) The time and place of each committee meeting and every hearing had before the committee.
- (b) The attendance of members of the committee at each meeting thereof.

(c) The name of any person appearing before the committee and the interest represented by him or her.

(d) The vote of each member of the committee when a yea and nay vote is taken.

Any member of such standing committee may cause a notation to be made upon the record aforesaid of the reason for his or her absence at any former meeting of the committee; and, in the absence of any such explanatory note, the presumption shall be that his or her absence was without reasonable cause.

The ~~chairperson~~ chair of each standing committee shall, upon request, make the record of any yea and nay vote taken, in open or executive session, available for public inspection no later than the next legislative day after the close of the standing committee meeting at which such yea and nay vote was taken.

The several standing committees ~~shall have leave to~~ may report ~~by bill, resolution or otherwise~~ bills, resolutions, amendments, or any proposed legislation proposal originating therein, as well as ~~to report back a committee substitute~~ substitutes for a Senate bill or resolution bills, resolutions, or otherwise other proposals, which may be referred to additional committees. A committee substitute, with the consent of the original sponsor, shall carry the name of the original sponsor. Reports of committees shall be advisory only. All committees shall submit their reports to the Senate in writing and the same shall be ~~printed~~ recorded in the Journal.

On the adjournment of each session of the Legislature, the ~~chairperson~~ chair of the respective committees shall deliver to the Clerk of the Senate the record book herein provided for, and it shall be the duty of such Clerk to preserve the same among the archives of his or her office.

29. The ~~President~~ presiding officer shall refer bills and resolutions introduced, and such other matters as the ~~President~~

presiding officer shall deem appropriate, to a standing committee or select committees.

30. Select committees shall consist of not less than three nor more than five members, unless the Senate directs otherwise by ~~a vote of~~ a majority vote of the members present.

31. The Committee on Rules shall examine the oaths taken by each member and the evidence of their election and report to the Senate.

The Committee on Rules shall report in all cases of privileges and contested elections, the principles and reasons on which their resolutions are founded.

The Committee on Rules shall see that all papers belonging to the Clerk's Office are properly labeled and filed and that the books belonging to the office are chronologically arranged.

32. All meetings of Senate standing committees, other than executive sessions, shall be open to the public, and an executive session may be held only ~~upon a~~ by majority vote of the members present.

33. When the Senate shall resolve itself into the Committee of the Whole, the ~~President~~ presiding officer shall leave the chair and appoint a ~~chairperson~~ member to preside in the committee.

The Committee of the Whole shall consider and report on such subjects as may be committed to it by the Senate. The ~~rules~~ Rules of the Senate shall be observed in the Committee of the Whole, so far as they are applicable, except the rules limiting the number of times speaking, concerning the previous question and taking the yeas and nays. The proceedings in the Committee of the Whole shall not be recorded ~~on~~ in the Journal of the Senate, except so far as reported to the Senate by the ~~chairperson~~ chair of the committee.

34. Any bill, resolution or business may, by ~~a vote of the~~ majority vote of the members present, be withdrawn from the committee to which it had been referred or be taken from the table, and placed upon the calendar of the Senate in such order of business as the Senate may direct: *Provided*, That those bills, resolutions or business referred to the ~~Senate~~ Committee on Rules under authority of Rule No. 17 may by ~~a vote of two thirds~~ two-thirds vote of the members present be withdrawn from the ~~Senate~~ Committee on Rules.

#### DECORUM AND DEBATE

35. If a member be called to order for words spoken in debate, the person calling the member to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table; and no member shall be held to answer, or be subject to the censure of the Senate, for words spoken in debate if any other member has spoken or other business has intervened after the words spoken and before the exception to them was taken.

36. While the ~~President~~ presiding officer is reporting or putting a question, no one shall entertain private discourse or walk into, out of or across the ~~Senate~~ Chamber. When a member is addressing the presiding officer, no one shall entertain private discourse or pass between the member and the presiding officer.

37. No member or other person except the Clerk and the Clerk's assistants shall visit or remain by the Clerk's table while the yeas and nays are being taken.

38. During any debate, any Senator, though he or she has spoken to the matter, may arise and speak to the orders of the Senate, if they be transgressed, in case the ~~President~~ presiding officer does not.

38a. Smoking and the use of other tobacco products shall be prohibited in the Chamber.

38b. The use of electronic devices in the Chamber shall be limited to official legislative business when at all possible and any such devices shall be muted at all times.

38c. Proper business dress attire shall be worn by all those admitted to the floor of the Chamber while the Senate is in session, which includes a coat and tie for men.

### MOTIONS

39. When a question is pending, no motion shall be received except:

1. To adjourn.
2. To lay on the table.
3. For the previous question.
4. To postpone the question to a different day.
5. To commit.
6. To amend.
7. To postpone indefinitely.

These several motions shall have precedence in order in which they are arranged.

40. The following motions shall be decided without debate, and shall not be amended:

1. To adjourn.
2. To fix the time to which the Senate shall adjourn.

3. To lay on the table.
4. For the previous question.
5. To suspend the constitutional rule requiring bills to be read on three different days.
6. To recess.

41. There shall be a motion for the previous question, which being ordered by a majority of the members present, shall have the effect to cut off all debate and bring the Senate to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions, or may be made to embrace all authorized motions or amendments and include the bill to its engrossment and third reading and then, on renewal and second of said motion, to its passage or rejection. It shall be in order, pending a motion for, or after the previous question shall have been ordered on its passage, for the ~~President~~ presiding officer to entertain and submit a motion to commit with or without instructions to a standing or select committee. A motion to lay upon the table pending a motion for the previous question shall be in order only when the previous question has been moved on the second or third reading of a bill.

A call of the Senate shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the ~~President~~ presiding officer that a quorum is not present.

All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

#### RECONSIDERATION OF VOTE

42. After any question has been decided in the affirmative or in the negative, it shall be in order for any member who voted with the

prevailing side to move for a reconsideration of the vote thereon at any time on the same day or the next succeeding day of actual session. ~~When the yeas and nays have not been recorded in the Journal, any member, irrespective of whether he or she voted with the prevailing side or not, Any member~~ may make the motion to reconsider, when the yeas and nays have not been taken. If the Senate refuse to reconsider, or upon reconsideration shall affirm its first decision, no further motion to reconsider shall be in order. No vote shall be reconsidered upon motions to adjourn, to lay on the table, to take from the table or for the previous question.

The motion to reconsider may be put and acted upon when made. If seconded, it shall take precedence of all other questions, except the consideration of a conference report and the motion to adjourn, and unless by motion postponed until some future date be acted upon at once. When a motion to reconsider is made and not acted upon at the time, it shall be placed upon the calendar, under unfinished business, and be acted upon the next succeeding day of actual session. A motion to reconsider shall not be withdrawn without leave of the Senate.

No bill, resolution, message, report, amendment or motion, upon which a motion is pending to reconsider the vote thereon, shall be taken out of the possession of the Senate until final disposition of the motion to reconsider. No motion for reconsideration of the vote on any question, which has gone out of the possession of the Senate, shall be in order unless subsequently recalled by vote of the Senate and in possession of the Clerk.

When a motion to reconsider has been ~~carried~~ adopted, its effect shall be to place before the Senate the original question in the exact position it occupied before it was voted upon.

## VOTING

43. Every member within the ~~Senate~~ Chamber, when a question is put, shall vote unless he or she is immediately and particularly

interested therein, meaning an interest that affects the member directly and not as one of a class, or the Senate excuses him or her. All motions to excuse a member from voting must be made by the member requesting to be excused before the Senate divides, or before the call of the yeas and nays is commenced, and it shall be decided without debate, except that the member making the motion to be excused from voting may briefly state the reason why it ought to be adopted.

44. The yeas and nays shall be taken on motions to dispense with the constitutional rule requiring a bill to be fully and distinctly read on three different days; ~~and on fixing~~ setting the effective date of an act of the Legislature; on agreeing to a joint resolution proposing an amendment to the Constitution of ~~the State~~ West Virginia; on the passage of a bill notwithstanding the objections of the Governor; on the passage of a supplementary appropriation bill; on the passage of a Senate bill or Senate joint resolution amended by the House; on all questions where a specific vote is required by the Constitution of West Virginia, the Joint Rules of the Senate and House of Delegates, or by these rules; on the passage of a bill; and on quorum calls: *Provided*, That the yeas and nays shall be taken on demand of any member on any question unless another member objects. Upon any such objection the ~~President~~ presiding officer shall inquire of the membership if the demand for the yeas and nays is sustained. If the demand is so sustained by one tenth of the members present, the yeas and nays shall be taken, and, if the demand is not sustained by one tenth of the members present, then the yeas and nays shall not be taken.

The result of all votes taken by yeas and nays shall be ~~entered on~~ recorded in the Journal. When the yeas and nays are ~~inserted on~~ recorded in the Journal, the result of the vote as to total yeas, nays and absentees shall be recorded, with the names of the Senators voting yea or nay, and those absent.

When the yeas and nays are ordered, or a call of the Senate is directed, the names of the members shall be called in alphabetical



order; excepting, however, the name of the President presiding officer, which shall be called last.

After completion of a roll call vote, no member shall speak to explain his or her vote. A member's vote explanation shall not be printed recorded in the daily Journal. A member may have his or her vote explanation printed recorded in the bound Journal provided the member obtains the floor and makes this request immediately following announcement of the results of the roll call vote and disposition of the matter and delivers his or her written vote explanation to the Clerk within three legislative days during the session or, if there are less than three legislative days remaining in the session, within seventy-two hours after adjournment *sine die*. The Clerk shall note on the daily Journal for the day of the roll call vote that the member has reserved the privilege of having his or her vote explanation printed recorded later in the bound Journal.

45. On all roll calls of the yeas and nays when the voting machine is not used, and before the result is announced, the Clerk shall at the request of any member read either the names of those who voted yea or of those who voted nay, whichever is the smaller number, and the names of those absent and not voting, if any, and shall announce that all others voted either yea or nay, whichever is the larger number. In the event of a tie vote, the Clerk shall upon such request read the names of those who voted yea and the names of those absent and not voting, if any, and shall announce that all others voted nay. At that time any member shall have the right to correct any mistake committed in enrolling his or her name. The vote then shall be announced and the count ~~entered on~~ recorded in the Journal.

45a. The voting machine may be used in taking the yeas and nays on any question. ~~It may also be used for, including~~ quorum calls ~~and for determining the result when a division is demanded.~~ When the machine is used for ~~calling the attendance roll~~ quorum calls, a member shall indicate "present" by use of the green "yea" button.

When ~~a vote is to be taken on~~ using the voting machine, the President presiding officer shall announce the question to be voted

upon and direct the Clerk to prepare the machine. ~~When the machine is ready for voting, the President~~ The presiding officer shall then state, "The members will now vote." After reasonable time has been given for all members to vote, the ~~President~~ presiding officer shall ask, "Have all members voted?" ~~After a brief pause, the President~~ The presiding officer shall then direct the Clerk to close the machine and ascertain the result. ~~The Clerk shall hand the record of the vote to the President who~~ presiding officer shall promptly announce the result. Voting shall be continuous and shall be permitted until the result thereof is announced by the ~~President~~ presiding officer: *Provided*, That any vote cast after the machine has been closed shall be stated by the ~~President~~ presiding officer as having been cast and such shall be ~~entered on~~ recorded in the Journal: *Provided, however*, That no vote may be cast after the vote has been announced.

While the members are voting and before the machine is closed, the wall display boards shall continuously display the vote of each member and the total pending vote.

Under no circumstance shall a member or nonmember vote on behalf of another member.

All other rules governing voting and the taking of the yeas and nays, insofar as applicable, shall apply to taking votes by means of the voting machine.

## MESSAGES

46. The Clerk of the Senate may interchange messages with the Clerk of the House of Delegates ~~during sessions of the Senate and between the hours of adjournment and that of meeting on the following legislative day~~ at any time.

47. Messages may be received in any stage of business except when ~~a question is being put by the President; the presiding officer is reporting or putting a question or while the yeas and nays are being called by the Clerk or while the votes are being counted~~ taken.

48. When a bill or resolution of the House of Delegates is passed or rejected by the Senate, the fact of its passage or rejection, with the bill or resolution shall be communicated to the House of Delegates.

### JOURNAL

49. The Journal of the Senate shall be daily ~~drawn up~~ prepared by the Clerk and shall be read, corrected and approved the succeeding day. It shall be ~~printed~~ published under the supervision of the Clerk and ~~delivered~~ made available to the members without delay. After the ~~printed~~ Journal has been approved and fully marked for corrections, ~~the type from which it was printed shall be changed in accordance therewith, and~~ regular bound volumes of the Journal from the type so corrected shall be printed ~~the number of copies required by law for the regular bound volumes of the Journal~~. In addition thereto ~~ten~~ six copies shall be printed on 6 x 9 heavy weight bond paper with a certificate at the end thereof signed by the ~~President~~ presiding officer and Clerk of the Senate certifying that the same is the Official Journal of the Senate. They shall be bound in flexible binding and bear the imprint on the back, "Official Journal of the Senate of West Virginia", with designation of regular or extraordinary session and the year. After being signed by the proper officers, two of these copies shall be retained in the office of the Clerk, one copy shall be lodged in the office of the Governor, one with the Secretary of State, one with the Division of Archives and History and one with the Clerk of the House of Delegates.

### ABSENCE OF MEMBERS

50. No member shall absent himself or herself from the service of the Senate during its sittings without leave of the Senate, except in case of his or her sickness or other unavoidable cause which may prevent his or her attendance.

### POWER OVER MEMBERS

51. No Senator shall be taken into custody by the Sergeant at Arms on any question of complaint of breach of privilege until the

matter is examined by the Committee on Rules and reported to the Senate, unless by order of the ~~President of the Senate~~ presiding officer.

52. The Senate may punish its own members for disorderly behavior; and, with the concurrence of two thirds of the members elected thereto, expel a member, but not twice for the same offense.

### POWER OVER OTHERS

53. The Senate may punish by imprisonment; any person not a member; for disrespectful behavior in its presence; ~~;~~ ; for obstructing any of its officers in the discharge of their duties, or for any assault, threat or abuse of any member for words spoken in debate; ~~;~~ ; but such imprisonment shall not extend beyond the termination of the session.

### GUESTS AND PRIVILEGE OF THE FLOOR

54. No person except members of the House of Delegates, former members of the West Virginia Legislature who are not lobbyists, duly accredited representatives of the press, radio and television and legislative officers, ~~and~~ and employees and interns engaged in the proper discharge of their duties shall be admitted ~~within the Senate~~ to the floor of the Chamber while the Senate is in session. The rear or east balcony of the ~~Senate~~ Chamber shall be reserved for guests of the members of the Senate, and admission thereto shall be by pass signed by the ~~President~~ presiding officer and the member seeking admission of the guest.

### LOBBYING

55. No person, not a member of the Senate, shall, ~~while within the Chamber~~ when the Senate is in session, seek in any manner whatsoever, including electronic communications, to influence the vote or opinion of any Senator on any subject of legislative consideration, under penalty of disbarment from the Chamber for the remainder of the legislative session. No employee of the Senate

shall, at any time, engage in such activity, under penalty of immediate dismissal by the Committee on Rules.

~~56. Repealed by S. R. 16, February 1, 1978.~~

## NOMINATIONS AND CONFIRMATIONS

~~57.~~ 56. Unless the Senate directs otherwise by ~~a vote of a~~ majority vote of the members present, when nominations shall be made in writing ~~by the Governor~~ to the Senate, a future day shall be assigned for taking them into consideration and the nominations shall be referred to the Committee on Confirmations.

When considering and acting on the nominations ~~of the Governor~~, the Senate shall be in open session. The voting on each nomination shall be by yeas and nays. The result of Senate action upon any nomination ~~by the Governor~~ shall be forthwith certified ~~to the Governor~~ in a formal communication signed by the President presiding officer and attested by the Clerk.

~~57a.~~ 57. The phrase “next meeting of the Senate” contained in ~~article seven, section nine~~ Article VII, Section 9 of the Constitution of West Virginia means any time the full Senate is convened and includes, but is not limited to, any regular session, any extraordinary session called during any recess or adjournment of the Legislature, during any impeachment proceeding or any time the Senate is convened ~~pursuant to section ten-a, article one, chapter four of the code of West Virginia~~ for the purpose of electing a presiding officer.

## CONSTITUTIONAL AMENDMENT

58. When an amendment to be proposed to the Constitution of West Virginia is under consideration, the ~~vote of a~~ majority vote of the members present shall be sufficient to decide an amendment thereto or any collateral or incidental questions. A proposed amendment to the Constitution of West Virginia, to be adopted, must shall be agreed to by a two-thirds vote of the members elected to the Senate.

## ADJOURNMENT

59. When the Senate adjourns each day, it shall stand adjourned to ~~2~~ 11 o'clock ~~P.M.~~ A.M. the next day, unless the Senate directs otherwise by ~~a vote of a~~ a majority vote of the members present, and every member shall keep his or her seat until the ~~President~~ presiding officer leaves the chair.

## AMENDING RULES

60. All propositions to amend these standing rules or any order of the Senate shall be by resolution and be at once referred, without debate, to the Committee on Rules and shall be reported therefrom within seven legislative days. Any such resolution may be adopted by a majority vote.

## SUSPENSION OF RULES OR ORDERS

61. ~~No~~ Unless there be unanimous consent, no standing rule or order of the Senate shall be suspended except by ~~a vote of two thirds~~ two-thirds vote of ~~all~~ the members ~~of the Senate~~ present.

## PARLIAMENTARY PROCEDURE

62. In all cases not provided for by the Rules of the Senate or any adopted Joint Rules of the Senate and House of Delegates, the Senate shall be governed by *Jefferson's Manual* and *Rules of the House of Representatives of the United States Congress* and practices thereunder.

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

On motion of Senator Unger, the following amendments to the resolution (S. R. No. 1) were reported by the Clerk, considered simultaneously, and adopted:

On page six, section fifteen-b, after the word “Jobs” by inserting the words “and Wages”;

On page six, section fifteen-b, after the words “and shall conform to the requirements as to form prescribed by the Clerk” by changing the period to a colon and inserting the following proviso: *Provided*, That the Clerk shall prescribe that all Jobs and Wages Impact Statements shall include an analysis of both the jobs that are projected to be gained or lost if the legislation is adopted and any wage impact associated with the projected job changes, including wage increases or decreases in existing jobs, wages of jobs lost, wages of new jobs and the net impact on wages.;

On page six, section fifteen-b, after the words “The phrase ‘Jobs’” by inserting the words “and Wages”;

On page six, section fifteen-b, by striking out “JS” and inserting in lieu thereof “JWS”;

And,

On page six, section fifteen-b, after the words “contain a ‘Jobs’” by inserting the words “and Wages”.

The question now being on the adoption of the resolution (S. R. No. 1), as amended, the same was put and prevailed.

At the request of Senator Carmichael, and by unanimous consent, the provisions of rule number fifty-four of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to permit the Senators to have members of their families as guests during today’s session.

Senator Carmichael then offered the following resolution:

**Senate Resolution No. 2**—Raising a committee to notify the House of Delegates the Senate has assembled and completed its organization.

*Resolved by the Senate:*

That a committee of three be appointed by the President to inform the House of Delegates that the Senate has assembled, with a quorum present, organized by the election of the Honorable William P. Cole III as President and Mr. Clark S. Barnes as Clerk, and is ready to proceed with the business of this regular session.

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

Whereupon, the President appointed as members of such committee, the following:

Senators Blair, Nohe and Williams.

Subsequently, Senator Blair reported that the committee had performed the duty assigned to it.

The first message this session from the House of Delegates, by

Delegates Deem, Storch and Rowe, announced that the House of Delegates has assembled, with a quorum present, organized by the election of the Honorable Tim Armstead as Speaker, and Mr. Stephen J. Harrison as Clerk, and is ready to proceed with the business of this first regular session of the eighty-second Legislature.

Senator Carmichael then offered the following resolution:

**Senate Resolution No. 3**—Raising a committee to inform the Governor that the Legislature is organized.

*Resolved by the Senate:*

That a committee of three on the part of the Senate, to join with a committee on the part of the House of Delegates, be appointed by the President to notify His Excellency, the Governor, that the



Legislature has assembled in regular session and organized by the election of officers as required by the Constitution and is ready, with a quorum of each house present, to proceed with the business of this session and to receive any communication or message he may desire to present.

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

Whereupon, the President appointed as members of such committee, the following:

Senators Sypolt, Walters and Plymale.

A message from the House of Delegates, by

Delegates Arvon, Hamrick and Hartman, announced that the Speaker had appointed them a committee of three to join with the similar committee on the part of the Senate under the provisions of Senate Resolution No. 3 to wait upon the Governor. Senate and House members of this select committee then proceeded to the executive offices.

Subsequently, Senator Sypolt reported that the joint Senate and House committee had performed the duty assigned to it.

Senator M. Hall offered the following resolution:

**Senate Resolution No. 4**—Relating to the mailing of bills and journals.

*Resolved by the Senate:*

That during the regular and any extraordinary session of the eighty-second Legislature the Clerk of the Senate is hereby authorized to have mailed from the Senate document room copies of

bills and daily journals of the Senate; the expenses of such mailing, including postage, to be paid out of the contingent fund of the Senate by the Auditor of West Virginia, in advance of the appropriation therefor, under requisition drawn by the Clerk of the Senate.

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

Senators Cole (Mr. President), M. Hall and Kessler offered the following resolution:

**Senate Concurrent Resolution No. 1**—Relating to the payment of bills for supplies, services and printing and authorized contingent and other expenses of the eighty-second Legislature.

*Resolved by the Legislature of West Virginia:*

That for the regular and any extraordinary session of the eighty-second Legislature, the Auditor of West Virginia, in advance of the appropriation for such purposes, is hereby authorized, upon proper requisition of the Clerk of the Senate and the Clerk of the House of Delegates, to pay bills for supplies and for services furnished to the Legislature preparatory to the beginning of, during and following the adjournment of sessions, including contingent expenses of the respective houses; the per diem of officers, other than the President of the Senate and the Speaker of the House of Delegates, and employees of the Senate and of the House of Delegates; travel expenses of members as authorized by law; bills for legislative printing as the accounts for same become due; and any other authorized contingent and other expenses of the Legislature or the respective houses.

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

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

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

Senator Cole (Mr. President) presented a communication from the Legislative Rule-Making Review Committee, submitting its annual report, in accordance with chapter twenty-nine-a, article three, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the sixth order of business.

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

**By Senators Cole (Mr. President), Boley, Carmichael, Ferns, Gaunch, D. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Trump, Walters, Blair, Plymale, Kirkendoll, Stollings and Takubo:**

**Senate Bill No. 1**—A Bill to repeal §24-2F-1, §24-2F-2, §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-8, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12 of the Code of West Virginia, 1931, as amended, all relating to the Alternative and Renewable Energy Portfolio Act.

Referred to the Committee on Energy, Industry and Mining.

**By Senators Gaunch, Carmichael, Ferns, Karnes, Maynard, Mullins, Nohe, Sypolt, Trump, Blair and Cole (Mr. President):**

**Senate Bill No. 2**—A Bill to repeal §55-7-13 and §55-7-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §55-7-13a, §55-7-

13b, §55-7-13c and §55-7-13d, all relating to predicating actions for damages upon principles of comparative fault; establishing comparative fault standard; abolishing joint liability and implementing several liability; establishing how to consider fault of nonparties; establishing how to consider fault of, and amounts paid by, settling parties; providing for use of special interrogatories; clarifying fault may be imputed to another person who was acting as an agent or servant of another; allowing assessment of a percentage of fault for failing to take reasonable precautionary measures that were available; precluding allocation of fault to a person such as a seller, distributor or installer on a strict product liability theory where that person did not contribute to the alleged defect; providing for burden of proof and limitations; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Leonhardt, Boley, Ferns, D. Hall, Karnes, Maynard, Nohe, Sypolt, Trump, Blair, Williams, Plymale, Kirkendoll, Stollings and Cole (Mr. President):**

**Senate Bill No. 3**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to liability of possessor of real property for harm to a trespasser.

Referred to the Committee on the Judiciary.

**By Senators Mullins, Boley, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Sypolt, Blair, Kirkendoll, Stollings and Cole (Mr. President):**

**Senate Bill No. 4**—A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended, relating to development of a state plan under Section 111(d) of the Clean Air Act; requiring the Department of Environmental Protection to study feasibility of a state plan; requiring the Department of Environmental Protection to submit report to the Legislature determining whether a state plan is feasible and, if so, recommending a proposed state plan to the Legislature; and requiring approval of the Legislature before any state plan is submitted to the United States Environmental Protection Agency.

Referred to the Committee on Energy, Industry and Mining.

**By Senators Nohe, Karnes, Sypolt, Trump, Walters, Blair, Plymale, Cole (Mr. President) and Takubo:**

**Senate Bill No. 5**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §18A-3-1d and §18A-3-1e; and to amend and reenact §18A-3-2a of said code, all relating to creating a teacher corps program; providing for teacher certificates; setting forth qualifications and conditions to be met; providing for recommendation for professional certification of teacher corps teachers; requiring evaluation reports; permitting state superintendent to issue teacher corps teaching certificate; and defining terms.

Referred to the Committee on Education.

**By Senators Ferns, Boley, Carmichael, Gaunch, Leonhardt, Mullins, Nohe, Trump, Blair, Plymale, Stollings, Cole (Mr. President) and Takubo:**

**Senate Bill No. 6**—A Bill to amend and reenact §55-7B-1, §55-7B-2, §55-7B-7, §55-7B-8, §55-7B-9, §55-7B-9a, §55-7B-9c and §55-7B-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §55-7B-7a and §55-7B-9d, all relating to medical professional liability; adding provisions to control the increase in the cost of liability insurance and to maintain access to affordable health care services for West Virginians; providing mechanism to increase the limitation on civil damages in medical malpractice cases to account for inflation by linking increases to the Consumer Price Index; requiring appellate courts to review de novo certain decisions made by circuit court judges; adding provisions limiting the admissibility and use of certain information; and requiring adjustment of verdicts for past medical expenses.

Referred to the Committee on the Judiciary.

**By Senators Stollings, Boley, Ferns, Gaunch, D. Hall, M. Hall, Walters, Blair, Plymale, Unger, Kirkendoll, Kessler, Facemire, Cole (Mr. President), Takubo and Williams:**

**Senate Bill No. 7**—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to required course of instruction in all public schools in West Virginia; and requiring instruction in cardiopulmonary resuscitation and care for conscious choking.

Referred to the Committee on Education.

**By Senators Blair, Boley, Carmichael, Ferns, Gaunch, Karnes, Leonhardt, Maynard, Nohe, Sypolt, Trump, Walters and Cole (Mr. President):**

**Senate Bill No. 8**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-6a, relating to auditing the Division of Highways.

Referred to the Committee on Government Organization.

**By Senators Stollings, Boley, Ferns, Gaunch, D. Hall, Karnes, Mullins, Nohe, Sypolt, Walters, Snyder, Trump, Blair, Williams, Kirkendoll, Kessler, Facemire, Palumbo, Cole (Mr. President) and Takubo:**

**Senate Bill No. 9**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-4C-24 and §16-4C-25; and to amend and reenact §30-1-7a of said code, all relating generally to administration of an opioid antagonist; allowing State Police, police, sheriffs and fire and emergency service personnel to possess naloxone or other approved opioid antagonist to administer in opioid drug overdoses; defining terms; providing for training; establishing training requirements for first responders who may administer opioid antagonists; establishing criteria under which a first responder may administer an opioid antagonist; granting immunity to health care providers who prescribe, dispense or distribute naloxone or other approved opioid antagonist related to a training program; granting immunity to initial responders who administer or fail to administer an opioid antagonist; providing for data gathering and reporting; allowing prescription for an opioid antagonist in certain circumstances; establishing responsibility of licensed prescribers; providing for patient, family

and caregiver education; requiring continuing education of licensed prescribers for administration of an opioid antagonist; and authorizing emergency and legislative rulemaking.

Referred to the Committee on Health and Human Resources.

**By Senators Trump, Boley, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Mullins, Nohe, Sypolt, Blair and Cole (Mr. President):**

**Senate Bill No. 10**—A Bill to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend said code by adding thereto a new section, designated §3-6-2a; to amend and reenact §50-1-1 of said code; to amend and reenact §51-2-1 of said code; and to amend and reenact §51-2A-5 of said code, all relating to requiring the election of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan and by division; providing for the timing and frequency of election; establishing ballot design and printing; requiring separation from partisan ballot; establishing filing announcement of candidacies; permitting the withdrawal of announcement of candidacies; refunding of paid filing fees; and establishing ballot content.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, M. Hall, Karnes, Blair, Sypolt and Cole (Mr. President):**

**Senate Bill No. 11**—A Bill to amend and reenact §23-4-2 of the Code of West Virginia, 1931, as amended, relating to disbursements from the Workers' Compensation Fund where injury is self inflicted or intentionally caused by employer and permitting recovery in private lawsuit; requiring trier of fact to find that alleged specific unsafe working condition in issue was a violation of a state or federal safety statute, rule or regulation, or of a commonly accepted and well-known safety standard within the industry or business of

the employer, that was intended to address the specific hazard(s) presented by the alleged specific unsafe work condition; requiring that trier of fact to also find that any governmental agency regulating safety practices or premises of an employer has confirmed in a written investigative report the existence of other specified facts that trier of fact must find; providing that actual knowledge requirement of safety statute, rule, regulation, or commonly accepted and well-known safety standard may not be presumed by its mere existence; and requiring that actual knowledge must be proven by employee or other person(s) entitled to recover in order that the employer's immunity from a lawsuit is lost.

Referred to the Committee on the Judiciary.

**By Senators Carmichael, Boley, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Mullins, Sypolt, Nohe, Trump, Blair and Cole (Mr. President):**

**Senate Bill No. 12**—A Bill to amend and reenact §21-5-4 of the Code of West Virginia, 1931, as amended, relating to payment of wages by employers and when final wages are required to be paid; requiring payment of wages to be by next regular payday; providing exception; providing that bonuses and fringe benefits are not covered; reducing amount of liquidated damages available; providing instance when liquidated damages are not available; clarifying that section does not address whether overtime pay is due; and authorizing payment by mail if requested by the employee.

Referred to the Committee on the Judiciary.

**By Senators Nohe, Boley, Ferns, D. Hall, Karnes, Maynard, Mullins, Sypolt, Trump, Blair, Williams and Cole (Mr. President):**

**Senate Bill No. 13**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to the liability of a possessor of real property for injuries caused by open and obvious hazards.



Referred to the Committee on the Judiciary.

**By Senators Sypolt, Walters, Blair, Cole (Mr. President) and Takubo:**

**Senate Bill No. 14**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, §18-33-8, §18-33-9, §18-33-10, §18-33-11, §18-33-12, §18-33-13, §18-33-14, §18-33-15 and §18-33-16, all relating to creating the West Virginia Public Charter Schools Act of 2015; providing purpose and intent; defining terms; establishing that charter schools are subject to certain requirements and exempt from certain requirements; providing for creation or conversion of charter schools; providing application process; providing approval for approval and denials of applications; providing for governing bodies and their duties; providing what charter school must do; providing for funding; providing for enrollment; providing for student transportation; requiring state superintendent to provide information on charter schools to the public; providing for school personnel policies; providing for termination of charter school; and providing for charter school evaluations.

Referred to the Committee on Education.

**By Senators Blair, Boley, Ferns, Gaunch, D. Hall, Karnes, Leonhardt, Maynard, Nohe, Sypolt, Trump, Walters and Cole (Mr. President):**

**Senate Bill No. 15**—A Bill to amend and reenact §4-2-1, §4-2-2, §4-2-4, §4-2-8 and §4-2-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §4-2-13, all relating to the Legislative Auditor; requiring that the Legislative Auditor conduct audits of all spending units, including members of the Board of Public Works and the Legislature, within at least two years of the effective date of this section, if practicable, but no later than four years from the effective date of this section, and thereafter on a regular basis; requiring public disclosure of any and all reviews performed pursuant to this

section; and permitting the Legislative Auditor to seek the assistance of the Attorney General's Office in performing the duties set forth within this section.

Referred to the Committee on Government Organization.

**By Senators Stollings, Facemire and Romano:**

**Senate Bill No. 16**—A Bill to amend and reenact §30-5-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-5-35, all relating to specialty drugs; defining “specialty drug”, “pharmacy benefits manager” and “pharmacy benefits management”; requiring State Board of Pharmacy to develop a list of specialty drugs; requiring pharmacy benefits managers to follow list developed by the Board of Pharmacy; providing certain pharmacies and pharmacists with the opportunity to dispense specialty drugs; and specifying reimbursement requirements for pharmacy benefits managers for specialty drugs.

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

**By Senators Stollings, Beach, Plymale, Kirkendoll, Facemire and Romano:**

**Senate Bill No. 17**—A Bill to amend and reenact §17F-1-3 of the Code of West Virginia, 1931, as amended, relating to authorization and regulation of unlicensed off-road motorcycles upon public streets, roads and highways by municipalities and counties within the Hatfield-McCoy Recreation Area.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

**By Senators Stollings, Laird, Plymale, Kirkendoll and Kessler:**

**Senate Bill No. 18**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2 and §16-46-3, all relating to creating the

Overdose Prevention Act; stating legislative findings; defining terms; providing immunity from citation, arrest or prosecution of certain offenses for certain persons who seek appropriate medical attention upon an overdose of drugs or alcohol; prohibiting seeking appropriate medical attention from constituting violation of condition of pretrial release, probation, furlough or parole; requiring certain action from persons seeking appropriate medical attention; providing that seeking medical attention is a mitigating factor at sentencing of any offense arising from request for medical attention; allowing persons to plead guilty to certain exempted offenses if desired; providing certain exceptions to immunity for evidence found from independent source; and providing immunity to law-enforcement officers who cite or arrest a person who receives immunity under this section unless the officer acted recklessly or intentionally.

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

**By Senator Plymale:**

**Senate Bill No. 19**—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to setting forth minimum days per week, number of instructional minutes per week and minimum instructional days per year for early childhood education programs.

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

**By Senator Stollings:**

**Senate Bill No. 20**—A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-4-19 of said code, all relating to removing limitations on billing patients for HIV and sexually transmitted disease (STD) testing done by state or local public health agencies; and clarifying provisions relating to performing HIV or STD tests on person accused of sexual offense.

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

**By Senators Beach, Blair and Leonhardt:**

**Senate Bill No. 21**—A Bill to amend and reenact §30-7-15a, §30-7-15b and §30-7-15c of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-15-7, §30-15-7a, §30-15-7b and §30-15-7c of said code, all relating to expanding prescriptive authority of advanced nurse practitioners and certified nurse-midwives; removing requirement for collaborative relationships with physicians; removing certain notifications; removing minimum requirements for certain legislative rules; and permitting certain fees to be set by rule.

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

**By Senator Beach:**

**Senate Bill No. 22**—A Bill to amend and reenact §30-7-3 of the Code of West Virginia, 1931, as amended, relating to increasing membership of the Board of Examiners for Registered Professional Nurses from five to ten members; providing that nine members be registered nurses and one member a public consumer; and setting forth qualifications of those nurses who may serve.

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

**By Senator Blair:**

**Senate Bill No. 23**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §60-6A-1 and §60-6A-2, all relating to requiring that bartenders be licensed by the Alcohol Beverage Control Commissioner.

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

**By Senators Blair, Gaunch and Sypolt:**

**Senate Bill No. 24**—A Bill to amend and reenact §6B-1-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6B-2-5 of said code, all relating to governmental ethics; prohibiting public officials and employees from using public funds for self promotion; prohibiting knowingly and intentionally placing the names or likenesses of public officials and employees on trinkets; prohibiting knowingly and intentionally placing the names or likenesses of public officials and employees on certain publically financed advertising during an election period; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Boley and Blair:**

**Senate Bill No. 25**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-1-5, relating to public school curricular standards and assessments; establishing a Legislative Common Core Study Committee to study issues relating to implementation of Common Core standards and assessments in West Virginia and report to the Governor and Legislature no later than six months after the final public hearing, or on or before the first day of the 2017 Regular Session of the Legislature, whichever comes first; requiring State Board of Education to undertake a study of fiscal costs associated with implementing Common Core standards and assessments and report to the Governor and Legislature on or before the first day of the 2017 Regular Session; placing two-year moratorium on implementation of Common Core assessments; prohibiting State Board of Education from sharing personally identifiable information of students or teachers except as provided; and providing definitions.

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

**By Senators D. Hall and Karnes:**

**Senate Bill No. 26**—A Bill to amend and reenact §20-2-23a of the Code of West Virginia, 1931, as amended, relating to discontinuing the moratorium on issuance of commercial rafting licenses on a section of the New River.

Referred to the Committee on Natural Resources.

**By Senator D. Hall:**

**Senate Bill No. 27**—A Bill to amend and reenact §7-5-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-15-11 of said code; to amend and reenact §22-16-4 of said code; and to amend and reenact §22C-4-30 of said code, all relating to county solid waste disposal fees generally; raising county solid waste assessment fee to 75 cents; and exempting from the fee solid waste that is transported by rail to solid waste disposal facility located in a county bordering another state.

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

**By Senator D. Hall:**

**Senate Bill No. 28**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7f; to amend said code by adding thereto a new section, designated §33-15-4l; to amend said code by adding thereto a new section, designated §33-16-3x; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8j; and to amend said code by adding thereto a new section, designated §33-25A-8l, all relating generally to requiring health insurance coverage for nonnarcotic pain relief systems, driven by an elastomeric pump that automatically and continuously delivers local anesthetic by way of a catheter for targeted pain relief, or other similar device or method, when determined to be medically suitable treatment for pain.

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

**By Senator D. Hall:**

**Senate Bill No. 29**—A Bill to amend and reenact §3-10-7 and §3-10-8 of the Code of West Virginia, 1931, as amended, all relating to elections for vacancies in county offices; and providing that a county employee may run for a vacant county office without giving up his or her current position.

Referred to the Committee on the Judiciary.

**By Senators D. Hall, Trump, Blair, Williams and Karnes:**

**Senate Bill No. 30**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-4e, relating to permitting the sale of raw milk; and authorizing rulemaking.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Health and Human Resources.

**By Senator D. Hall:**

**Senate Bill No. 31**—A Bill to amend and reenact §62-1C-14 of the Code of West Virginia, 1931, as amended, relating to bailpiece; and providing that surety shall be relieved of acting collateral on the case for which bailpiece was applied.

Referred to the Committee on the Judiciary.

**By Senator D. Hall:**

**Senate Bill No. 32**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating to property, casualty or surety insurance carriers; and requiring at least seventy-five percent of claims investigated and settled in West Virginia to be investigated and settled by resident West Virginia licensed adjuster.

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

**By Senator D. Hall:**

**Senate Bill No. 33**—A Bill to amend and reenact §18-5-18a of the Code of West Virginia, 1931, as amended, relating to limiting student-to-teacher ratio in preschool through twelfth grades; and adding additional pay to aides in classrooms over maximum class size.

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

**By Senators Nohe, Sypolt and Karnes:**

**Senate Bill No. 34**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating to exempting sales of precious metals from sales tax under certain conditions.

Referred to the Committee on Finance.

**By Senators Leonhardt and Karnes:**

**Senate Bill No. 35**—A Bill to amend and reenact §8-12-5a of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-6 and §61-7-6a of said code, all relating to exceptions to prohibitions against carrying one or more concealed deadly weapons and reciprocity agreements for licenses to carry concealed weapons; and providing that any law-abiding person twenty-one years of age or older may carry a concealed deadly weapon anywhere within the boundaries of the state, including on or within municipally owned or controlled buildings, recreation centers or properties, without first obtaining a license to carry concealed deadly weapons.

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

**By Senators Palumbo, Laird and Facemire:**

**Senate Bill No. 36**—A Bill to amend and reenact §61-7-14 of the Code of West Virginia, 1931, as amended, relating to correcting incorrect code reference resulting from recent amendment to said code requiring certain court personnel to complete certain handgun safety and training requirements before carrying a concealed handgun.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill No. 37**—A Bill to amend and reenact §55-10-1, §55-10-2, §55-10-3, §55-10-4, §55-10-5, §55-10-6, §55-10-7 and



§55-10-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-three new sections, designated §55-10-9, §55-10-10, §55-10-11, §55-10-12, §55-10-13, §55-10-14, §55-10-15, §55-10-16, §55-10-17, §55-10-18, §55-10-19, §55-10-20, §55-10-21, §55-10-22, §55-10-23, §55-10-24, §55-10-25, §55-10-26, §55-10-27, §55-10-28, §55-10-29, §55-10-30 and §55-10-31, all relating generally to arbitration; defining terms; defining notice under article; defining when article applies; proscribing effect of agreements to arbitrate and defining nonwaivable provisions; allowing for application for judicial relief under article; making agreement to arbitrate valid unless legal or equitable reason for revocation exists; providing for terms by which arbitration may continue if challenged; providing for process for motions to compel or stay arbitration; providing for provisional remedies to protect effectiveness of arbitration proceedings; providing process for initiation of arbitration; providing for consolidation of separate arbitration proceedings; providing for appointment of arbitrator and default process if not agreed by the parties; requiring neutrality of arbitrators; requiring disclosure by arbitrators of matters affecting impartiality; requiring majority of arbitrators to agree to exercise powers; providing immunity for arbitrators; requiring competency to testify; providing for attorneys' fees and costs for challenges from which arbitrators are immune; providing general process for arbitration; allowing parties to be represented by a lawyer in arbitrations; outlining procedure for witnesses, subpoenas, depositions and discovery in arbitrations; providing for judicial enforcement of preaward ruling by arbitrator; providing for record of an award and requirements for an award; allowing change of an award by arbitrator upon motion under certain conditions; providing that certain remedies and fees and costs of arbitration may be a part of arbitration award; allowing for confirmation by court of an award upon motion; providing process and grounds for vacating an award by a court; providing process and grounds for modification or correction of an award upon motion; providing that court shall enter a judgment upon confirmation of an award and may add reasonable attorneys' fees and costs; providing for jurisdiction over arbitration agreements by a court of this state; providing venue; providing that appeals may be

taken from orders related to arbitration proceedings; requiring uniform construction of act; providing that this act complies with the Electronic Signatures in Global and National Commerce Act; and providing effective date.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill No. 38**—A Bill to amend and reenact §55-7-24 of the Code of West Virginia, 1931, as amended, relating to apportionment of damages in causes of action involving tortious conduct; adopting several liability in tortious actions unless certain exceptions apply; increasing period for a motion for reallocation; removing certain limits on reallocation; and setting date after which accrual of a cause of action will use changes made to this section.

Referred to the Committee on the Judiciary.

**By Senator Beach:**

**Senate Bill No. 39**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1A-6, relating to closure and sale of Clements State Tree Nursery.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Beach and D. Hall:**

**Senate Bill No. 40**—A Bill to amend and reenact §20-2-5 and §20-2-6a of the Code of West Virginia, 1931, as amended, all relating to clarifying circumstances under which a person may possess certain firearms while afield engaging in outdoor recreational activities.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Beach:**

**Senate Bill No. 41**—A Bill to repeal §17-20-1 and §17-20-2 of the Code of West Virginia, 1931, as amended, relating to repealing the placing of memorial markers along highways and rights-of-way.

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

**By Senators Beach and Williams:**

**Senate Bill No. 42**—A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing restaurants, private clubs and wineries to sell alcohol at 10:00 a.m. on Sundays.

Referred to the Committee on the Judiciary.

**By Senator Palumbo:**

**Senate Bill No. 43**—A Bill to amend and reenact §55-2-21 of the Code of West Virginia, 1931, as amended, relating to tolling statute of limitations in certain cases; limiting circumstances within which statute of limitations is tolled for institution of third-party complaints associated with pending civil actions; and clarifying that this section does not limit the doctrine of equitable tolling or the discovery rule.

Referred to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill No. 44**—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Fairness in Competitive Bidding Act; and lowering threshold amount, from \$250,000 to \$100,000, for triggering a low bidder's duty to submit list of subcontractors on government contracts.

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

**By Senators Yost, Facemire and Romano:**

**Senate Bill No. 45**—A Bill to amend and reenact §11A-1-9 of the Code of West Virginia, 1931, as amended, relating to co-owner of real property becoming sole owner when he or she pays all of the property taxes on the real property for a minimum of five years.

Referred to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill No. 46**—A Bill to amend and reenact §18A-4-8b of the Code of West Virginia, 1931, as amended, relating to county boards of education; temporary reassignment of injured or ill service personnel under specified conditions; compensation and benefits; vacancies and job postings; and expiration of reassignments.

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

**By Senators Yost, Snyder, D. Hall, Laird, Facemire and Romano:**

**Senate Bill No. 47**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-5-19a, relating to providing a fifty-percent discount to members of the West Virginia National Guard and the West Virginia National Guard reserve for campground rental fees in state parks.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Yost, Facemire and Romano:**

**Senate Bill No. 48**—A Bill to amend and reenact §23-4-3b of the Code of West Virginia, 1931, as amended, relating to workers' compensation; and modifying the health care guidelines for reasonable and necessary medical treatment.

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

**By Senator Yost:**

**Senate Bill No. 49**—A Bill to amend and reenact §23-4-1g of the Code of West Virginia, 1931, as amended, relating to weighing of evidence; and providing for liberal weighing of the evidence during any part of workers' compensation claim.

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

**By Senators Yost, Facemire and Romano:**

**Senate Bill No. 50**—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to whom workers' compensation fund is disbursed; including rebuttable presumptions for certain injuries and diseases for firefighters, including members of volunteer fire departments; and allowing coverage to employees for occupational pneumoconiosis or other occupational disease for work performed out of state.

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

**By Senator Yost:**

**Senate Bill No. 51**—A Bill to amend and reenact §23-4-6a of the Code of West Virginia, 1931, as amended, relating to workers' compensation benefits; and providing an award for occupational pneumoconiosis when there is a finding of no measurable pulmonary impairment.

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

**By Senator Yost:**

**Senate Bill No. 52**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-5a; to amend and reenact §15-2-10 of said code; to amend said code by adding thereto a new section, designated §18-2-23b; and to amend and reenact §18B-5-4 of said code, all relating to

requiring all uniforms purchased by the state to be used or worn by employees of the state, including State Police officers, State Board of Education employees and employees of state institutions of higher education, to be manufactured in the United States; providing effective date; and removing outdated provision.

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

**By Senators Yost, D. Hall, Miller and Nohe:**

**Senate Bill No. 53**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting all military, National Guard and reserve income from state income taxes.

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

**By Senator Yost:**

**Senate Bill No. 54**—A Bill to amend and reenact §17-4-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-17-7, §17-17-16 and §17-17-17 of said code, all relating to certification requirements for applicators who paint state bridges.

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

**By Senator Yost:**

**Senate Bill No. 55**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3 and §5B-2I-4, all relating to creating the Keep Jobs in West Virginia Act; requiring all work performed for the state by contractors be performed in the United States; making legislative findings; permitting the state to seek damages and void contracts for work done outside the country; and providing exceptions.

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

**By Senator Yost:**

**Senate Bill No. 56**—A Bill to amend and reenact §23-1-1 of the Code of West Virginia, 1931, as amended, relating generally to workers' compensation; acknowledging that deficit crisis is over; recognizing that West Virginia's labor force is its greatest asset and resource; stating that injured workers should receive preeminent and efficient treatment; and stating that it is the intent of the Legislature that a rule of liberal construction based on any remedial basis of workers' compensation legislation shall be applied when deciding cases.

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

**By Senator Yost:**

**Senate Bill No. 57**—A Bill to amend and reenact §23-4-6 of the Code of West Virginia, 1931, as amended, relating to classification and criteria for disability benefits.

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

**By Senator Yost:**

**Senate Bill No. 58**—A Bill to amend and reenact §23-4-3 of the Code of West Virginia, 1931, as amended, relating generally to workers' compensation benefits; providing quick and efficient delivery of medical benefits to injured workers; providing for medical treatment that is reasonably and causally related to injury; ensuring that treating doctor's opinion is not superseded by guidelines; and allowing for diagnosis updates based on diagnostic testing that is consistent with legislative intent set forth in said code.

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

**By Senators Yost and Miller:**

**Senate Bill No. 59**—A Bill to amend and reenact §17C-4-1 of the Code of West Virginia, 1931, as amended, relating to crashes involving death or personal injuries; creating crime of knowingly leaving scene of a crash resulting in serious bodily injury; establishing presumption of knowledge based upon crash conditions; and providing criminal penalties of fine and imprisonment.

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

**By Senators Williams and Sypolt:**

**Senate Bill No. 60**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-6-25, relating to food handler examinations and cards; requiring accredited food safety certification program; requiring food handler card within thirty days of being hired; and establishing that cards are valid for three years and in all counties.

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

**By Senator Walters:**

**Senate Bill No. 61**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1F-10, relating to creating and funding establishment of facility that studies and creates solutions to separate individual chemicals out of water; and providing funding from Legislature's Tax Reduction and Federal Funding Increased Compliance Fund.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.



**By Senators Unger and Miller:**

**Senate Bill No. 62**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-36, relating to State Board of Education; requiring professional development opportunities for dyslexia and other reading disabilities; and requiring certain school personnel annually complete two hours of that training.

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

**By Senators Stollings and Kirkendoll:**

**Senate Bill No. 63**—A Bill to amend and reenact §29-26-2 of the Code of West Virginia, 1931, as amended, relating to modifying funding assistance from Courthouse Facilities Improvement Authority; and changing definition of facilities that are eligible for funding assistance from courthouse facilities that are occupied by county or judicial officials to ones that are currently owned and occupied by those officials or upon renovation will be owned and occupied by those officials.

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

**By Senators Stollings, Plymale and Kirkendoll:**

**Senate Bill No. 64**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2D-5d, relating to creating exemption from moratorium on skilled nursing beds for speciality skilled nursing beds; defining terms; and setting forth limitations.

Referred to the Committee on Health and Human Resources.

**By Senators M. Hall and Karnes:**

**Senate Bill No. 65**—A Bill to amend and reenact §51-2-1 of the Code of West Virginia, 1931, as amended, relating to authorizing an additional circuit court judge for the fifth judicial circuit consisting of Mason, Jackson, Roane and Calhoun counties.

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

**By Senator Stollings:**

**Senate Bill No. 66**—A Bill to amend and reenact §60A-3-301 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-3-301a, all relating to setting registration fees for manufacture, distribution, dispensing and conducting research of controlled substances; and providing certain boards with rule-making authority.

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

**By Senator Stollings:**

**Senate Bill No. 67**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto six new sections, designated §48-14-1101, §48-14-1102, §48-14-1103, §48-14-1104, §48-14-1105 and §48-14-1106, all relating to establishing a child support insurance match program that will assist the Bureau for Child Support Enforcement in determining whether a claimant has a child support obligation; requiring certain insurance companies to notify the bureau of nonrecurring insurance settlements; providing exemptions; setting forth additional information insurance companies must provide; setting forth the bureau's and the insurance companies' respective obligations; requiring health insurance companies to participate in data-matching program with the bureau to assist in determining availability of sources of health care insurance or coverage for beneficiaries of the child support program; setting forth what information is to be supplied by insurance companies and providing exceptions; exempting insurance companies from liability for providing requested information; granting the bureau enforcement responsibilities; establishing monetary penalties; and authorizing rulemaking.

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

**By Senators Unger, Laird, Miller and Kirkendoll:**

**Senate Bill No. 68**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4 and §16-46-5, all relating to the Healthy Children and Healthy Communities Act; providing short title; providing legislative findings and purpose; defining terms; permitting Bureau for Public Health to consult with Division of Highways and municipal governments; providing options and opportunities for development of healthy communities; encouraging physical activity and physical education; and requiring that governmental entities consider collaborative agreements and submit reports.

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

**By Senators Unger, Laird, Miller and Kirkendoll:**

**Senate Bill No. 69**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-36, relating to the State Board of Education; requiring county boards of education to screen for dyslexia and other reading disabilities; requiring the Department of Education to provide information on screening instruments; and providing for assessment and intervention.

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

**By Senators Williams and Sypolt:**

**Senate Bill No. 70**—A Bill to amend and reenact §51-2A-3 of the Code of West Virginia, 1931, as amended, relating to courts and their officers; family courts; and adding one family court judge to the twenty-third family court circuit.

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

**By Senators Williams, Beach, Laird and Miller:**

**Senate Bill No. 71**—A Bill to amend and reenact §3-6-4a of the Code of West Virginia, 1931, as amended, relating to elections; requiring write-in candidates for public office to pay filing fee for office sought; and providing for distribution of fee in same manner as other candidates.

Referred to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill No. 72**—A Bill to amend and reenact §22A-1A-1 of the Code of West Virginia, 1931, as amended, relating to employers' substance abuse screening policies and programs for safety-sensitive positions in mining operations; and providing for certificate suspension and revocation proceedings when certified individual is denied employment, withdraws application for employment, is discharged or resigns for violation of employer's substance abuse screening policy and program.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill No. 73**—A Bill to amend and reenact §18A-2-13 of the Code of West Virginia, 1931, as amended, relating to establishing cook-meal ratios for full-day and half-day cooks in schools.

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

**By Senator Yost:**

**Senate Bill No. 74**—A Bill to amend and reenact §23-4-1c of the Code of West Virginia, 1931, as amended, relating to workers' compensation; requiring covered employee to be paid maximum temporary total disability benefits for lost time without penalty to employee; and eliminating any offset to employers for employees who have a wage replacement plan.

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

**By Senators Yost, D. Hall, Miller, Facemire and Romano:**

**Senate Bill No. 75**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new section, designated §11-12-87; to amend and reenact §29-3-23 and §29-3-24 of said code; and to amend and reenact §61-3E-1 of said code, all relating to legalizing and regulating sale and use of fireworks; creating the West Virginia Veterans Program Fund; imposing ten-percent fee for sale of fireworks; and using proceeds of that fee to fund the Veterans Program Fund.

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

**By Senator Yost:**

**Senate Bill No. 76**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-29, relating to the creation of Equal Pay Coordinator within the Division of Personnel to ensure pay equity among state employees; making legislative findings; setting forth qualifications for position; providing powers and duties of coordinator; providing for development of strategic plan to ensure pay equity in state government; authorizing other agencies to share necessary information with coordinator; requiring reports; and providing rule-making authority.

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

**By Senator Yost:**

**Senate Bill No. 77**—A Bill to amend and reenact §20-2-42c of the Code of West Virginia, 1931, as amended, relating to allowing members of the West Virginia National Guard or its reserve to obtain free hunting and fishing licenses while serving in the West

Virginia National Guard or its reserve and, upon full retirement, licenses for life.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill No. 78**—A Bill to amend and reenact §48-23-601 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §48-23-602, all relating to compiling and making available nonidentifying social and medical histories of birth parents prior to an adoption.

Referred to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill No. 79**—A Bill to amend and reenact §20-2-42c of the Code of West Virginia, 1931, as amended, relating to allowing members of the West Virginia National Guard or its reserve to obtain Class C hunting and fishing licenses for a one-time fee while serving in the West Virginia National Guard or its reserve and all veterans of the armed forces with an honorable discharge or full retirement to obtain license for life upon full retirement or honorable discharge.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senator Yost:**

**Senate Bill No. 80**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-6A-1, §29-6A-2, §29-6A-3, §29-6A-4, §29-6A-5, §29-6A-6, §29-6A-7, §29-6A-8, §29-6A-9, §29-6A-10, §29-6A-11, §29-6A-12, §29-6A-13, §29-6A-14, §29-6A-15, §29-6A-16, §29-6A-17, §29-6A-18, §29-6A-19, §29-6A-20, §29-6A-21, §29-6A-22, §29-6A-23 and §29-6A-24, all relating to promoting orderly and constructive employment relations between the state and its

employees; increasing efficiency of the state; ensuring health and safety of citizens of this state; requiring state to recognize, negotiate and bargain with employee organizations representing state employees and to enter into written agreements evidencing result of bargaining; and encouraging labor peace through establishment of standards and procedures which protect the rights of the state, the state's employees and citizens of this state.

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

**By Senators Plymale and Beach:**

**Senate Bill No. 81**—A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to increasing penalty for illegally transporting Schedule I and II narcotic controlled substances into the state by making penalty a determinate sentence of not more than fifteen years; and exempting from coverage of statute certain methamphetamine precursors.

Referred to the Committee on the Judiciary.

**By Senators Plymale and D. Hall:**

**Senate Bill No. 82**—A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to requiring the West Virginia Secondary School Activities Commission to promulgate rules that allow college preparatory team to elect to be recognized as a member; and setting forth provisions rule shall include.

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

**By Senator Stollings:**

**Senate Bill No. 83**—A Bill to amend and reenact §30-6-8, §30-6-10 and §30-6-17 of the Code of West Virginia, 1931, as amended, all relating to funeral service and embalming licenses; modifying educational requirements; prohibiting funeral director

who is currently on probation or other disciplinary action from supervising an apprentice during period of disciplinary action; and extending certain time frames.

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

**By Senators Stollings and Plymale:**

**Senate Bill No. 84**—A Bill to amend and reenact §33-46-2 and §33-46-18 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §33-46-21, §33-46-22, §33-46-23 and §33-46-24, all relating to regulation of pharmacy benefits managers; defining terms; providing that pharmacy benefits managers conducting audits for public health programs are not exempt from pharmacy audit restrictions; imposing restrictions upon audits conducted by pharmacy benefits managers; providing internal review process applicable to disputed findings of pharmacy benefits manager upon audit; requiring pharmacy benefits managers to provide notice to purchasers, pharmacists and pharmacies of information relating to maximum allowable costs; and requiring pharmacy benefits managers to provide a process relating to the appropriate use of maximum allowable cost pricing.

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

**By Senators Yost, Beach, D. Hall, Laird, Facemire and Romano:**

**Senate Bill No. 85**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; and increasing adjustments to gross income for military, National Guard and reserve retirement income of resident individuals.

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



**By Senators Unger and Beach:**

**Senate Bill No. 86**—A Bill to amend and reenact §19-33-1 and §19-33-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-33-6, all relating to equine facilities; defining a term; establishing standards for equine boarding facilities and contracts; and requiring rulemaking for equine facilities.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill No. 87**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-13-1, §17A-13-2, §17A-13-3, §17A-13-4 and §17A-13-5, all relating generally to standards for conversion and retrofits of alternative-fuel motor vehicles; defining key terms for standards; setting forth conversion and retrofit standards for conversion of diesel and gasoline vehicles to alternative fuels; and setting forth training requirements for facilities converting and retrofitting vehicles to be capable of running on compressed natural gas.

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

**By Senators Stollings and Plymale:**

**Senate Bill No. 88**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5, §16-46-6, §16-46-7, §16-46-8 and §16-46-9, all relating to requiring background checks for individuals who have direct access to residents, members or beneficiaries of covered providers participating in the West Virginia Clearance for Access: Registry and Employment Screening program; defining terms; requiring the Secretary of the Department of Health and Human Resources to develop a plan and a program for conducting background checks; requiring centralized database to maintain criminal history record

information and results; establishing prescreening process conducted by covered providers; requiring applicants to provide fingerprints and undergo criminal background check; establishing procedures and criteria for obtaining and reviewing criminal history record information; establishing criteria for approving applicants as covered individuals; authorizing contractors and fees; creating special revenue account for administrative fees; providing for protests of the secretary's decisions and permitting variances; creating exceptions; authorizing legislative rules; providing monetary penalties; and providing civil and criminal immunity.

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

**By Senators Laird and Miller:**

**Senate Bill No. 89**—A Bill to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-4-6 of said code, all relating to providing that the salary of the Executive Director of the West Virginia Prosecuting Attorneys Institute shall be established by the executive council of the institute, with a minimum salary of \$70,000.

Referred to the Committee on Finance.

**By Senators Laird, Snyder, D. Hall, Unger, Facemire and Romano:**

**Senate Bill No. 90**—A Bill to amend and reenact §20-5-2 of the Code of West Virginia, 1931, as amended, relating to development of corporate sponsorships for state parks and recreational areas managed by the parks and recreation section.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Laird, Miller, Stollings, Facemire and Romano:**

**Senate Bill No. 91**—A Bill to amend and reenact §17B-3-3c and §17B-3-9 of the Code of West Virginia, 1931, as amended; and to

amend said code by adding thereto a new section, designated §17B-3-9a, all relating to creating amnesty program for certain persons with suspended licenses to allow reinstatement; establishing time period and certain procedures for amnesty program; creating exceptions to amnesty period; making certain technical corrections; requiring certain tickets amnestied remain listed as unsatisfied on court records; requiring certain suspension or revocation time remaining be waived in certain situations; requiring public awareness campaign regarding amnesty program; and providing for rule-making authority.

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

**By Senators Laird, Snyder, D. Hall, Sypolt, Plymale, Unger and Miller:**

**Senate Bill No. 92**—A Bill to amend and reenact §20-7-1a and §20-7-1c of the Code of West Virginia, 1931, as amended, all relating to providing increase in compensation for natural resources police officers.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Laird, Beach, D. Hall, Unger, Miller, Stollings, Facemire and Romano:**

**Senate Bill No. 93**—A Bill to amend and reenact §48-9-103 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-10-403 and §48-10-502 of said code, all relating to grandparent's rights; permitting grandparent or psychological parent to institute action for custodial or decision-making responsibility of a child; allowing guardian ad litem to recommend psychological evaluation; increasing importance of the factor considering grandparent's significant caretaking of the child; and minimizing parent's bias toward grandparent as a factor in visitation.

Referred to the Committee on the Judiciary.

**By Senators Laird, Miller, Stollings, Facemire and Romano:**

**Senate Bill No. 94**—A Bill to repeal §17B-3-3c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17B-3-14; and to amend and reenact §17B-4-3 of said code, all relating to suspension or revocation of driver's licenses; making legislative findings; establishing driver's license restoration program; waiving certain reinstatement requirements to restore driving privileges; reducing period for suspension upon receipt of notice of driving while suspended for offenses other than driving under the influence; and granting rule-making authority.

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

**By Senators Laird, Beach, Stollings, Facemire, Romano and Nohe:**

**Senate Bill No. 95**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j, relating to creating a West Virginia personal income tax modification reducing federal adjusted gross income for persons who choose to spay or neuter their dogs or cats.

Referred to the Committee on Finance.

**By Senator Laird:**

**Senate Bill No. 96**—A Bill to amend and reenact §29A-5-1 of the Code of West Virginia, 1931, as amended, relating to providing that hearing examiners conducting state agency administrative hearings be selected from a panel of five hearing examiners by a process in which the state agency first strikes two hearing examiners and the respondent subsequently strikes two hearing examiners; and making stylistic changes.

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

**By Senator Laird:**

**Senate Bill No. 97**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-8a, relating to air-ambulance fees paid by the West Virginia Public Employees Insurance Agency; and establishing maximum amount permitted to be collected.

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

**By Senator Carmichael:**

**Senate Bill No. 98**—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 and §11-28-6, all relating to creating the Tax Revenue Act of 2015; increasing taxes on tobacco, beer, wine and liquor; providing for assessment of business machinery and equipment to be assessed at salvage value; establishing special account for the increased revenue; providing that the first \$1 million received from increases be directed to the West Virginia Department of Agriculture to assist farmers with tobacco crop replacement programs; and permitting counties to make application for distribution of an amount equal to the 2014 revenue received by the county from personal property tax on business machinery and equipment.

Referred to the Committee on Finance.

**By Senators Carmichael, D. Hall and Blair:**

**Senate Bill No. 99**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-1B-1, §4-1B-2 and §4-1B-3; to amend said code by adding thereto a new section, designated §9-3-6; and to amend said code by adding thereto a new section, designated §21A-6-18, all relating to mandatory drug testing and treatment for members of the Legislature; and implementing random drug testing for recipients of federal, state, state assistance or unemployment compensation benefits.

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

**By Senators Carmichael, Blair and Mullins:**

**Senate Bill No. 100**—A Bill to amend and reenact §21-5A-5 of the Code of West Virginia, 1931, as amended, relating to establishing prevailing hourly rates are to be used in connection with construction of public improvements; and providing for review and appeal.

Referred to the Committee on the Judiciary.

**By Senators Carmichael and Gaunch:**

**Senate Bill No. 101**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to limiting amount of punitive damages recoverable in personal injury or wrongful death action.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill No. 102**—A Bill to amend and reenact §21-5-4 of the Code of West Virginia, 1931, as amended, relating to extending period that wages must be paid after termination.

Referred to the Committee on the Judiciary.

**By Senators Carmichael and Mullins:**

**Senate Bill No. 103**—A Bill to repeal §55-7-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §55-7-13a, §55-7-13b and §55-7-13c, all relating to comparative fault; abolishing joint liability; providing that damages be allocated to defendant held liable in direct proportion to that defendant's percentage of fault; providing for method of assessing fault of parties; providing exceptions; providing for severability; and defining terms.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill No. 104**—A Bill to amend and reenact §55-7-24 of the Code of West Virginia, 1931, as amended, relating to increasing threshold of defendant's liability in tort action involving more than one defendant, from thirty percent at fault or less to sixty percent at fault or less, to qualify for several liability and not joint and several liability.

Referred to the Committee on the Judiciary.

**By Senators Carmichael and Karnes:**

**Senate Bill No. 105**—A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to disqualification for unemployment benefits; and providing that an individual shall be disqualified for benefits for any week, or portion of a week, in which he or she did not work as a result of a strike.

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

**By Senator Carmichael:**

**Senate Bill No. 106**—A Bill to amend and reenact §16-13-18 of the Code of West Virginia, 1931, as amended, relating to supervision of works by a sanitary board; and providing that if a professional engineer is under contract for a project, an engineer is not required to serve on the sanitary board.

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

**By Senator Carmichael:**

**Senate Bill No. 107**—A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers of warranties with respect to goods which are the subject of or are intended to become the subject of a consumer transaction; prohibition against exclusion, modification or limitation of any warranty or remedy; waiver of warranty on used motor vehicle as to

particular defect or malfunction which dealer has disclosed; conditions permitting as-is sale of used motor vehicle; conspicuous disclosure of as-is sale; as-is sale does not waive express warranties made by dealer; and dealer to conform to federal regulations.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill No. 108**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-19-1, §55-19-2, §55-19-3, §55-19-4, §55-19-5, §55-19-6, §55-19-7, §55-19-8, §55-19-9, §55-19-10, §55-19-11 and §55-19-12, all relating to actions and suits; creating loser-pays civil justice system; providing for recovery of attorney's fees by prevailing party and applicability to causes of action and parties; procedure for recovery of attorney's fees; rebuttable presumption; election by plaintiff and defendant; revocation of election; dismissal or nonsuit of action; award of litigation costs; liability of attorney; and when this article controls over any other law relating to the award of attorney's fees or other costs of litigation in connection with civil action.

Referred to the Committee on the Judiciary.

**By Senators Blair and Leonhardt:**

**Senate Bill No. 109**—A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended, relating to exempting certain veterans' organizations and active duty United States military organizations from local health boards' rules restricting indoor smoking.

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

**By Senator D. Hall:**

**Senate Bill No. 110**—A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24,



§29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to regulation of fireworks; defining terms; setting forth State Fire Marshal's authority; requiring registration, certification or permit; establishing requirements for registration, certification and permit; establishing special revenue account; setting forth State Fire Marshal's rule-making authority; providing authority to investigate complaints; and providing criminal penalties.

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

**By Senator Plymale:**

**Senate Bill No. 111**—A Bill to amend and reenact §29-22A-10 and §29-22A-10b of the Code of West Virginia, 1931, as amended, all relating to allocation of certain amount of net terminal income from racetrack video lottery currently distributed to the Development Office Promotion Fund to the Cultural Facilities and Capitol Resources Matching Grant Program Fund; and making technical changes.

Referred to the Committee on Finance.

**By Senator Laird:**

**Senate Bill No. 112**—A Bill to amend and reenact §18B-19-6 and §18B-19-7 of the Code of West Virginia, 1931, as amended, all relating generally to higher education capital spending projects; requiring legislative rule be promulgated that establishes level of capital project of higher education institution, other than Marshall University and West Virginia University, before it must be approved; requiring rule to delineate between repair projects and new construction; requiring rule to provide for annual increases that are consistent with increases in consumer price index; and providing that institutions that have entered into construction contracts

averaging less than \$20 million over the most recent rolling five-year period and capital projects exceeding \$1 million for community and technical colleges be monitored instead of managed.

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

**By Senator Laird:**

**Senate Bill No. 113**—A Bill to amend and reenact §10-1-2 of the Code of West Virginia, 1931, as amended, relating to permitting counties to impose additional levy on property within the county for the sole purpose of funding public libraries.

Referred to the Committee on the Judiciary.

**By Senators Laird, D. Hall and Miller:**

**Senate Bill No. 114**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-14-3a, relating to requiring municipal law-enforcement officers to wear certain armor vests when feasible; and requiring municipal police chiefs to create policy regarding mandatory use of certain armor vests.

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

**By Senators Miller, Snyder and D. Hall:**

**Senate Bill No. 115**—A Bill to amend and reenact §25-1-11d of the Code of West Virginia, 1931, as amended, relating to providing a \$2,008 increase in the annual salary of employees of the Division of Corrections.

Referred to the Committee on Finance.

**By Senators Miller, Facemire and Romano:**

**Senate Bill No. 116**—A Bill to amend and reenact §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6 and §24-2F-10 of the Code of West

Virginia, 1931, as amended, all relating to alternative and renewable energy portfolio standards; defining terms; establishing standards for sale of electricity generated from solar renewable energy resources; providing for compliance assessments; creating system of tradable solar renewable energy resource credits; providing for awarding of solar renewable energy resource credits based upon electricity generated or purchased from solar renewable energy resource facilities; and establishing a distributed solar renewable energy requirement.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

**By Senators Miller, Palumbo, Beach, Plymale and Unger:**

**Senate Bill No. 117**—A Bill to amend and reenact §17C-5-2 and §17C-5-2b of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-5A-1, §17C-5A-2 and §17C-5A-3 of said code, all relating to making it a felony to drive a vehicle while under the influence of alcohol, controlled substance or other drug and cause death or serious bodily injury to another person; eliminating misdemeanor offense of driving a vehicle while under the influence of alcohol, controlled substance or other drug and causing death; amending internal code references; and establishing criminal and administrative penalties.

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

**By Senators Beach, D. Hall, Williams, Facemire and Romano:**

**Senate Bill No. 118**—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to permitting those individuals who have been issued concealed weapons permits to keep loaded firearms in their motor vehicles on the State Capitol Complex grounds if vehicles are locked and weapons are out of normal view.

Referred to the Committee on the Judiciary.

**By Senator Yost:**

**Senate Bill No. 119**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-15B-1, §8-15B-2, §8-15B-3, §8-15B-4 and §8-15B-5, all relating to meeting and conference rights for members of police or fire departments employed by political subdivisions; providing for right of these members to self organization; allowing designation of exclusive representative agent; imposing duty to meet and confer with employees; allowing deduction of employee organization dues and assessments; providing for compulsory arbitration of disputes; listing prohibited acts; allowing hearings before Civil Service Commission; providing judicial review; specifying powers and duties of Civil Service Commission; and allowing injunctive relief.

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

**By Senators Stollings and Plymale:**

**Senate Bill No. 120**—A Bill to repeal §9-2-1a, §9-2-6a, §9-2-9b, §9-2-9c and §9-2-12a of the Code of West Virginia, 1931, as amended; to repeal §9-4C-2, §9-4C-3, §9-4C-4, §9-4C-5, §9-4C-6, §9-4C-7, §9-4C-8, §9-4C-9, §9-4C-10 and §9-4C-11 of said code; to repeal §9-5-8a, §9-5-11a, §9-5-11b, §9-5-11c and §9-5-16a of said code; to repeal §9-6-7, §9-6-8, §9-6-9, §9-6-10, §9-6-11, §9-6-12, §9-6-13 and §9-6-14 of said code; to repeal §9-7-3a, §9-7-5a and §9-7-6a of said code; to amend and reenact §9-1-1 and §9-1-2 of said code; to amend said code by adding thereto two new sections, designated §9-1-3 and §9-1-4; to amend and reenact §9-2-1, §9-2-4, §9-2-5, §9-2-7, §9-2-8, §9-2-9, §9-2-10, §9-2-11 and §9-2-12 of said code; to amend said code by adding thereto three new sections, designated §9-2-13, §9-2-14 and §9-2-15; to amend and reenact §9-3-1, §9-3-2, §9-3-3, §9-3-4 and §9-3-5 of said code; to amend and reenact §9-4-1, §9-4-2, §9-4-3 and §9-4-4 of said code; to amend said code by adding thereto nine new sections, designated §9-4-5, §9-4-6, §9-4-7, §9-4-8, §9-4-9, §9-4-10, §9-4-11, §9-4-12 and §9-4-13; to amend and reenact §9-4A-1, §9-4A-2 and §9-4A-4 of said code; to amend said code by adding thereto two new

sections, designated §9-4A-3 and §9-4A-5; to amend and reenact §9-4B-1, §9-4B-2, §9-4B-3, §9-4B-4 and §9-4B-7 of said code; to amend said code by adding thereto three new sections, designated §9-4B-5, §9-4B-6 and §9-4B-8; to amend and reenact §9-4C-1 of said code; to amend and reenact §9-4D-1, §9-4D-2, §9-4D-3, §9-4D-4, §9-4D-5, §9-4D-6, §9-4D-7, §9-4D-8 and §9-4D-9 of said code; to amend said code by adding thereto a new section, designated §9-4D-10; to amend and reenact §9-4E-1, §9-4E-2 and §9-4E-3 of said code; to amend said code by adding thereto nine new sections, designated §9-4E-4, §9-4E-5, §9-4E-6, §9-4E-7, §9-4E-8, §9-4E-9, §9-4E-10, §9-4E-11 and §9-4E-12; to amend and reenact §9-5-1, §9-5-2, §9-5-3, §9-5-4, §9-5-5, §9-5-6, §9-5-7, §9-5-8, §9-5-9, §9-5-10, §9-5-11, §9-5-12, §9-5-13, §9-5-14, §9-5-15, §9-5-16, §9-5-17, §9-5-18, §9-5-19, §9-5-20 and §9-5-21 of said code; to amend said code by adding thereto a new section, designated §9-5-24; to amend and reenact §9-6-1, §9-6-2, §9-6-3, §9-6-4, §9-6-5 and §9-6-6 of said code; to amend and reenact §9-7-1, §9-7-2, §9-7-3, §9-7-4, §9-7-5, §9-7-6, §9-7-7, §9-7-8 and §9-7-9 of said code; and to amend said code by adding thereto seven new sections, designated §9-7-10, §9-7-11, §9-7-12, §9-7-13, §9-7-14, §9-7-15 and §9-7-16, all relating to the Department of Health and Human Resources.

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

**By Senators Snyder, Miller, Williams, Facemire and Romano:**

**Senate Bill No. 121**—A Bill to amend and reenact §19-21A-4a of the Code of West Virginia, 1931, as amended, relating to administration of the West Virginia Conservation Agency programs; providing that conservation district supervisors have their applications to participate in West Virginia Conservation Agency financial assistance programs evaluated and approved or rejected by the West Virginia Conservation Agency; prohibiting conservation district supervisor from voting for authorization, approval or ratification of a contract in which he or she or an

immediate family member is beneficially interested; and requiring the State Conservation Committee to propose rules for legislative approval.

Referred to the Committee on Natural Resources; and then to the Committee on Government Organization.

**By Senators Snyder, Facemire and Romano:**

**Senate Bill No. 122**—A Bill to amend and reenact §5A-3-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6-13-1 of said code, all relating to disabled veteran's preference eligibility in hiring for state civil service jobs; resident vendor bidding on state contracts; and redefining "disabled veteran" to meet federal definition.

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

**By Senators Snyder, Blair and Romano:**

**Senate Bill No. 123**—A Bill to amend and reenact §47-11A-8 of the Code of West Virginia, 1931, as amended, relating to unfair trade practices; and adding motor fuel to the list of products exempted from unfair trade practices.

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

**By Senator Snyder:**

**Senate Bill No. 124**—A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to redistributing an existing excise tax paid upon transfer of real property so that tax is paid to the county where the property is situate instead of to the state; providing this be accomplished incrementally over five-year period; requiring counties to dedicate excise tax to support regional jails; and making stylistic changes.

Referred to the Committee on Finance.

**By Senators Kessler, Beach and Snyder:**

**Senate Bill No. 125**—A Bill to amend and reenact §5-11-2, §5-11-3, §5-11-4, §5-11-8, §5-11-9 and §5-11-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5-11A-3, §5-11A-5, §5-11A-6 and §5-11A-7 of said code, all relating to unlawful discriminatory practices; prohibiting discrimination based upon age or sexual orientation; and defining “sexual orientation”.

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

**By Senator Beach:**

**Senate Bill No. 126**—A Bill to repeal §30-21-7a, §30-21-7b, §30-21-7c, §30-21-7d, §30-21-7e, §30-21-8a and §30-21-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-21-1, §30-21-2, §30-21-3, §30-21-4, §30-21-5, §30-21-6, §30-21-7, §30-21-8, §30-21-9, §30-21-10, §30-21-11, §30-21-12, §30-21-13, §30-21-14 and §30-21-17 of said code; and to amend said code by adding thereto twelve new sections, designated §30-21-16, §30-21-18, §30-21-19, §30-21-20, §30-21-21, §30-21-22, §30-21-23, §30-21-24, §30-21-25, §30-21-26, §30-21-27 and §30-21-28, all relating to the practice of psychology; prohibiting practice of psychology without a license; providing other applicable sections; defining terms; continuing and renaming board; providing for board composition, appointments, qualifications, terms of office, filling of vacancies and holding meetings; providing for compensation and reimbursement for board members; setting forth powers and duties of the board; clarifying rule-making authority; continuing special revenue account; establishing license and certification requirements; setting forth scopes of practices; providing for licensure for persons licensed in another state; establishing renewal requirements; establishing delinquent, expired and inactive license requirements; providing temporary permit requirements; requiring license to be displayed; providing for privileged communications and exceptions; providing board may issue notices to cease and desist; providing that circuit courts may issue injunctions; setting forth grounds for disciplinary actions;

allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; and providing for criminal penalties.

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

**By Senator Carmichael:**

**Senate Bill No. 127**—A Bill to amend and reenact §11-10-14a of the Code of West Virginia, 1931, as amended, relating to including on the state personal income tax return a checkoff option to donate some or all of any tax refund to the Cedar Lakes Foundation Checkoff Program.

Referred to the Committee on Finance.

**By Senator Yost:**

**Senate Bill No. 128**—A Bill to amend and reenact §61-8A-1, §61-8A-2, §61-8A-3, §61-8A-4 and §61-8A-5 of the Code of West Virginia, 1931, as amended, all relating generally to prohibition on preparation, distribution or exhibition of harmful matter to minors; revising definition of “obscene matter” to contain specific matter that is harmful to minors; and revising article to reflect definition change.

Referred to the Committee on the Judiciary.

**By Senators Carmichael, Gaunch, Blair, Leonhardt, Karnes and Mullins:**

**Senate Bill No. 129**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §51-1B-1, §51-1B-2, §51-1B-3, §51-1B-4, §51-1B-5, §51-1B-6, §51-1B-7, §51-1B-8, §51-1B-9 and §51-1B-10, all relating to authorizing a new court to be known as the Intermediate Court of Appeals; setting forth who may serve on court and how judges are



selected; providing that judges may not receive additional compensation; setting forth court's jurisdictional authority; providing that Supreme Court of Appeals controls its pleading, practice, procedure, scheduling of terms and adjournment; authorizing hiring of a clerk of the court and other employees; setting forth duties of clerk; providing that court's budget be part of Supreme Court of Appeals' budget; and permitting appeals to Supreme Court of Appeals.

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

**By Senators Miller and Beach:**

**Senate Bill No. 130**—A Bill to amend and reenact §11-13Z-1 and §11-13Z-3 of the Code of West Virginia, 1931, as amended, all relating to residential solar energy tax credits; applying credit to residential installation of solar energy system or systems; and extending tax credit until July 1, 2022.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

**By Senators Miller, Snyder, Romano and Facemire:**

**Senate Bill No. 131**—A Bill to amend and reenact §29-21-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-6-2 of said code, all relating to compensation and expenses for attorneys appointed by circuit courts in child abuse and neglect proceedings.

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

**By Senators Miller and Beach:**

**Senate Bill No. 132**—A Bill to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating to requirements for employment of nurses in public schools; changing student-school nurse staffing ratio; expanding its coverage to all

grades; and eliminating county's ability to obtain contract services for nursing.

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

**By Senators Miller, Romano and Facemire:**

**Senate Bill No. 133**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9A-4, relating to funding of civil legal services to low-income persons.

Referred to the Committee on Finance.

**By Senator M. Hall:**

**Senate Bill No. 134**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §55A-1-1, §55A-1-2, §55A-1-3, §55A-1-4, §55A-2-1, §55A-2-2, §55A-2-3, §55A-2-4, §55A-2-5, §55A-2-6, §55A-2-7, §55A-2-8, §55A-2-9, §55A-3-1, §55A-3-2, §55A-4-1, §55A-4-2, §55A-4-3, §55A-4-4, §55A-4-5, §55A-4-6, §55A-5-1, §55A-5-2, §55A-5-3, §55A-5-4, §55A-5-5, §55A-5-6, §55A-5-7, §55A-5-8, §55A-6-1, §55A-6-2, §55A-6-3, §55A-6-4, §55A-6-5, §55A-7-1, §55A-7-2, §55A-7-3, §55A-7-4, §55A-7-5, §55A-7-6, §55A-7-7, §55A-7-8, §55A-8-1, §55A-8-2, §55A-9-1, §55A-9-2, §55A-10-1, §55A-10-2, §55A-10-3, §55A-11-1, §55A-11-2, §55A-11-3, §55A-11-4, §55A-11-5, §55A-11-6, §55A-11-7, §55A-11-8, §55A-11-9, §55A-11-10, §55A-11-11, §55A-11-12, §55A-12-1, §55A-12-2, §55A-12-3, §55A-12-4, §55A-12-5 and §55A-12-6, all relating to reforming the civil justice system; limiting amount of recoverable damages; authorizing a new court to be known as the Intermediate Court of Appeals; requiring court to be operational by January 1, 2017; establishing northern and southern districts; providing three judges for each district; providing short title; stating legislative findings; excepting certain actions; defining terms; establishing qualifications for judges; establishing jurisdiction of court; providing for review; providing that Supreme Court will either keep the appeal

or transfer it to Intermediate Court; providing that appeals in certain administrative cases are discretionary; authorizing appeals from Intermediate Court to the Supreme Court; authorizing Governor to make initial appointments by July 1, 2016; creating staggered terms; providing for elections for ten-year terms after initial appointments; authorizing a Chief Judge of the Intermediate Court; authorizing staff for court and judges; providing for compensation and expenses of judges and staff; providing for temporary assignment of circuit court judges; authorizing Supreme Court to provide facilities, furniture, fixtures and equipment for Intermediate Court; establishing precedential effect of Intermediate Court orders and decisions; providing that budget of Intermediate Court will be part of Supreme Court budget; prohibiting medical monitoring relief absent manifest present injury or disease caused by defendant; providing for venue reform; relating to application of doctrine of forum non conveniens when civil actions have both resident and nonresident plaintiff; providing for parties to make a motion that a case would more properly be heard in a forum outside this state; providing for statute of limitations expiring in alternative forum while claim is pending in this state; providing for proper dismissal of an action for forum non conveniens purposes; providing for application to class representatives; requiring courts granting motions to stay or dismissal actions for forum non conveniens purposes to set forth specific findings of fact and conclusions of law; providing standards to determine competency of expert witnesses; providing standards for opinion testimony by lay witnesses; providing standards of admission for expert witness testimony; requiring basis for expert witness testimony; barring certain types of expert witness testimony; mandating pretrial hearings and disclosures of expert testimony; providing for interpretation of competency of expert witnesses; establishing standard of review; establishing when punitive damages may be recovered; providing maximum amounts which may be awarded on multiple punitive damages awards for same course of conduct; providing for bifurcation of a civil action in which punitive damages are sought when requested by defendant; stating conditions under which punitive damages may be assessed against a principal or employer

for an act of an agent or employee and against an association, limited liability entity or partnership for the acts of a member or partner; predicating actions for damages upon principles of comparative fault; establishing comparative fault standard; abolishing joint liability and implementing several liability; establishing how to consider fault of nonparties; establishing how to consider fault of, and amounts paid by, settling parties; providing for use of special interrogatories; clarifying fault may be imputed to another person who was acting as an agent or servant of another; allowing assessment of a percentage of fault for failing to take reasonable precautionary measures that were available; precluding allocation of fault to a person such as a seller, distributor or installer on a strict product liability theory where that person did not contribute to alleged defect; providing for burden of proof and limitations; providing for immunity of premises owners from civil liability in certain circumstances; reducing damage awards by collateral source payments; providing how damage reductions shall be determined; stating effects of such determinations upon trial; providing losers-pay provision; providing statute of repose; establishing general eighteen-year warranty for products' liability actions and an exception for cases where there is an express warranty for more than eighteen years; providing that noneconomic damages are recoverable in actions where damages were authorized at the time this bill became law; providing maximum amounts that may be recovered for noneconomic losses based on physical injury and nonphysical injury; providing for costs by nonprevailing party; establishing procedure for recovery of attorney's fees; providing courts may take judicial notice of the usual and customary attorney's fees; providing for liability of attorneys; providing for applicability of other law; requiring the West Virginia Supreme Court adopt rules to implement this chapter; providing for repeal of conflicting laws; providing for applicability and severability of this chapter; clarifying no additional cause of action is created by this chapter; and providing this chapter becomes effective immediately upon passage by the Legislature and approval by the Governor.

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

**By Senators Miller and Williams:**

**Senate Bill No. 135**—A Bill to amend the Code of West Virginia, 1931, as amended, 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, §5B-2I-8, §5B-2I-9, §5B-2I-10, §5B-2I-11 and §5B-2I-12, all relating to the Creative Communities Development Pilot Program; providing legislative findings and intent; creating the Creative Communities Development Fund; establishing Creative Communities Development Board; providing requirements for applications for use of matching funds from Creative Communities Development Fund; providing for review of applications by West Virginia Development Office; establishing that Creative Communities Development Board shall have authority to approve matching grants from Creative Communities Development Fund; establishing matching requirements from applicants; establishing eligible expenditures; defining parameters of agreement between West Virginia Development Office and a community for use of grant funds; providing for review and audit of expenditures by West Virginia Development Office; and providing for review of Creative Communities Development Pilot Program.

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

**By Senators Plymale and Beach:**

**Senate Bill No. 136**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-11-5a; to amend said code by adding thereto a new section, designated §8-21-10a; to amend and reenact §19-25-3 of said code; and to amend said code by adding thereto a new section, designated §20-5-3a, all relating to limiting liability of the section of Parks and Recreation of the Division of Natural Resources, county parks and recreation commissions, boards of parks and recreation commissioners, any officer or agent of a nonprofit state park of forest foundation and owners of land used for public parks and recreation purposes under an agreement with any of the foregoing entities.

Referred to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill No. 137**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-6D-7, relating to exempting the Higher Education Policy Commission, the Council for Community and Technical College System of West Virginia and their institutions from the West Virginia Enterprise Resource Planning Board.

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

**By Senators Williams, Beach, Snyder, D. Hall and Sypolt:**

**Senate Bill No. 138**—A Bill to amend and reenact §20-2-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3B-1 of said code, all relating to posting of property to prohibit hunting or trespassing; and allowing posting by certain clearly visible paint markings.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Palumbo, Kessler and Beach:**

**Senate Bill No. 139**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-5-7, relating to prohibiting impersonation of a member, staff or person under direction of the Commission on Special Investigations; creating misdemeanor offense; and establishing penalties.

Referred to the Committee on the Judiciary.

**By Senators Snyder, Romano and Facemire:**

**Senate Bill No. 140**—A Bill to repeal §29A-2-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §29A-1-2 of said code; to amend said code by adding thereto two new sections, designated §29A-1-3a and §29A-1-3b; and to amend and

reenact §29A-3-1a, §29A-3-4, §29A-3-8, §29A-3-13 and §29A-3-15 of said code, all relating generally to the State Administrative Procedures Act; defining “legislative exempt rule”; providing certain technical amendments; providing for nullification and voiding of rules; setting forth requirements for amendments to existing rules, proposed new rules and repeal of existing rules; establishing filing and adoption requirements for legislative exempt rules; making legislative rules effective upon filing; requiring agency to provide a list of interested parties with emergency rules; and changing the number of copies required when filing an emergency rule.

Referred to the Committee on the Judiciary.

[CLERK’S NOTE: Senate Bill No. 141 through Senate Bill No. 229 are recommended for introduction by the Legislative Rule-Making Review Committee and sponsored by Senator Snyder, Cochair.]

**By Senator Snyder:**

**Senate Bill No. 141**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to state-owned vehicles.

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

**By Senator Snyder:**

**Senate Bill No. 142**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to the Purchasing Division.

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

**By Senator Snyder:**

**Senate Bill No. 143**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to the state plan for the operation of the West Virginia State Agency for Surplus Property.

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

**By Senator Snyder:**

**Senate Bill No. 144**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and employer error interest factors.

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

**By Senator Snyder:**

**Senate Bill No. 145**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Deputy Sheriffs Retirement System.

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

**By Senator Snyder:**

**Senate Bill No. 146**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to defining the terms used in all hunting and trapping rules.



Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 147**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to hunting, trapping and fishing license and stamp fees.

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

**By Senator Snyder:**

**Senate Bill No. 148**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 149**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to lifetime hunting, trapping and fishing licenses.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 150**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to wildlife damage control agents.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 151**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to special boating.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 152**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 153**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to the Amusement Rides and Amusement Attractions Safety Act.

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

**By Senator Snyder:**

**Senate Bill No. 154**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to child labor.

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

**By Senator Snyder:**

**Senate Bill No. 155**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to the supervision of plumbing work.

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

**By Senator Snyder:**

**Senate Bill No. 156**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to verifying the legal employment status of workers.

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

**By Senator Snyder:**

**Senate Bill No. 157**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to the regulation of heating, venting and cooling work.

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

**By Senator Snyder:**

**Senate Bill No. 158**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to weights and measures calibration fees.

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

**By Senator Snyder:**

**Senate Bill No. 159**—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Forestry to promulgate a legislative rule relating to ginseng.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 160**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the awarding of WV Stream Partners Program grants.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 161**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the hazardous waste management system.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 162**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 163**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 164**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 165**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to waste management.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 166**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the WV/NPDES rule for coal mining facilities.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 167**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 168**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 169**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements for operating permits.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 170**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Miners' Health, Safety and Training to

promulgate a legislative rule relating to the safety of those employed in and around quarries in West Virginia.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 171**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to chronic pain management clinic licensure.

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

**By Senator Snyder:**

**Senate Bill No. 172**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the Fatality and Mortality Review Team.

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

**By Senator Snyder:**

**Senate Bill No. 173**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication administration and performance of health maintenance tasks by approved medication assistive personnel.

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

**By Senator Snyder:**

**Senate Bill No. 174**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the nurse aid abuse and neglect registry.

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

**By Senator Snyder:**

**Senate Bill No. 175**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems.

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

**By Senator Snyder:**

**Senate Bill No. 176**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to nursing home licensure.

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

**By Senator Snyder:**

**Senate Bill No. 177**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the statewide trauma/emergency care system.

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



**By Senator Snyder:**

**Senate Bill No. 178**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Family Protection Services Board to promulgate a legislative rule relating to domestic violence program licensure standards.

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

**By Senator Snyder:**

**Senate Bill No. 179**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Family Protection Services Board to promulgate a legislative rule relating to the Monitored Parenting and Exchange Program certification.

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

**By Senator Snyder:**

**Senate Bill No. 180**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Family Protection Services Board to promulgate a legislative rule relating to the operation of the board.

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

**By Senator Snyder:**

**Senate Bill No. 181**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Family Protection Services Board to promulgate a legislative rule relating to perpetrator intervention programs licensure for correctional institutions.

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

**By Senator Snyder:**

**Senate Bill No. 182**—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Police to promulgate a legislative rule relating to the regulations and procedures pertaining to the West Virginia DNA databank.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 183**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Technology to promulgate a legislative rule relating to the procedures for sanitization, retirement and disposition of information technology equipment.

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

**By Senator Snyder:**

**Senate Bill No. 184**—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to promulgate a legislative rule relating to volunteer firefighters' training, equipment and operating standards.

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

**By Senator Snyder:**

**Senate Bill No. 185**—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Marshal to promulgate a legislative rule relating to supervision of fire protection work.

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

**By Senator Snyder:**

**Senate Bill No. 186**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Tax Department to promulgate a legislative rule relating to the appointment of special assessors by the State Tax Commissioner.

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

**By Senator Snyder:**

**Senate Bill No. 187**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing.

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

**By Senator Snyder:**

**Senate Bill No. 188**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to recognizing annuity mortality tables for use in determining reserve liabilities for annuities.

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

**By Senator Snyder:**

**Senate Bill No. 189**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating to annuity disclosure.

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

**By Senator Snyder:**

**Senate Bill No. 190**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 191**—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to private club licensing.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 192**—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to the examination and issuance of driver's licenses.

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

**By Senator Snyder:**

**Senate Bill No. 193**—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Administrative Hearings to promulgate a legislative rule relating to appeal procedures.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 194**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating

to authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement training and certification standards.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 195**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Conservation Committee to promulgate a legislative rule relating to financial assistance programs.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 196**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to the requirements for registration and renewal of appraisal management companies.

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

**By Senator Snyder:**

**Senate Bill No. 197**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures; continuing education; and physician assistants.

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

**By Senator Snyder:**

**Senate Bill No. 198**—A Bill to amend and reenact article 9,

chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Enterprise Resource Planning Board to promulgate a legislative rule relating to the enterprise resource planning system user fee.

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

**By Senator Snyder:**

**Senate Bill No. 199**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice for professional engineers.

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

**By Senator Snyder:**

**Senate Bill No. 200**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapists and physical therapist assistants.

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

**By Senator Snyder:**

**Senate Bill No. 201**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Osteopathy to promulgate a legislative rule relating to fees for services rendered by the board.

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

**By Senator Snyder:**

**Senate Bill No. 202**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants.

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

**By Senator Snyder:**

**Senate Bill No. 203**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to immunizations administered by pharmacists.

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

**By Senator Snyder:**

**Senate Bill No. 204**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the registration of pharmacy technicians.

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

**By Senator Snyder:**

**Senate Bill No. 205**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to controlled substances monitoring.

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

**By Senator Snyder:**

**Senate Bill No. 206**—A Bill to amend and reenact article 9,

chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the formation and approval of professional limited liability companies.

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

**By Senator Snyder:**

**Senate Bill No. 207**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the board.

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

**By Senator Snyder:**

**Senate Bill No. 208**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Dental Examiners to promulgate a legislative rule relating to dental recovery networks.

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

**By Senator Snyder:**

**Senate Bill No. 209**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Dental Examiners to promulgate a legislative rule relating to the formation and approval of dental corporations and dental practice ownership.

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



**By Senator Snyder:**

**Senate Bill No. 210**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to frozen desserts and imitation frozen desserts.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 211**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 212**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 213**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the fee structure for the Pesticide Control Act of 1990.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 214**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Plant Pest Act.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 215**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the inspection of meat and poultry.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 216**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Spay Neuter Assistance Program.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 217**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to livestock care standards.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 218**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to equine rescue facilities.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 219**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to the Rural Rehabilitation Loan Program.

Referred to the Committee on Agriculture and Rural Development; then to the Committee on Finance; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 220**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to aquaculture importation.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 221**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 222**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to dangerous wild animals.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 223**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and the practice of pharmacy.

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

**By Senator Snyder:**

**Senate Bill No. 224**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to the procedures for recount of election results.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 225**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to the standards and guidelines for electronic notarization.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 226**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating

to authorizing the Secretary of State to promulgate a legislative rule relating to notaries public.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 227**—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to a schedule of fees for notaries public.

Referred to the Committee on the Judiciary.

**By Senator Snyder:**

**Senate Bill No. 228**—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Family Protection Services Board to promulgate a legislative rule relating to perpetrator intervention programs licensure.

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

**By Senator Snyder:**

**Senate Bill No. 229**—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick and annual leave.

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

[CLERK'S NOTE: Senate Bill No. 141 through Senate Bill No. 229 are recommended for introduction by the Legislative Rule-Making Review Committee and sponsored by Senator Snyder, Cochair.]

**By Senators Stollings, Laird, Cole (Mr. President), Kirkendoll, Miller, Palumbo, Plymale, Prezioso, Walters, Yost, Boley, M. Hall and Unger:**

**Senate Bill No. 230**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1 and §16-46-2, all relating to creating the Overdose Prevention Act; defining terms; providing immunity from citation, arrest or prosecution of certain offenses for certain persons who seek appropriate medical attention upon an overdose of drugs or alcohol; prohibiting seeking appropriate medical attention from constituting a violation of a condition of pretrial release, probation, furlough or parole; requiring certain action from persons seeking appropriate medical attention; providing that seeking medical attention is a mitigating factor at sentencing of any offense arising from the request for medical attention; allowing persons to plead guilty to certain exempted offenses if desired; providing certain exceptions to immunity for evidence found from an independent source; and providing immunity to law-enforcement officers who cite or arrest a person who receives immunity unless the officer acted recklessly or with intentional misconduct.

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

**By Senators Stollings, Laird, Cole (Mr. President), Kirkendoll, Miller, Palumbo, Plymale, Prezioso, Walters, Yost, Boley, M. Hall, Snyder, Gaunch, Blair and Williams:**

**Senate Bill No. 231**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-4C-24 and §16-4C-25; and to amend and reenact §30-1-7a of said code, all relating generally to administration of opioid antagonist; allowing State Police, police, sheriffs and fire and emergency service personnel to possess Naloxone or other approved opioid antagonist to administer in opioid drug overdoses; defining terms; providing for training; establishing training requirements for first responders who may administer opioid antagonists; establishing criteria under which first responder may administer opioid

antagonist; granting immunity to health care providers who prescribe, dispense or distribute Naloxone or other approved opioid antagonist related to a training program; granting immunity to initial responders who administer or fail to administer opioid antagonist; providing for data gathering and reporting; allowing prescription for opioid antagonist in certain circumstances; establishing responsibility of licensed prescribers; providing for patient, family, caregiver or designee education; requiring continuing education of licensed prescribers for administration of opioid antagonist; and authorizing emergency and legislative rulemaking.

Referred to the Committee on Health and Human Resources.

**By Senators Stollings, Laird, Cole (Mr. President), Kirkendoll, Miller, Palumbo, Plymale, Prezioso, Walters, Yost, Boley, M. Hall and Sybolt:**

**Senate Bill No. 232**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-4F-1, §16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3E-3 of said code; to amend and reenact §30-5-14 of said code; to amend and reenact §30-7-15a of said code; and to amend and reenact §30-14-11 of said code, all relating to treatment for sexually transmitted diseases; providing for expedited partner therapy; defining terms; permitting prescribing of antibiotics to sexual partners of patient without prior examination of partner; requiring patient counseling; establishing counseling criteria; requiring informational materials be prepared by the Department of Health and Human Resources; providing limited liability for providing expedited partnership therapy; requiring rulemaking; and providing that physicians, physician assistants, pharmacists and advanced practice registered nurses are not subject to disciplinary action for providing certain treatment for sexually transmitted diseases for sexual partners of patient.

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

**By Senator Boley:**

**Senate Joint Resolution No. 1**—Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article XII thereof, relating to reforming the West Virginia Board of Education so that its membership is made up of elected and appointed members; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Kessler, Williams, Laird and Miller:**

**Senate Joint Resolution No. 2**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section twelve, relating to the West Virginia Future Fund; prohibiting spending of principal; permitting spending of investment income in certain instances from the West Virginia Future Fund; defining “investment income”; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

**By Senators Snyder and Miller:**

**Senate Joint Resolution No. 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to homestead exemption increase; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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



Senator D. Hall and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 2**—Requesting the Division of Highways to name U. S. Route 54/6 in Wyoming County the “Virginia & U. S. Army Major Woodrow Cook Memorial Road”.

Whereas, Virginia Cook was born on August 25, 1918, in Mullens, Wyoming County, to Bob and Gertrude Wildey. She graduated from Mullens High School in 1935 as the salutatorian of her class and then became a West Virginia University Mountaineer in 1937. Virginia returned to her beloved native town, married Woodrow Cook at the Presbyterian Church in August, 1940, and served as an inspirational home economics teacher for over thirty-three years at Mullens High School. Woodrow Cook was an educated and dedicated citizen, who served five years in the United States Army during WWII, where he attained the rank of Major. He became a successful businessman and served as Mayor of Mullens for eight years and on the Wyoming County Commission for eighteen years; and

Whereas, Virginia and Woodrow Cook continued their outstanding public service to Wyoming County and the City of Mullens following their retirements. Virginia Cook, since the death of Woodrow, has continued to remain a passionate and community-minded woman, including establishing an endowment at the Beckley Area Foundation for the beautification of Mullens for future generations. The contributions of these two community leaders and loyal West Virginians should not go unnoticed and should be remembered; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name U. S. Route 54/6 in Wyoming County the “Virginia & U. S. Army Major Woodrow Cook Memorial Road”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the roadway

as the “Virginia & U. S. Army Major Woodrow Cook Memorial Road”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of Transportation, to the Commissioner of Highways, to the Wyoming County Commission and to Mrs. Virginia Cook and her children, Barbara Cook Bean and Lucinda Cook Chagnon.

Which, under the rules, lies over one day.

Senators Palumbo, Blair and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 3**—Requesting the Division of Highways to name the portion of Route 25, from its intersection at West 11th Street to its intersection at Republic Way, in Kanawha County, West Virginia, the “U. S. Army Sgt. James Lawrence Taylor Memorial Road”.

Whereas, Sergeant James Lawrence Taylor was born on June 9, 1943, the son of Monte and Ruth Taylor of Nitro, and brother of Monte, Jr., Kent, Jerry and David; and

Whereas, Sergeant James Lawrence Taylor attended Nitro High School, but left in 1960 before graduating to enlist in the Army, serving in Germany and Vietnam; and

Whereas, While in Vietnam, Sergeant James Lawrence Taylor was a member of the 5th Mobile Strike Force Command, Detachment A-503, known as the Green Berets; and

Whereas, On March 9, 1966, Sergeant James Lawrence Taylor was on a special mission to reinforce a special force detachment located at Camp A Shau in South Vietnam when Camp A Shau came under attack by Viet Cong; and

Whereas, Sergeant James Lawrence Taylor assumed command when the company commander was killed by enemy fire; and

Whereas, Sergeant James Lawrence Taylor was injured by Viet Cong rifle fire, and he was carried out of Camp A Chau when troops were forced to abandon the evacuation; and

Whereas, Sergeant James Lawrence Taylor's body was never recovered, and he was presumed dead by the military; and

Whereas, Sergeant James Lawrence Taylor was awarded the Purple Heart medal posthumously and the Award of the Silver Star posthumously in 1966; and

Whereas, It is only fitting and proper that this stretch of road, in the county of his birth and the area in which he lived all his young life, be named in his honor so that Sergeant James Lawrence Taylor's supreme sacrifice will be memorialized and not forgotten; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the portion of Route 25, from its intersection at West 11th Street to its intersection at Republic Way, in Kanawha County, West Virginia, the "U. S. Army Sgt. James Lawrence Taylor Memorial Road"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the portion of Route 25 as the "U. S. Army Sgt. James Lawrence Taylor Memorial Road"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation, the Commissioner of Highways and to the family of the late Sergeant James Lawrence Taylor.

Which, under the rules, lies over one day.

On motion of Senator Carmichael, the Senate recessed until 2 p.m. today.

Upon expiration of the recess, the Senate reconvened.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate recessed until 6:40 p.m. today.

Upon expiration of the recess, the Senate reconvened.

Without objection, the Senate returned to the third order of business.

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

**House Concurrent Resolution No. 1**—Extending an invitation to His Excellency, the Governor, to deliver an address to the Legislature and raising a Joint Assembly therefor.

Whereas, His Excellency, the Governor, has advised that he will be pleased to address a Joint Assembly of the Senate and House of Delegates at the convenience of the two houses; therefore, be it

*Resolved by the Legislature of West Virginia:*

That His Excellency, the Governor, be hereby invited to address a Joint Assembly of the Legislature at 7:00 o'clock postmeridian this day; and, be it

*Further Resolved,* That the President of the Senate and the Speaker of the House of Delegates appoint three members of each

of the respective houses of the Legislature as a committee to wait upon His Excellency, the Governor, and escort him into the Hall of the House of Delegates at the time herein appointed for hearing the address.

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

Delegates Arvon, Hamrick and Hartman.

At the request of Senator Carmichael, and by unanimous consent, the message was taken up for immediate consideration and reference of the resolution to a committee dispensed with.

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

Whereupon, the President appointed as Senate members of such committee, authorized by the foregoing resolution, the following:

Senators Carmichael, Boley and Kessler.

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

The hour of 7 p.m. having arrived, that being the time set for the joint assembly to hear the address of His Excellency, the Governor, the Senate recessed until five minutes after adjournment of the joint assembly. Members of the Senate then repaired in a body to the hall of the House of Delegates.

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(NOTE: For formal procedure in the joint assembly and the address of His Excellency, the Governor, the Honorable Earl Ray Tomblin, see the Journal of the House of Delegates for this day.)

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### Night Session

The joint assembly having been dissolved, the Senate returned to its chamber and resumed its regular session.

### Executive Communications

Senator Cole (Mr. President) presented the following communication from His Excellency, the Governor, submitting the executive budget and annual budget bill, which was received and read by the Clerk:

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

January 14, 2015

#### Senate Executive Message No. 1

The Honorable William P. Cole III  
President, West Virginia Senate  
State Capitol  
Charleston, West Virginia

Dear President Cole:

I herewith submit, pursuant to the Constitution of the State of West Virginia, a budget and budget bill for the fiscal year beginning July 1, 2015.

Very truly yours,

Earl Ray Tomblin,  
*Governor.*

Subsequently, Senator Cole (Mr. President) laid before the Senate the aforementioned annual budget bill,

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 233**—A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.

Which was read by its title and referred to the Committee on Finance.

Senator Cole (Mr. President) announced appointment of the standing committees of the Senate for this eighty-second Legislature, and at the request of Senator Carmichael, and by unanimous consent, the complete list was ordered printed in the Journal as follows:

## STANDING COMMITTEES OF THE SENATE 2015

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### AGRICULTURE AND RURAL DEVELOPMENT

Senators D. Hall (*Chair*), Trump (*Vice Chair*), Blair, Karnes, Maynard, Sypolt, Beach, Laird, Miller, Williams and Woelfel.

### BANKING AND INSURANCE

Senators Nohe (*Chair*), Gaunch (*Vice Chair*), Ferns, D. Hall, M. Hall, Mullins, Trump, Facemire, Palumbo, Prezioso, Romano, Snyder and Woelfel.

### CONFIRMATIONS

Senators Boley (*Chair*), Mullins, Nohe, Takubo, Kessler, Miller, Palumbo, Plymale and Junior from the Eleventh.

## **ECONOMIC DEVELOPMENT**

Senators Takubo (*Chair*), Ferns (*Vice Chair*), Blair, D. Hall, Leonhardt, Maynard, Mullins, Walters, Kessler, Plymale, Romano, Stollings, Woelfel and Yost.

## **EDUCATION**

Senators Sypolt (*Chair*), Boley (*Vice Chair*), Carmichael, D. Hall, M. Hall, Karnes, Takubo, Trump, Beach, Laird, Plymale, Romano, Stollings and Unger.

## **ENERGY, INDUSTRY AND MINING**

Senators Mullins (*Chair*), Nohe (*Vice Chair*), Blair, Boley, D. Hall, Maynard, Sypolt, Facemire, Kirkendoll, Snyder, Williams, Woelfel and Yost.

## **ENROLLED BILLS**

Senators Maynard (*Chair*), Gaunch (*Vice Chair*), Miller, Unger and Junior from the Eleventh.

## **FINANCE**

Senators M. Hall (*Chair*), Walters (*Vice Chair*), Blair, Boley, Carmichael, D. Hall, Sypolt, Takubo, Facemire, Kessler, Laird, Plymale, Prezioso, Stollings, Unger, Yost and Junior from the Eleventh.

## **GOVERNMENT ORGANIZATION**

Senators Blair (*Chair*), Walters (*Vice Chair*), Ferns, Gaunch, Leonhardt, Maynard, Mullins, Facemire, Miller, Palumbo, Snyder, Williams, Yost and Junior from the Eleventh.



## **HEALTH AND HUMAN RESOURCES**

Senators Ferns (*Chair*), Takubo (*Vice Chair*), Karnes, Leonhardt, Trump, Walters, Laird, Palumbo, Plymale, Prezioso, Stollings, Unger and Junior from the Eleventh.

## **INTERSTATE COOPERATION**

Senators Gaunch (*Chair*), Karnes (*Vice Chair*), Maynard, Kirkendoll, Palumbo, Unger and Junior from the Eleventh.

## **JUDICIARY**

Senators Trump (*Chair*), Nohe (*Vice Chair*), Carmichael, Ferns, Gaunch, Karnes, Leonhardt, Maynard, Mullins, Beach, Kirkendoll, Miller, Palumbo, Romano, Snyder, Williams and Woelfel.

## **LABOR**

Senators D. Hall (*Chair*), Ferns (*Vice Chair*), Blair, Gaunch, Karnes, Maynard, Laird, Prezioso, Stollings, Williams and Yost.

## **MILITARY**

Senators Leonhardt (*Chair*), Boley (*Vice Chair*), Nohe, Sypolt, Walters, Facemire, Laird, Romano and Yost.

## **NATURAL RESOURCES**

Senators Karnes (*Chair*), Maynard (*Vice Chair*), M. Hall, Leonhardt, Nohe, Takubo, Beach, Facemire, Laird, Miller, Snyder, Williams and Junior from the Eleventh.

## **PENSIONS**

Senators Gaunch (*Chair*), Trump (*Vice Chair*), M. Hall, Mullins, Kirkendoll, Plymale and Unger.

**RULES**

Senators Cole (*Chair*), Blair, Carmichael, M. Hall, Sypolt, Trump, Kessler, Plymale, Prezioso, Stollings and Williams.

**TRANSPORTATION AND INFRASTRUCTURE**

Senators Walters (*Chair*), Leonhardt (*Vice Chair*), Boley, Gaunch, Mullins, Beach, Kirkendoll, Plymale and Woelfel.

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The President then announced the appointment of Senator Carmichael, of the County of Jackson, as majority leader of the Senate;

Senator Kessler, of the County of Marshall, as minority leader of the Senate;

Senator D. Hall, of the County of Wyoming, as the majority whip of the Senate;

Senator Unger, of the County of Berkeley, as minority whip of the Senate;

And,

Senator Boley, of the County of Pleasants, as President *pro Tempore* of the Senate.

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On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, January 15, 2015, at 11 a.m.

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## THURSDAY, JANUARY 15, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Karen Long, Keyser Presbyterian Church, Keyser, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles S. Trump IV, a senator from the fifteenth district.

Pending the reading of the Journal of Wednesday, January 14, 2015,

On motion of Senator Yost, 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 Clerk presented a communication from the Board of Accountancy, submitting its annual report as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Office of the Attorney General, submitting its annual report of the Consumer Protection and Antitrust Division, in accordance with chapter forty-six-a, article seven, section one hundred two of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Children's Health Insurance Program, submitting its annual report as required by chapter five, article sixteen-b, section three of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Chiropractic, submitting its biennial report for fiscal years 2013 and 2014, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Dentistry, submitting its biennial report for fiscal years 2013 and 2014 as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the State Board of Registration for Professional Engineers, submitting its annual report, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Division of Forestry, submitting its annual Outdoor Heritage Conservation Fund report as required by chapter five-b, article two-g, section six of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the State Board of Examiners for Licensed Practical Nurses, submitting its biennial report for fiscal years 2013 and 2014, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Medical Imaging and Radiation Therapy Technology Board of Examiners, submitting its biennial report for fiscal years 2013 and 2014 as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Commission for National and Community Service, submitting its annual report, in accordance with chapter five, article twenty-six-a, section four of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Nursing Home Administrators Licensing Board, submitting its annual report as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Occupational Therapy, submitting its biennial report for fiscal years

2013 and 2014, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Optometry, submitting its annual report as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Osteopathic Medicine, submitting its biennial report for fiscal years 2013 and 2014, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Division of Personnel, submitting its annual report as required by chapter twenty-nine, article six, section seven of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Physical Therapy, submitting its biennial report for fiscal years 2012 and 2013, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Examiners of Psychologists, submitting its biennial report for fiscal years 2013 and 2014 as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the State Board of Examiners for Registered Professional Nurses, submitting its biennial report for fiscal years 2012 and 2014, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Ron Yost Personal Assistance Services Program, submitting its annual report as required by chapter eighteen, article ten-1, section seven of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Social Work, submitting its annual report, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Commission on Special Investigations, submitting its annual report as required by chapter four, article five, section two of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Examiners for Speech-Language Pathology and Audiology, submitting its biennial report for fiscal years 2013 and 2014, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the State Police, submitting its annual report on its effectiveness in recruiting females and other minorities as required by chapter fifteen, article two, section seven of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Board of Professional Surveyors, submitting its annual report, in accordance with chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Water Development Authority, submitting its annual report as required by chapter twenty-two-c, article one, section seventeen of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the sixth order of business.

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



**By Senators Trump, M. Hall, Blair and Plymale:**

**Senate Bill No. 234**—A Bill to repeal §8-16-19 of the Code of West Virginia, 1931, as amended; to repeal §16-13A-25 of said code; to amend and reenact §8-19-4 of said code; to amend and reenact §16-13A-1a and §16-13A-9 of said code; to amend and reenact §24-1-1 and §24-1-1b of said code; to amend and reenact §24-2-1, §24-2-2, §24-2-3, §24-2-4a, §24-2-4b, §24-2-7 and §24-2-11 of said code; and to amend and reenact §24-3-5 of said code, all relating to removing from the jurisdiction of the Public Service Commission water and sewer utilities owned or operated by political subdivisions of the state.

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

**By Senators Kessler, M. Hall, Prezioso, Plymale, Williams, Beach, Stollings and Kirkendoll:**

**Senate Bill No. 235**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-14-3a, relating to creating the Hatfield-McCoy Regional Recreation Authority Fund.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Karnes, Blair, Boley, Carmichael, Ferns, Gaunch, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Takubo, Trump, Walters and D. Hall:**

**Senate Bill No. 236**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-11a, relating to limiting health insurance coverage for elective abortions to coverage provided through supplemental policies; and elective abortion exceptions.

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

Senators Yost, Snyder, Romano and Gaunch offered the following resolution:

**Senate Concurrent Resolution No. 4**—Requesting the Joint Committee on Government and Finance to continue studying the needs, challenges and issues facing West Virginia military veterans, West Virginia citizens serving in the Armed Forces of the United States, the West Virginia National Guard and other military affairs of West Virginia.

Whereas, West Virginia has a proud heritage of military service members, veterans and military family members; and

Whereas, West Virginia is home to more military service members and veterans per capita than any other state in the nation; and

Whereas, The West Virginia National Guard is continuously above service and preparedness strength, has been repeatedly recognized as one of the top forces in the country and its members are nationally renowned for their professionalism, courage and commitment to duty; and

Whereas, Military veteran homelessness, incidents of veteran suicide and diagnoses of post-traumatic stress disorder for veterans are all on the rise with no signs of slowing down unless additional action by the West Virginia Department of Veterans' Assistance and the United States Department of Veterans Affairs is taken; and

Whereas, Additionally, aging veterans of previous conflicts are facing worsening problems as they enter their retirement years; and

Whereas, West Virginia has passed legislation offering in-state military veteran retirees financial benefits in an attempt to increase these veterans' financial stability and to attract out-of-state veterans to retire to West Virginia; and

Whereas, As the state continues to make retiring in West Virginia attractive to military veterans, the overall economic development their residency provides will certainly benefit each and every West Virginian; and

Whereas, Although the retirement benefits of veterans within West Virginia are positive, additional legislative efforts can be pursued to further augment these opportunities; and

Whereas, The Legislature finds that it should take an active role in studying, formulating and implementing resources and programs that support West Virginia citizens serving in the Armed Forces of the United States and the West Virginia National Guard as well as veterans of military service to better assist them and their family members in getting the care, services and opportunities that they have earned and deserve; and

Whereas, The Select Committee on Veterans Affairs has a demonstrated history of initiating legislation promoting and facilitating the establishment of programs to assist returning veterans, including, but not limited to, the veteran-friendly campus legislation as well as legislation to establish a program for veteran-friendly communities and continues to monitor the implementation and development of such programs; and

Whereas, Because of the state's consistent resident and citizen support of the nation's armed forces and the West Virginia National Guard, the Legislature of West Virginia should continue to receive input on and develop measures on a continuing basis during interim periods in order to provide the best available educational, vocational, social and medical support services for our state's military personnel and veterans that it can; and

Whereas, The Interim Select Committee on Veterans Affairs provides the Legislature a means to continuously monitor and develop various programs and resources to assist our state's military personnel and military veterans; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to continue studying the needs, challenges and issues facing West Virginia military veterans, West Virginia citizens serving in the Armed Forces of the United States, the West Virginia National Guard and other military affairs of West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2016, 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.

Which, under the rules, lies over one day.

Senators Spolt and Blair offered the following resolution:

**Senate Concurrent Resolution No. 5**—Urging the Governor to appoint two citizen members to fill the membership positions on the West Virginia Board of Education for which the terms have previously expired.

Whereas, Section 2, Article XII of the Constitution of West Virginia and §18-2-1 of the West Virginia Code call for the appointment by the Governor, by and with the advice and consent of the Senate, of nine members to the West Virginia Board of Education. The term for one of those appointees from the second congressional district ended on November 4, 2013, and the term for another of those appointees from the first congressional district ended on November 4, 2014. The Governor has not yet appointed members to fill either of the two positions for which the terms have expired; and

Whereas, Having fewer than the full nine appointed members leaves the West Virginia Board of Education without the expertise and experience of the member or members that could be appointed. Section one, article two, chapter eighteen of the West Virginia Code requires that at least two, but not more than three, members be appointed from each congressional district, and, therefore, having fewer than nine appointed members means all areas of the state are not fully represented; and

Whereas, At a time of unprecedented effort to make the improvements in West Virginia's education system needed for all students to graduate prepared for post-secondary education and careers, persons with experience and expertise in educational matters representative of all areas of the state are needed on the West Virginia Board of Education. Having fewer than the full nine appointed members leaves the West Virginia Board of Education with fewer members than optimal for service on the board's eight policy development committees and meeting requirements to fill vacancies on external boards and committees; and

Whereas, It is the sense of the Legislature that the interests of the students, the citizens and the education system of West Virginia are best served when all of the appointed member positions on the West Virginia Board of Education are filled; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the Governor to appoint two citizen members to fill the membership positions on the West Virginia Board of Education for which the terms have previously expired; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Governor.

Which, under the rules, lies over one day.

Senators Beach, Plymale, Williams, Stollings, Prezioso and D. Hall offered the following resolution:

**Senate Resolution No. 5**—Celebrating the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia.

Whereas, Monongalia County was founded in 1776 after being settled by a small group of people along the banks of Decker’s Creek, and has grown to a present-day population of approximately one hundred thousand people and growing daily; and

Whereas, Monongalia County is home to West Virginia University, a public land-grant institution, founded in 1867 and recognized as a top research university by the Carnegie Foundation for the Advancement of Teaching. WVU welcomes and shapes the minds of students from across the State of West Virginia, every state in the United States and approximately one hundred other nations; and

Whereas, Monongalia County offers to its citizens and visitors from around the world everything from a beautiful view from Cooper’s Rock to a bicycle ride on the Caperton Trail, the best in medical care and hospitality and soon is to offer professional baseball with the West Virginia Blackbears; and

Whereas, Monongalia County offers top-rated educational experiences at all levels from preschool to graduate programs and senior education opportunities; a competitive and innovative business community; a diversified economy that embraces health care, education, technology, energy development and small business entrepreneurship; and a nationally acclaimed economic model; and

Whereas, Monongalia County has become known as a place that offers big-city amenities with the neighborly feel of small-town life; and

Whereas, Monongalia County has been recognized in recent years in the following ways: “Best Performing Small Metros” (Milken Institute), “Best Small Metros for Business and Careers” (Forbes), “Best Quality of Life and Knowledge Worker Metros” (Expansion Manage.), “Boom Towns” (Inc.), “10 Great Places to Live” (Kiplinger’s), “Boom Town” (Inc.), “Top 100 Leading Business Locations” (Area Development Magazine), “Best College Destination” (Best College Reviews), “Top College Destination” (American Institute for Economic Research), “Best Places to Retire for under \$100 a Day” (AARP), “Most Secure Small Cities” (Farmer’s Insurance), “Adventure Town” (National Geographic Adventure Magazine), “Best Small Towns to Live” (Men’s Journal) and “Best Sports Cities” (Sporting News); and

Whereas, In Monongalia County one can find in the community everything from baseball to art galleries, from energy to health care, from government leaders to our caring nonprofits, from tourism to education, in the scenic mountain home of West Virginia University and everywhere in-between, we affirm that every day is a great day to be a Mountaineer; therefore, be it

*Resolved by the Senate:*

That this Senate hereby acknowledges January 15, 2015, as a day to celebrate and acknowledge the vibrancy and contributions made to our state and nation by the people, past and present, of Monongalia County, West Virginia; and, be it

*Further Resolved,* That the Clerk is directed to forward a copy of this resolution to the appropriate representatives from Monongalia County.

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

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

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

Senators Williams, Sypolt, Blair, Trump, Plymale, D. Hall and Beach offered the following resolution:

**Senate Resolution No. 6**—Honoring the public service of Doris Marks on the occasion of Mineral County Day at the Legislature.

Whereas, Doris Marks of Carpendale, West Virginia, in Mineral County, was known statewide for her involvement in the political process and for her dedicated public service to the people and town of Carpendale, West Virginia; and

Whereas, Doris Marks was a founding member and the first Mayor of the Town of Carpendale, where she served from her election on January 2, 1990, until her death in 2003; and

Whereas, During her tenure as Mayor of Carpendale, Doris Marks was a visionary and displayed strong leadership skills, which resulted in the completion of several town improvement projects including a new sewer system and a new water system; and

Whereas, Doris Marks was the recipient of numerous honors including being named a Distinguished West Virginian and having a state highway bridge named in her memory; and

Whereas, Doris Marks was a tireless worker and dedicated public servant whose influence touched the lives of many, not only in Carpendale, but throughout Mineral County and the entire State of West Virginia; and

Whereas, Doris Marks will be remembered for many generations to come and her contributions to Carpendale, Mineral County and the State of West Virginia will forever remain embedded as an everlasting tribute to her memory; therefore, be it



*Resolved by the Senate:*

That the Senate hereby honors the public service of Doris Marks on the occasion of Mineral County Day at the Legislature; and, be it

*Further Resolved,* That the Senate acknowledges the public contributions of Doris Marks to Carpendale, Mineral County and the State of West Virginia; and, be it

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

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

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

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

At the request of Senator M. Hall, unanimous consent being granted, Senator M. Hall offered the following resolution from the floor:

**Senate Resolution No. 7**—Authorizing the appointment of permanent and per diem employees for the First Regular Session of the Eighty-second Legislature and payment of their compensation.

*Resolved by the Senate:*

That the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate is hereby authorized to appoint employees to receive the per diem compensation, as herein provided, during this regular sixty-day

session of the eighty-second Legislature, and any extension thereof as follows:

Twenty-five Class I secretaries at a rate of seventy dollars per diem to one hundred dollars per diem;

Two Class II secretaries at a rate of seventy-five dollars per diem to one hundred dollars per diem;

Four legislative analysts at a rate of seventy-five dollars per diem to one hundred dollars per diem;

Nine legal counselors at a rate of two hundred dollars per diem to two hundred seventy-five dollars per diem; assignments and salary to be determined by the presiding officer of the Senate;

Two bill and journal clerks to the Senate Clerk at a rate of seventy dollars per diem to one hundred dollars per diem;

One journal room supervisor at a rate of seventy dollars per diem to one hundred dollars per diem;

One journal room assistant at a rate of seventy dollars per diem to one hundred dollars per diem;

One Sergeant at Arms at a rate not to exceed one hundred sixty-five dollars per diem;

Two assistants to the Sergeant at Arms at a rate of sixty-five dollars per diem to one hundred dollars per diem;

One Doorkeeper at a rate not to exceed one hundred fifty dollars per diem;

Six assistants to the Doorkeeper at a rate of sixty-five dollars per diem to one hundred dollars per diem;

Two mail clerks at a rate of sixty dollars per diem to one hundred dollars per diem;

One information clerk at a rate of seventy-five dollars per diem (thirty-seven dollars and fifty cents per diem paid by House of Delegates);

One night custodian at a rate of sixty-five dollars per diem to seventy-five dollars per diem;

Two pages at a rate of sixty-five dollars per diem to seventy-five dollars per diem;

One recording system operator at a rate of seventy-five dollars per diem;

One senior advisor at a rate of two hundred thirty-five dollars per diem;

The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such per diem staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by this Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the presiding officer of the Senate. In all such cases, the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to supervise and dismiss such staff personnel; and, be it

*Further Resolved*, That the appointment of salaried full-time employees of the Senate for the year two thousand fifteen and their

compensation, at the following amounts per month, for such periods of time as they are employed in the positions designated, is hereby authorized, as follows:

Clerk.. . . . .	\$7,416.67
Assistant Clerk.. . . . .	5,000.00
Executive Secretary to Clerk.. . . . .	3,542.00
Fiscal Officer.. . . . .	5,082.83
Assistant Fiscal Officer.. . . . .	3,958.67
Technical Support.. . . . .	3,583.67
Deputy Clerk.. . . . .	5,576.58
Chief Desk Clerk.. . . . .	4,427.42
Chief Journal Clerk.. . . . .	3,875.33
Bill History Clerk.. . . . .	3,542.00
Bill Clerk.. . . . .	2,968.67
Minor Committee Support.. . . . .	3,268.67
Minor Committee Support.. . . . .	2,925.33
Counsel to Minor Committees.. . . . .	4,345.83
Counsel to President.. . . . .	8,166.67
Executive Assistant to President.. . . . .	3,000.00
Secretary to President.. . . . .	2,250.00
Director of Communications.. . . . .	5,916.67
Communications Specialist.. . . . .	2,875.33
Counsel to Majority Leader.. . . . .	7,083.33
Parliamentarian.. . . . .	3,967.83
Assistant to Majority Leader.. . . . .	2,500.00
Counsel to Minority Leader.. . . . .	4,345.83
Secretary to Minority Leader.. . . . .	3,125.33
Counsel to Education Committee.. . . . .	7,080.33
Counsel to Education Committee.. . . . .	6,042.00
Administrative Assistant/Clerk to Education Committee.. . . . .	2,708.67
Chief Counsel to Finance Committee.. . . . .	6,908.67
Budget-Policy Analyst to Finance Committee.. . . . .	5,375.33
Clerk to Finance Committee.. . . . .	2,958.67
Assistant to Finance Chairman.. . . . .	3,125.33
Clerk to Government Organization Committee.. . . . .	2,083.33

Secretary to Government Organization Committee. . . . .	3,226.17
Senior Counsel to	
Health and Human Resources Committee. . . . .	6,594.92
Clerk to Health and Human Resources Committee. . . . .	3,042.00
Counsel to Judiciary Committee. . . . .	7,083.33
Counsel to Judiciary Committee. . . . .	7,845.33
Legislative Analyst to Judiciary Committee. . . . .	3,375.33
Secretary/Clerk to Judiciary Committee. . . . .	2,916.67
Counsel to Energy, Industry and Mining. . . . .	6,666.67
Secretary/Clerk to	
Energy, Industry and Mining Committee. . . . .	2,416.67
Supervisor, Materials & Supplies. . . . .	4,094.08
Purchasing & Procurement Clerk. . . . .	3,393.67
Chief Custodian. . . . .	3,308.25
Custodian. . . . .	2,182.00
Custodian. . . . .	2,083.67

The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such full-time staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by this Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the presiding officer of the Senate. In all such cases, the Clerk of the Senate, with the approval of the presiding officer of the Senate, or the presiding officer of the Senate shall have authority to supervise and dismiss such staff personnel.

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

The question being on the adoption of the resolution,

Following discussion,

At the request of Senator M. Hall, and by unanimous consent, Senator M. Hall's aforesaid request was withdrawn.

Whereupon, under the rules of the Senate, the resolution (S. R. No. 7) lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 2**, Requesting DOH name US Rt. 54/6 in Wyoming County "Virginia & U. S. Army Major Woodrow Cook Memorial Road".

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

**Senate Concurrent Resolution No. 3**, Requesting DOH name portion of Rt. 25 in Kanawha County "U. S. Army Sgt. James Lawrence Taylor Memorial Road".

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 twelfth order of business.

Remarks were made by Senator Walters.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, January 16, 2015, at 10 a.m.

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## FRIDAY, JANUARY 16, 2015

The Senate met at 10 a.m.

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

Prayer was offered by Pastor Chad Cowen, Pastor of Care Ministries, Bible Center Church, Charleston, West Virginia.

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

Pending the reading of the Journal of Thursday, January 15, 2015,

On motion of Senator Stollings, 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 Clerk presented a communication from the Department of Environmental Protection, submitting its annual report of the Oil and Gas Operating Permit and Processing Fund, in accordance with chapter twenty-two, article six, section twenty-nine of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Department of Environmental Protection, submitting its annual Oil and Gas Reclamation Fund report as required by chapter twenty-two, article six, section twenty-nine of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Division of Motor Vehicles, submitting its annual Motor Vehicle Alcohol Test and Lock Program report, in accordance with chapter seventeen-c, article five-a, section three-a of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Motorcycle Safety Awareness Board, submitting its annual report as required by chapter seventeen-b, article one-d, section eight of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the third order of business.

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

**Senate Concurrent Resolution No. 1**, Authorizing payment of supplies, services, printing and other expenses.

The Senate then proceeded to the fourth order of business.

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 No. 3**, Relating to real property possessor's liability for trespasser harm.

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



Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 171**, Authorizing DHHR promulgate legislative rule relating to chronic pain management clinic licensure.

And,

**Senate Bill No. 172**, Authorizing DHHR promulgate legislative rule relating to Fatality and Mortality Review Team.

And reports the same back with the recommendation that they each do pass; but under the original triple committee references first be referred to the Committee on Finance; and then to the Committee on the Judiciary.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bills, under the original triple committee references, were then referred to the Committee on Finance; and then to the Committee on the Judiciary.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 173**, Authorizing DHHR promulgate legislative rule relating to medication administration and performance of health maintenance tasks by approved medication assistive personnel.

**Senate Bill No. 174**, Authorizing DHHR promulgate legislative rule relating to nurse aid abuse and neglect registry.

**Senate Bill No. 175**, Authorizing DHHR promulgate legislative rule relating to public water systems.

**Senate Bill No. 176**, Authorizing DHHR promulgate legislative rule relating to nursing home licensure.

And,

**Senate Bill No. 177**, Authorizing DHHR promulgate legislative rule relating to statewide trauma/emergency care system.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

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

**By Senators D. Hall, Romano, Snyder, Facemire and Williams:**

**Senate Bill No. 237**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-2H-1, §19-2H-2, §19-2H-3, §19-2H-4, §19-2H-5, §19-2H-6, §19-2H-7, §19-2H-8, §19-2H-9, §19-2H-10, §19-2H-11, §19-2H-12, §19-2H-13, §19-2H-14 and §19-2H-15; to amend and reenact §19-29-2 of said code; to amend and reenact §20-1-2 of said code; and to amend and reenact §20-2-11 and §20-2-12 of said code, all relating to regulating captive cervid farming as an agricultural enterprise in this state; stating powers and duties of the Department of Agriculture; promulgating rules; establishing duties and obligation of the commissioner; creating application process; issuing, renewing, modifying and transferring license certificates; inspecting facilities; transitioning current facilities to new licensure procedures; creating penalties for noncompliance with article; amending Division of Natural Resources laws relating to captive cervids; and providing for certain criminal penalties and remedies.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Finance.

**By Senators D. Hall, Nohe and Stollings:**

**Senate Bill No. 238**—A Bill to amend and reenact §18-5-19 and §18-5-19d of the Code of West Virginia, 1931, as amended, all relating to providing that county boards of education are not liable for loss or injury from the use of school property made available for unorganized recreation.

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

**By Senators Kirkendoll, Blair, Snyder, Williams and Beach:**

**Senate Bill No. 239**—A Bill to repeal §15-8-1, §15-8-2, §15-8-3, §15-8-4, §15-8-5, §15-8-6, §15-8-7, §15-8-8, §15-8-9, §15-8-10, §15-8-11 and §15-8-12 of the Code of West Virginia, 1931, as amended; to repeal §16-5J-5 of said code; to repeal §16-5P-7 of said

code; to repeal §16-42-1, §16-42-2, §16-42-3, §16-42-4, §16-42-5 and §16-42-6 of said code; to repeal §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6 and §18-2J-7 of said code; to repeal §18B-1C-3 of said code; to repeal §18B-14-11 of said code; to repeal §18B-16-6 of said code; to repeal §20-2B-2a of said code; to repeal §21-3A-10 of said code; to repeal §23-1-1a of said code; to repeal §29-12B-4 and §29-12B-5 of said code; to repeal §29-12C-1 and §29-12C-2 of said code; to repeal §31-16-1, §31-16-2, §31-16-3 and §31-16-4 of said code; to repeal §55-15-1, §55-15-2, §55-15-3, §55-15-4, §55-15-5 and §55-15-6 of said code; and to repeal §62-11E-1, §62-11E-2 and §62-11E-3 of said code, relating to eliminating obsolete government entities; repealing article relating to the Sheriffs' Bureau; repealing section relating to the Clinical Laboratories Quality Assurance Advisory Board; repealing section relating to the West Virginia Council on Aging; repealing article relating to the Comprehensive Behavioral Health Commission; repealing article relating to the Governor's Advisory Council for Educational Technology; repealing section relating to the West Virginia Consortium for Undergraduate Research and Engineering; repealing section relating to the Governor's Commission on Graduate Study in Science, Technology, Engineering and Mathematics; repealing section relating to the West Virginia Rural Health Advisory Panel; repealing section relating to the Ohio River Management Fund Advisory Board; repealing section relating to the Occupational Safety and Health Review Commission; repealing section relating to the Workers' Compensation Board of Managers; repealing sections relating to the Medical Malpractice Advisory Panel; repealing article relating to the Patient Injury Compensation Plan Study Board; repealing article relating to the Steel Advisory Commission; repealing article relating to the West Virginia Alternative Dispute Resolution Commission; and repealing article relating to the Sexually Violent Predator Management Task Force.

Referred to the Committee on Government Organization.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 240**—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 terms used in the West Virginia Personal Income Tax Act; and specifying effective dates.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 241**—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 terms used in the West Virginia Corporation Net Income Tax Act; and specifying effective dates.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 242**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-19b, relating to providing criminal penalties for using automated telephone calls to disseminate false, misleading or deceptive information with the intent to create panic, incite violence or cause harm during a proclaimed state of emergency or state of preparedness.

Referred to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 243**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-6a, relating to school nutrition standards during a state of emergency or state of preparedness; authorizing Governor or Legislature to temporarily suspend legislative rules establishing

nutrition standards for foods and beverages served to students in public schools during a state of emergency or state of preparedness; and providing limitations.

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

**By Senators Carmichael, Miller, Nohe and Plymale:**

**Senate Bill No. 244**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5X-1, §16-5X-2, §16-5X-3, §16-5X-4, §16-5X-5 and §16-5X-6, all relating to permitting hospital patients to designate a lay caregiver; providing definitions; requiring patient consent; requiring certain notation in medical records; permitting modifications to lay caregiver designations; prohibiting certain construction; requiring certain notices to lay caregiver; requiring hospital to consult with lay caregiver to prepare for aftercare and to issue discharge plan; providing for circumstances in which hospital is unable to contact lay caregiver; prohibiting certain construction; prohibiting use of state or federal funds for payment of lay caregiver; and prohibiting impact on state or federal funds.

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

**By Senators Trump, Blair and Walters:**

**Senate Bill No. 245**—A Bill to repeal §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-4, §21-5A-5, §21-5A-6, §21-5A-7, §21-5A-8, §21-5A-9, §21-5A-10 and §21-5A-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §5D-1-5 of said code; to amend and reenact §7-11B-14 of said code; to amend and reenact §7-20-22 of said code; to amend and reenact §11-13Q-9 of said code; to amend and reenact §18-5-9a of said code; to amend and reenact §25-7-4 of said code; and to amend and reenact §31-15A-15 of said code, all relating to repealing the requirement of paying prevailing hourly rate of wages for construction of public improvements.

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

**By Senators Trump, Blair, Leonhardt and Williams:**

**Senate Bill No. 246**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-17-10, relating to exempting each current child care worker employed on or before June 1, 2015, at the West Virginia School for the Deaf and Blind in Romney, West Virginia, from requirement to have an associate's degree.

Referred to the Committee on Education.

**By Senators Trump, Blair, Walters and Nohe:**

**Senate Bill No. 247**—A Bill to repeal §19-34-1, §19-34-2, §19-34-3, §19-34-4, §19-34-5, §19-34-6, §19-34-7, §19-34-8 and §19-34-9 of the Code of West Virginia, 1931, as amended, relating to the Dangerous Wild Animals Act.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senator Williams:**

**Senate Bill No. 248**—A Bill to amend and reenact §17C-4-3 of the Code of West Virginia, 1931, as amended, relating to the duty to give information after a car crash; requiring person involved in a car crash to provide certain insurance and car owner information; and requiring law-enforcement officers at the scene of the crash who obtain certain information to distribute certain information to all persons involved in the crash.

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

**By Senators Trump, Blair, Ferns, M. Hall and Walters:**

**Senate Bill No. 249**—A Bill to amend and reenact §3-4A-9, §3-4A-11a and §3-4A-27 of the Code of West Virginia, 1931, as

amended; and to amend and reenact §3-6-2, §3-6-3, §3-6-5 and §3-6-6 of said code, all relating to disallowing voting by straight party ticket.

Referred to the Committee on the Judiciary.

**By Senators Trump, Blair, Carmichael, M. Hall, Leonhardt, Miller, Snyder, Unger, Williams and Plymale:**

**Senate Bill No. 250**—A Bill to amend and reenact §19-21A-4a of the Code of West Virginia, 1931, as amended, relating to the administration of the West Virginia Conservation Agency programs; providing that conservation district supervisors have their applications to participate in West Virginia Conservation Agency financial assistance programs evaluated and approved or rejected by the West Virginia Conservation Agency; prohibiting conservation district supervisor from voting for authorization, approval or ratification of a contract in which he or she or an immediate family member is beneficially interested; and requiring State Conservation Committee to propose rules for legislative approval.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Mullins, Karnes, Leonhardt and Gaunch:**

**Senate Bill No. 251**—A Bill to amend and reenact §23-4-2 of the Code of West Virginia, 1931, as amended, relating to modifying the private cause of action for deliberate intention claims under workers' compensation claims; providing for enhanced benefits for certain deliberate intention claims; and requiring specific findings by the Office of Judges for an award of enhanced benefits.

Referred to the Committee on the Judiciary.

Senators D. Hall and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 6**—Requesting that the Division of Highways to name bridge number 41-3-35.96 (41A027),



carrying W. Va. Route 3 over I-77/64 in Raleigh County, West Virginia, and locally known as the Harper Road Bridge, the “John Thomas Scott II Memorial Bridge”.

Whereas, John Thomas Scott II was the son of J. T. and Lynn Scott of Beckley, attended Central Elementary, Crescent Elementary and Park Junior High School and graduated from Independence High School in June, 2006; and

Whereas, John Thomas Scott II played Beckley Little League baseball for six years and was on the wrestling teams at Park Junior High School and Independence High School; and

Whereas, John Thomas Scott II was a member of the First Baptist Church in Beckley; and

Whereas, John Thomas Scott II, age eighteen, died September 9, 2006, as a result of a motorcycle accident; and

Whereas, Throughout his lifetime, John Thomas Scott II showed great kindness and compassion toward others; and

Whereas, John Thomas Scott II, from an early age, expressed a desire to become a State Police trooper. He focused his senior project around this interest and, at the time of his death, was preparing to take the civil service police test for the City of Beckley; and

Whereas, John Thomas Scott II enjoyed outdoor activities, including snowboarding and fishing; and

Whereas, Members of the Exile Car Club have organized an annual car show to raise money for scholarships to assist recipients with expenses of college or technical school. The John Thomas Scott II scholarship is to be awarded annually to an “average student with a C or B grade point” who demonstrates both merit and financial need and who is a senior graduating from Independence, Shady Spring or Woodrow Wilson High schools; and

Whereas, It is fitting to establish a lasting memorial to this young man who exemplified true friendship to those who knew him; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 41-3-35.96 (41A027), carrying W. Va. Route 3 over I-77/64 in Raleigh County, West Virginia, and locally known as the Harper Road Bridge, the “John Thomas Scott II Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “John Thomas Scott II Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Sypolt, Williams and Beach offered the following resolution:

**Senate Concurrent Resolution No. 7**—Requesting the Division of Highways to name bridge number 39-7-26.83 (39A194), locally known as Corinth Railroad Overpass, carrying W. Va. 7 over CSX RAILROAD in Preston County, the “Army Air Force SGT Everett Wayne ‘Bud’ Sell Memorial Bridge”.

Whereas, Everett Wayne “Bud” Sell, a native of Preston County, graduated from Terra Alta High School in 1943 and enlisted in the U. S. Army Air Force; and

Whereas, Sergeant Everett Wayne “Bud” Sell, in July of 1944, left for Europe and was stationed in Italy as a member of the 773rd Bombardment Squadron; and

Whereas, Sergeant Sell participated in his first combat mission on August 17, 1944, as left waist gunner aboard the “Holey Joe”; and

Whereas, Sergeant Sell completed two more successful missions with his crewmates on two different planes; and

Whereas, On Sergeant Sell’s fourth mission, the crew was ordered to jettison as much equipment as possible from the plane; and

Whereas, According to reports of his surviving crew members, Sergeant Sell attempted to dislodge the turret so as to eliminate any further damage to the plane; and

Whereas, In his attempts to force the turret out, Sergeant Sell became entangled and was lost when it finally came free; and

Whereas, The remains of Sergeant Everett Wayne “Bud” Sell have never been found, although attempts to do so continue to this day; and

Whereas, The name of Sergeant Everett Wayne “Bud” Sell is listed on the America Memorial located just outside Rome, Italy; and

Whereas, It is fitting and proper that Sergeant Everett Wayne “Bud” Sell be remembered and acknowledged for his courageous action and dedicated service to his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 39-7-26.83 (39A194), locally known as Corinth

Railroad Overpass, carrying W. Va. 7 over CSX RAILROAD in Preston County, the “Army Air Force SGT Everett Wayne ‘Bud’ Sell Memorial Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Army Air Force SGT Everett Wayne ‘Bud’ Sell Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Trump, Blair, M. Hall, Leonhardt, Mullins, Unger, Williams, Kirkendoll, Romano, Snyder, Facemire, Stollings and D. Hall offered the following resolution:

**Senate Concurrent Resolution No. 8**—Urging the United States Environmental Protection Agency to immediately withdraw and/or rescind its proposed definition of “waters of the United States” under the Clean Water Act (40 CFR 230.3).

Whereas, Agriculture is critically important to West Virginia and the United States of America, to the economy of West Virginia and of the nation, to the way of life of the citizens of West Virginia and to the survival of the inhabitants of West Virginia, of the United States of America and of the world; and

Whereas, West Virginia’s farms are small, family-owned and -operated enterprises, providing good and wholesome food to the citizens of West Virginia and citizens of the United States of America beyond the borders of West Virginia; and

Whereas, The farmers of West Virginia have demonstrated a long history and tradition of being good stewards of the land, employing

sound conservation practices to make their farms and West Virginia's agricultural production sustainable and to produce agricultural products in a way that protects the environment and our water supply; and

Whereas, Notwithstanding this long tradition of farming in harmony with protection of the environment, the United States Environmental Protection Agency (EPA) has proposed a new definition of "waters of the United States" under the Clean Water Act (40 CFR 230.3), by which new definition the EPA will expand dramatically its jurisdiction and authority, expanding it in ways that are neither necessary or advisable and in ways that were never contemplated by the Congress of the United States when it enacted the Clean Water Act; and

Whereas, Under the new definition of the "waters of the United States" proposed by the EPA, Section 402 permits under the Clean Water Act will become necessary for common farming activities such as applying fertilizer or pesticide, or moving cattle, if materials (fertilizer, pesticide or manure) would fall into jurisdictional low spots or ditches; and

Whereas, Under the new definition of the "waters of the United States" proposed by the EPA, Section 404 permits under the Clean Water Act will become necessary for earth-moving activity, such as plowing, planting or fencing, except as part of "established" farming ongoing at the same site since 1977; and

Whereas, Under the new definition of the "waters of the United States" proposed by the EPA, even the smallest low spots that puddle often enough to meet the broad definition of "wetlands" (79 Fed. Reg. 22218) would be regulated if they are in a "floodplain" or a "riparian area", or if EPA staff find that they, in combination with similar low spots in the region, have a "significant nexus" to any other "waters of the United States"; and

Whereas, This unwarranted expansion of federal jurisdiction and authority that would be the consequence of the adoption of the new definition of the "waters of the United States" proposed by the EPA

will be detrimental to the continuation of normal farming activities and, ultimately, to the food supply; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Environmental Protection Agency to immediately withdraw and/or rescind its proposed definition of “waters of the United States” under the Clean Water Act (40 CFR 230.3); and, be it

*Further Resolved,* That if the United States Environmental Protection Agency does not immediately withdraw and/or rescind its proposed new definition of “waters of the United States” under the Clean Water Act (40 CFR 230.3), then the Congress of the United States, as the elected representatives of the people of the United States of America, is urged to enact such statutes as are necessary to abrogate this gross and unwarranted expansion of federal jurisdiction and authority by the EPA upon the land of the inhabitants of West Virginia and the other states that form the United States of America; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President of the United States, to the Administrator of the United States Environmental Protection Agency and to the representatives and senators elected by the citizens of West Virginia serving the citizens of West Virginia in the Congress of the United States in Washington, D. C.

Which, under the rules, lies over one day.

Senators Palumbo, Beach, Stollings and Williams offered the following resolution:

**Senate Resolution No. 8**—Recognizing and honoring Butch Miles, a native of Charleston and proud West Virginian, as one of the greatest jazz drummers of all time and for his remarkable professional accomplishments.

Whereas, Butch Miles grew up on McClung Street in Charleston's East End just blocks from the West Virginia State Capitol; and

Whereas, Butch Miles received his Bachelor of Arts Degree from West Virginia State College; and

Whereas, For more than ten years Butch Miles performed as the drummer for the world-famous Count Basie Orchestra and has become renowned for his swinging big band style and techniques; and

Whereas, Butch Miles has performed at every major jazz festival in the world and played with musicians from Frank Sinatra and Tony Bennett to Ella Fitzgerald and Sammy Davis, Jr., and so many more in between; and

Whereas, Butch Miles has recorded over one hundred albums and has performed on four Grammy-winning albums; and

Whereas, Butch Miles is a faculty member of Texas State University's School of Music, conducts jazz clinics, continues to record albums and often plays live at jazz parties and festivals; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes and honors Butch Miles, a native of Charleston and proud West Virginian, as one of the greatest jazz drummers of all time and for his remarkable professional accomplishments; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Butch Miles.

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

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

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 4**, Requesting Joint Committee on Government and Finance study issues facing military veterans and active duty service personnel.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Military; and then to the Committee on Rules.

**Senate Concurrent Resolution No. 5**, Urging Governor fill Board of Education vacancies.

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

**Senate Resolution No. 7**, Authorizing appointment of employees.

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

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

The Senate proceeded to the twelfth order of business.



Remarks were made by Senator Carmichael.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, January 19, 2015, at 11 a.m.

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## MONDAY, JANUARY 19, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Rabbi Victor Urecki, B'Nai Jacob Synagogue, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mike Hall, a senator from the fourth district.

Pending the reading of the Journal of Friday, January 16, 2015,

On motion of Senator Romano, 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.

### **Executive Communications**

The following communication from His Excellency, the Governor, was reported by the Clerk:

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

January 16, 2015

The Honorable Natalie E. Tennant  
Secretary of State  
State Capitol  
Charleston, West Virginia

Dear Secretary Tennant:

Pursuant to W. Va. Code §3-10-5, I have this day appointed Gregory L. Boso, P.E., 401 Main Street, Summersville, Nicholas County, WV 26651, as a Senator representing the Eleventh Senatorial District to fill the vacancy created by the resignation of the Honorable Clark S. Barnes, from this day through the remainder of the unexpired term of said office.

Sincerely,

Earl Ray Tomblin,  
*Governor.*

cc: The Honorable William P. Cole III

Gregory L. Boso, of the County of Nicholas, previously qualified by taking the several oaths of office prescribed by law and administered by the Honorable William P. Cole III, Senate President.

The Senate proceeded to the fourth order of business.

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

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

**Senate Bill No. 1**, Repealing Alternative and Renewable Energy Portfolio Standard.

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

**Com. Sub. for Senate Bill No. 1** (originating in the Committee on Energy, Industry and Mining )—A Bill to repeal §24-2F-1, §24-2F-2, §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-2F-8 of said code, relating to the Alternative and Renewable Energy Portfolio Act; allowing customer-generators to transfer accrued net meter credits to that utility's nonprofit that provides relief to customers in need of financial assistance; and providing definitions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Jeff Mullins,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 1) contained in the preceding report from the Committee on Energy, Industry and Mining was taken up for immediate consideration, read a first time and ordered to second reading.

The Senate proceeded to the sixth order of business.

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

**By Senators Trump, Blair, Williams, Facemire, D. Hall and Leonhardt:**

**Senate Bill No. 252**—A Bill to amend and reenact §18-9D-2, §18-9D-3, §18-9D-4c and §18-9D-16 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-9D-22, all relating to making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority.

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

**By Senators Trump, Blair, D. Hall, Stollings, Laird, Kirkendoll, Snyder, Plymale and Leonhardt:**

**Senate Bill No. 253**—A Bill to amend and reenact chapter forty-nine of the Code of West Virginia, 1931, as amended, all relating to revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare; and removing outdated language to comply with court rulings concerning child welfare.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 254**—A Bill to amend and reenact §5H-1-1 and §5H-1-2 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Fire, EMS and Law-Enforcement Officer Survivor Benefit Act; clarifying process for payment of survivor benefit; defining terms; limiting eligibility for survivor benefit to beneficiaries designated in writing by applicable public safety officer; clarifying circumstances for eligibility of survivor benefit; transferring responsibility for determination of eligibility for survivor benefit from Governor's Office to Department of Military Affairs and Public Safety, Office of the Secretary; providing for

reduction of amount of survivor benefit payable when state pays portion of funeral expenses; setting forth required information for certified request for survivor benefit; requiring fire, emergency medical service and law-enforcement programs to provide notice of survivor benefit and obtain written designations of beneficiaries from eligible public safety officers; requiring Department of Military Affairs and Public Safety, Office of the Secretary, to prepare a form for written designation of beneficiary; providing exclusions for availability of survivor benefit; providing that payments for survivor benefit be made from general revenue; and limiting right of action to recover survivor benefit.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 255**—A Bill to repeal §15-8-1, §15-8-2, §15-8-3, §15-8-4, §15-8-5, §15-8-6, §15-8-7, §15-8-8, §15-8-9, §15-8-10, §15-8-11 and §15-8-12 of the Code of West Virginia, 1931, as amended; to repeal §16-5J-5 of said code; to repeal §16-5P-7 of said code; to repeal §16-5T-1 of said code; to repeal §16-42-1, §16-42-2, §16-42-3, §16-42-4, §16-42-5 and §16-42-6 of said code; to repeal §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6 and §18-2J-7 of said code; to repeal §18B-1C-3 of said code; to repeal §18B-14-11 of said code; to repeal §18B-16-6 of said code; to repeal §20-2B-2a of said code; to repeal §21-3A-10 and §21-3A-18 of said code; to repeal §21-3B-3 of said code; to repeal §22C-5-1, §22C-5-2, §22C-5-3, §22C-5-4, §22C-5-5, §22C-5-6, §22C-5-7 and §22C-5-8 of said code; to repeal §23-1-1a of said code; to repeal §29-12B-4 and §29-12B-5 of said code; to repeal §31-16-1, §31-16-2, §31-16-3 and §31-16-4 of said code; to repeal §33-48-2 and §33-48-3 of said code; to repeal §55-15-1, §55-15-2, §55-15-3, §55-15-4, §55-15-5 and §55-15-6 of said code; and to repeal §62-11E-1, §62-11E-2 and §62-11E-3 of said code, relating to eliminating unnecessary, inactive or redundant boards, councils, committees, panels, task forces and commissions; terminating the West Virginia Sheriffs' Bureau;

terminating the Clinical Laboratories Quality Assurance Advisory Board; terminating the West Virginia Council on Aging; terminating the Care Home Advisory Board; terminating the Comprehensive Behavioral Health Commission; terminating the Public and Higher Education Unified Educational Technology Strategic Plan, including the Governor's Advisory Council for Educational Technology; terminating the West Virginia Consortium for Undergraduate Research and Engineering; terminating the Governor's Commission on Graduate Study in Science, Technology, Engineering and Mathematics; terminating the West Virginia Rural Health Advisory Panel; terminating the Ohio River Management Fund Advisory Board; terminating the Occupational Safety and Health Review Commission; terminating the Occupational Safety and Health Advisory Board; terminating the Environmental Assistance Resource Board; terminating the Commercial Hazardous Waste Management Facility Siting Board; terminating the Workers' Compensation Board of Managers; terminating the State Medical Malpractice Advisory Panel; terminating the West Virginia Steel Futures Program, including the Steel Advisory Commission; terminating the West Virginia Health Insurance Plan Board; terminating the Alternative Dispute Resolution Commission; and terminating the Sexually Violent Predator Management Task Force.

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

Senators Beach and Leonhardt offered the following resolution:

**Senate Concurrent Resolution No. 9**—Petitioning the United States Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States of America.

Whereas, The first President of the United States, George Washington, stated, "The basis of our political systems is the right of the people to make and to alter their Constitutions of Government.;" and

Whereas, It was the stated intention of the framers of the Constitution of the United States of America that the Congress of the United States of America should be “dependent on the people alone.” (James Madison, Federalist 52); and

Whereas, That dependency has evolved from a dependency on the people alone to a dependency on those who spend excessively in elections, through campaigns or third-party groups; and

Whereas, The United States Supreme Court ruling in *Citizens United v. Federal Election Commission*, 558 U. S. 310 (2010), removed restrictions on amounts of independent political spending; and

Whereas, The removal of those restrictions has resulted in the unjust influence of powerful economic forces, which have supplanted the will of the people by undermining our ability to choose our political leadership, write our own laws and determine the fate of our state; and

Whereas, Article V of the United States Constitution requires the United States Congress to call a convention for proposing amendments upon application of two thirds of the legislatures of the several states for the purpose of proposing amendments to the United States Constitution; and

Whereas, The State of West Virginia sees the need for a convention to propose amendments in order to address concerns such as those raised by the decision of the United States Supreme Court in *Citizens United v. Federal Election Commission* (2010), 130 S.Ct. 876, and related cases and events, including those occurring long before or afterward or for a substantially similar purpose, and desires that the convention should be so limited; and

Whereas, The State of West Virginia desires that the delegates to the convention shall be comprised equally from individuals currently elected to state and local office, or be selected by election in each congressional district for the purpose of serving as delegates, though

all individuals elected or appointed to federal office, now or in the past, be prohibited from serving as delegates to the convention, and intends to retain the ability to restrict or expand the power of its delegates within the limits expressed above; and

Whereas, The State of West Virginia intends that this be a continuing application considered together with applications calling for a convention passed in the 2013-2014 Vermont Legislature as R454 and the 2013-2014 California Legislature as Resolution Chapter 77 and all other passed, pending and future applications, the aforementioned concerns of West Virginia notwithstanding, until that time as two thirds of the several states have applied for a convention and the convention is convened by Congress; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby petitions the United States Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States of America; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the Minority Leader of the United States House of Representatives, the President Pro Tempore of the United States Senate, to each senator and representative from West Virginia in the Congress of the United States, to the Governor of each state and to the presiding officers of each legislative body of each of the several states, requesting the cooperation of the states in issuing an application compelling Congress to call a convention for proposing amendments pursuant to Article V of the U. S. Constitution.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.



**Senate Concurrent Resolution No. 6**, Requesting DOH name bridge in Raleigh County “John Thomas Scott II Memorial Bridge”.

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

**Senate Concurrent Resolution No. 7**, Requesting DOH name bridge in Preston County “Army Air Force SGT Everett Wayne ‘Bud’ Sell Memorial Bridge”.

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

**Senate Concurrent Resolution No. 8**, Urging US EPA withdraw and/or rescind proposed definition of “waters of the United States”.

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

The Senate proceeded to the tenth order of business.

**Senate Bill No. 3**, Relating to real property possessor’s liability for trespasser harm.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Kessler.

Thereafter, at the request of Senator Unger, and by unanimous consent, the remarks by Senator Kessler were ordered extended in the Journal as follows:

SENATOR KESSLER: Thank you, Mr. President and members of the Senate.

Just a few days ago we adopted, during our opening session, the Rules of the Senate. I was encouraged, Mr. President, when we adopted those rules and you—the majority party—included a Jobs Impact Statement as part of that. I was pleased as well when the Senior Senator from the Sixteenth added not only the quantity of the jobs but also the wages and quality of the jobs to be so created by any legislation we might be considering. I think, based upon the overriding concern within this body of the members, that sound public policy should be based on accurate information. The better information we have, the better policy we can put out. For that reason, I applaud the adoption of the new rules.

But as we are moving forward here—and I know Senate Bill No. 1 (*Repealing certain Alternative and Renewable Energy Portfolio Standard code sections; allowing net meter credit transfer by electric utility customer-generators to nonprofits*) is moving fairly quickly, the Renewable Energy bill. Mr. President, I would suggest to you, as the leader of the body, that it may be a prime opportunity for us to look at the Jobs Impact Statement of that bill. I don't make that request, Mr. President, for purposes of being an obstructionist, to slow it down—in fact, I support the bill.

Many of you know I'm from Marshall County, the leading coal-producing county in the state. In fact, we're doing quite well up there. My brother tells me—he's the Assessor there—that we've got over \$150 million worth of new investment. I'm happy to report that just two weeks ago Murray Energy, which took over the Consol operations, announced that it's putting a \$48 million additional investment in its Benwood facility in order to produce even more coal up in that area at their prep plant facility.

I'm also happy to say when it comes to energy that, while we may not be the leading gas-producing county in the state, Marshall County certainly is blessed with a great deal of reserves both in Marcellus and

Utica. And if we are not the leading gas-producing county, I would suggest we're in the top three. Again, I would suggest to you, Mr. President, we have put over \$10 billion worth of investment in the ground in oil and gas, Marcellus and Utica exploration in current or planned investment which is huge for our region, our opportunity and for our entire state.

I'm also happy to report that over a half billion dollars was announced recently for a new gas-fired power plant in Marshall County which is taking advantage of that Marcellus gas that we have in that region. It's going to be built, I should add, within miles of what was the former McElroy Coal plant facility, which is the largest, most productive deep mine in the country. Right across from their prep plant and down the road from there, they are going to be building a half billion dollars worth of a gas-fired power plant.

So, I think it's important and I am concerned, Mr. President, if we pass this bill that we look at the total job impact. It may create, and I know the objective is to create, more coal jobs; and that's a good thing. I'm all for that. Trust me, I'm all for that. But on the other side, the flip side of the coin, will it have an adverse effect on the creation of the gas jobs? Will they balance each other? Or will there be creation of both?

That's the kind of information I think, Mr. President, when we adopted Senate Rule No. 15b that we envisioned so that we would know if we're doing good, we're doing anything or make it have a negative impact. So, I think it would be an excellent opportunity, Mr. President, for you to show leadership and request such a study on that bill. It's been mischaracterized or characterized—I don't know—if it's a cap and trade bill. I don't know if it is or it isn't. I've heard it called a cap and trade bill. I've heard folks from the industry get up at the podium of the meeting—I'm not on that committee, but I've heard portions of it over our network—to say that it is not a cap and trade bill.

What is it? I don't know. It's an energy portfolio bill. People say, what does it do? It doesn't do nothing. The current bill doesn't

do nothing. I ask, "Why?" Because we already meet all the standards when we passed it. The bill doesn't do anything.

What does it do going forward? Well, it's going to set new standards of what we've got to do in 2020 and 2025. And you ask the industry and they say, well, we're already there, too. So it does nothing.

You know, my undergraduate degree is in economics so I always look at a cost-benefit analysis, Mr. President. So, I look at that. What is the cost? What is the benefit? Is there a plus or a minus or none? But the overriding fact and the truth of the matter is that we have a bill that does nothing. We're going to repeal it and it will do nothing. And the simple math of it is zero plus zero still equals zero. And zero minus zero still equals zero.

But this would give us an opportunity, Mr. President, to show the public, to show the people of this state, it would create more jobs, if it does so, or create lower energy utility costs for the people we represent. It's been at least suggested this will lower electric rates for folks. Well, goodness gracious, we're all for that. Everybody in this body is for lower electric rates and more jobs.

But let's see if it happens, Mr. President, because I think we need to work and create sound public policy based on measurable improvements. I think we did the right thing by adopting that rule to give you the power to do that. I don't say it to slow it down. It could be done after we do whatever action we take and then report back and say whether or not what we did, or what we intend to do, actually benefits the people of this state, Mr. President.

Because as I've heard people say, you know, it's cap and trade; it's not cap and trade. I'm not sure what it is. But if it's good for West Virginia, I'm for it. I know you'll be for it. I know all these people will be for it. But I also think it's also helpful that we go back and report to our folks six months from now, a year from now, that we can tell the folks that what we did, we've done for a reason and it had a positive impact on our state and our constituents.

Thank you, Mr. President.

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The Senate proceeded to the thirteenth order of business.

Senator Cole (Mr. President) announced the replacement of Senator Carmichael on the Committee on Confirmations, the Joint Committee on Enrolled Bills, the Committee on Government Organization, the Committee on Interstate Cooperation and the Committee on Natural Resources with Senator Boso; and the replacement of Senator Nohe on the Committee on Finance with Senator Boso.

At the request of Senator Leonhardt, the name of Senator Leonhardt was removed as a sponsor of **Senate Concurrent Resolution No. 9** (*Petitioning Congress call convention for proposal of constitutional amendments*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, January 20, 2015, at 11 a.m.

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TUESDAY, JANUARY 20, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Scotty Dingess, West Logan Church of God, Logan, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mitch Carmichael, a senator from the fourth district.

Pending the reading of the Journal of Monday, January 19, 2015,

On motion of Senator Plymale, 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 fourth order of business.

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 No. 12**, Relating to payment of separated employee's outstanding wages.

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

**Com. Sub. for Senate Bill No. 12** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §21-5-4 of the Code of West Virginia, 1931, as amended, relating to payment of wages by employers and when final wages are required to be paid; requiring payment of wages to be by next regular payday; providing exception; providing that bonuses and fringe benefits are not covered; reducing amount of liquidated damages available for a violation of this section; providing instance when liquidated damages are not available; clarifying that section does not address whether overtime pay is due; authorizing payment by mail if requested by employee; and establishing date paid if payment mailed pursuant to employee request.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 210**, Authorizing Agriculture Commissioner promulgate legislative rule relating to frozen desserts and imitation frozen desserts.

**Senate Bill No. 211**, Authorizing Agriculture Commissioner promulgate legislative rule relating to animal disease control.

**Senate Bill No. 212**, Authorizing Agriculture Commissioner promulgate legislative rule relating to auctioneers.

**Senate Bill No. 213**, Authorizing Agriculture Commissioner promulgate legislative rule relating to Pesticide Control Act of 1990 fee structure.

**Senate Bill No. 214**, Authorizing Agriculture Commissioner promulgate legislative rule relating to Plant Pest Act.

And,

**Senate Bill No. 215**, Authorizing Agriculture Commissioner promulgate legislative rule relating to meat and poultry inspection.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

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

**By Senators Walters and Nohe:**

**Senate Bill No. 256**—A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to increasing number of unexcused absences by a student before action may be taken against parent, guardian or custodian of the student.

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

**By Senators Plymale, Stollings and Kirkendoll:**

**Senate Bill No. 257**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-11, relating to improving middle grades education; requiring the West Virginia Board of Education promulgate rules applicable to grades six through eight; requiring electronic school strategic improvement plans to reflect a clear mission focused on preparing students for success in rigorous high school courses and, ultimately, for most students to graduate and proceed to college or technical training; requiring state board to adopt college- and career-ready standards; requiring literacy skills to be embedded in all subjects; requiring accelerated mathematics instruction; requiring all teachers teaching seventh and eighth grade math be certified to teach high school math by July 1, 2019; requiring students to be engaged in a



sequence of coherent science, technology, engineering and math experiences that provide more opportunities for students to discover their interests and aptitudes; requiring that all students have a career plan and an academic plan that includes at least one year of education beyond high school; requiring data and proven leadership techniques to be used to guide school change and focus professional development; requiring students who are not likely to finish high school to be identified by grade six; redesigning professional development, preparation and teacher certification; requiring state board to adopt indicators for determining whether districts and schools are meeting middle grades mission; requiring indicators to be included as a part of the accreditation process; and requiring the West Virginia Department of Education to employ or designate an existing employee for certain responsibilities.

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

**By Senators Beach, Williams, Prezioso and Kessler:**

**Senate Bill No. 258**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-26-1, §7-26-2, §7-26-3, §7-26-4, §7-26-5, §7-26-6, §7-26-7, §7-26-8, §7-26-9, §7-26-10, §7-26-11, §7-26-12, §7-26-13, §7-26-14, §7-26-15, §7-26-16, §7-26-17, §7-26-18, §7-26-19, §7-26-20, §7-26-21, §7-26-22, §7-26-23, §7-26-24, §7-26-25, §7-26-26, §7-26-27, §7-26-28, §7-26-29, §7-26-30, §7-26-31, §7-26-32, §7-26-33, §7-26-34, §7-26-35, §7-26-36, §7-26-37, §7-26-38, §7-26-39, §7-26-40, §7-26-41, §7-26-42, §7-26-43, §7-26-44 and §7-26-45, all relating generally to the role of county commissions and Commissioner of Highways in construction and financing of road and bridge projects in counties; providing short title, legislative purpose and findings; defining terms; authorizing county commissions to develop road construction project plans; specifying process for development and approval of road construction project plans and plan amendments; allowing joint road construction project plans; requiring county commissions to submit road construction project plans and plan amendments to Commissioner of Highways for approval;

specifying contents of application and approval process; creating new account and subaccounts in State Road Fund; allowing road construction projects to be financed on cash basis or by special revenue bonds issued by Commissioner of Highways; giving Commissioner of Highways jurisdiction over all road construction projects accepted into state road system; specifying that road construction projects are public improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds and refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions, are negotiable instruments and are exempt from taxation; specifying that persons executing bonds have no personal liability; providing that powers relating to road construction project plans, construction of projects and issuance of special revenue bonds are additional powers; allowing county commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; requiring transactions and uses subject or exempt from county sales and use taxes to conform to state consumers sales and service tax and use tax requirements except that county tax may not apply to sales of motor vehicles, motor fuels or to purchases where local taxation is prohibited by federal law; requiring Tax Commissioner to administer, collect and enforce county transportation sales and use tax and, for that purpose, specifying a fee allowed for commissioner's services, making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act and to West Virginia Tax Crimes and Penalties Act; requiring that definitions, taxable transactions and exemptions from county transportation sales and use taxes automatically update when state consumers sales and service tax and use tax laws are amended; requiring county commissions to develop and maintain county rate and boundary databases; requiring county commission to notify Tax Commissioner if tax has been imposed or tax rate has changed; specifying when collection of county transportation sales and use taxes begins; requiring that net collection of county transportation sales and use taxes be deposited in subaccount of county in county road improvement account in the State

Road Fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; and providing criminal penalties.

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

**By Senators Beach, Snyder and Williams:**

**Senate Bill No. 259**—A Bill to amend and reenact §17B-2-7b of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-15-44 of said code, all relating to creating exemption for autocycles, which are enclosed three-wheel motor vehicles that are equipped with safety belts, a rollbar, a windshield, wipers and a steering wheel; creating autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver's license to operate an autocycle; creating autocycle exemption from helmet and certain other safety requirements; and defining "autocycle".

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

**By Senators Yost and Kessler:**

**Senate Bill No. 260**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-61, relating to requiring materials, supplies, equipment and other items purchased by the state and its agencies to be made in the United States; providing exceptions; and defining terms.

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

**By Senators D. Hall, Miller, Snyder, Beach and Facemire:**

**Senate Bill No. 261**—A Bill to amend and reenact §22-14-3 of the Code of West Virginia, 1931, as amended, relating to dams; and clarifying definition of "owner" of dam.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 262**—A Bill to amend and reenact §5-16B-1 and §5-16B-2 of the Code of West Virginia, 1931, as amended, all relating to transferring the Children’s Health Insurance Program and Children’s Health Insurance Agency from the Department of Administration to the Department of Health and Human Resources; providing for orderly transfer of functions, funds and accounts; and clarifying definition of “Children’s Health Insurance Agency”.

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

**By Senators Yost and Kessler:**

**Senate Bill No. 263**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-1-6; and to amend and reenact §59-1-10 of said code, all relating to requiring each judicial circuit to have a court-appointed special advocate program and each county to have a special advocate for children in abuse and neglect proceedings; raising price of certified copy of birth certificate, death certificate or marriage license from \$5 to \$11; and creating a fund within the State Treasury to pay for implementation and sustenance of court-appointed special advocate programs.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 264**—A Bill to amend and reenact §31-15A-16 of the Code of West Virginia, 1931, as amended, relating to dedication of severance tax proceeds to the West Virginia Infrastructure General Obligation Debt Service Fund; and specifying reduction of

the amount of severance tax proceeds dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 265**—A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to reducing distributions to the West Virginia Infrastructure Fund to \$30 million for fiscal year 2016 and increasing the percentage of funds available for grants therefrom.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 266**—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to sales tax exemption for certain sales of materials acquired for use in highway construction or maintenance project; and specifying elimination for fiscal year beginning July 1, 2014, of refundable exemption for sales of construction and maintenance material acquired by second party for use in construction or maintenance of highway project, with retroactive effect for elapsed portion of that fiscal year.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 267**—A Bill to repeal §16-29H-1, §16-29H-2, §16-29H-3, §16-29H-4, §16-29H-5, §16-29H-6, §16-29H-7, §16-29H-8, §16-29H-9 and §16-29H-10 of the Code of West Virginia, 1931, as amended, relating to the Governor's Office of Health Enhancement and Lifestyle Planning.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 268**—A Bill to amend and reenact § 11-24-43a of the Code of West Virginia, 1931, as amended, relating to dedication of corporation net income tax proceeds to railways; and specifying that dedication of corporation net income tax proceeds to railways expires and is null and void on and after July 1, 2015.

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

**By Senators Yost, Kessler and Facemire:**

**Senate Bill No. 269**—A Bill to amend and reenact § 11-6B-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated § 11-6B-3a, all relating to creation of a \$20,000 annual flood zone homestead property tax exemption; defining “high-risk area”; and providing eligibility qualifications for flood zone homestead property tax exemption.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 9**, Petitioning Congress call convention for proposal of constitutional amendments.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 1**, Repealing certain Alternative and Renewable Energy Portfolio Standard code sections; allowing

net meter credit transfer by electric utility customer-generators to nonprofits.

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

Senator Blair requested unanimous consent to advance the bill to third reading with the right for amendments to be considered on that reading.

Which consent was not granted, Senator Beach objecting.

Thereafter, on motion of Senator Carmichael, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Senate Bill No. 3**, Relating to real property possessor's liability for trespasser harm.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, January 21, 2015, at 11 a.m.

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WEDNESDAY, JANUARY 21, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Father Matthew Moore, St. John Greek Orthodox Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Daniel J. Hall, a senator from the ninth district.

Pending the reading of the Journal of Tuesday, January 20, 2015,

On motion of Senator Facemire, 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 Clerk presented a communication from the Board of Sanitarians, submitting its biennial report for fiscal years 2013 and 2014 as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate then proceeded to the fourth order of business.

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 No. 43**, Limiting tolling of statute of limitations for third-party complaints.

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

**Com. Sub. for Senate Bill No. 43** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-2-21 of the Code of West Virginia, 1931, as amended, relating to tolling statute of limitations in certain cases generally; limiting circumstances within which statute of limitations is tolled for institution of third-party



complaints associated with pending civil actions; providing alternative periods when statute of limitations on third-party complaints is tolled; defining “third-party complaint”; and clarifying that this section does not limit doctrine of equitable tolling or discovery rule.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 59**, Creating felony offense of knowingly leaving crash scene resulting in serious bodily injury.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

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

Senator D. Hall, from the Committee on Labor, submitted the following report, which was received:

Your Committee on Labor has had under consideration

**Senate Bill No. 153**, Authorizing Division of Labor promulgate legislative rule relating to Amusement Rides and Amusement Attractions Safety Act.

**Senate Bill No. 154**, Authorizing Division of Labor promulgate legislative rule relating to child labor.

**Senate Bill No. 155**, Authorizing Division of Labor promulgate legislative rule relating to supervision of plumbing work.

And,

**Senate Bill No. 156**, Authorizing Division of Labor promulgate legislative rule relating to verification of legal employment status.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator D. Hall, from the Committee on Labor, submitted the following report, which was received:

Your Committee on Labor has had under consideration

**Senate Bill No. 157**, Authorizing Division of Labor promulgate legislative rule relating to regulation of heating, venting and cooling work.

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

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bill, under the original triple committee reference, was referred to the Committee on Finance; and then to the Committee on the Judiciary.

Senator D. Hall, from the Committee on Labor, submitted the following report, which was received:

Your Committee on Labor has had under consideration

**Senate Bill No. 158**, Authorizing Division of Labor promulgate legislative rule relating to weights and measures calibration fees.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original triple committee reference first be referred to the Committee on Finance; and then to the Committee on the Judiciary.

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bill, under the original triple committee reference, was referred to the Committee on Finance; and then to the Committee on the Judiciary, with an amendment from the Committee on Labor pending.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 178**, Authorizing Family Protection Services Board promulgate legislative rule relating to domestic violence program licensure standards.

**Senate Bill No. 179**, Authorizing Family Protection Services Board promulgate legislative rule relating to Monitored Parenting and Exchange Program certification.

**Senate Bill No. 180**, Authorizing Family Protection Services Board promulgate legislative rule relating to board operation.

**Senate Bill No. 181**, Authorizing Family Protection Services Board promulgate legislative rule relating to perpetrator intervention programs licensure for correctional institutions.

**Senate Bill No. 205**, Authorizing Board of Pharmacy promulgate legislative rule relating to controlled substances monitoring.

And,

**Senate Bill No. 228**, Authorizing Family Protection Services Board promulgate legislative rule relating to perpetrator intervention programs licensure.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 203**, Authorizing Board of Pharmacy promulgate legislative rule relating to immunizations administered by pharmacists.

And has amended same.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Health and Human Resources pending.

The Senate proceeded to the sixth order of business.

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

**By Senators Stollings, Prezioso and Kirkendoll:**

**Senate Bill No. 270**—A Bill to amend and reenact §16-5H-2 of the Code of West Virginia, 1931, as amended, relating to raising

from fifty to sixty percent the number of patients prescribed controlled substances for chronic pain to be designated a pain management clinic.

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

**By Senators Karnes and Nohe:**

**Senate Bill No. 271**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §33-42-9 and §33-42-10, all relating to the care of aborted fetuses; requiring medical facilities that provide abortions to administer anesthesia to an unborn fetus when aborted if it is older than seven weeks; requiring all available medical means to be used to preserve the life of a fetus if it is alive when aborted; and providing criminal penalties.

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

**By Senator Karnes:**

**Senate Bill No. 272**—A Bill to amend and reenact §8-10-2 of the Code of West Virginia, 1931, as amended, relating to decreasing the number of jurors on a municipal jury in criminal matters from twelve to six.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 273**—A Bill to amend and reenact §11-16-6, §11-16-9 and §11-16-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-16-6a, all relating to brewer, resident brewer and brewpub licensing and operations; permitting licensed brewers and resident brewers to conduct nonintoxicating beer sampling;

permitting licensed brewers and resident brewers to conduct growler sales for off-premises consumption from their brewery premises located in the state; clarifying licensing and operational requirements for brewers, resident brewers and brewpubs; and removing brewpub bonding requirements.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 274**—A Bill to amend and reenact §9-9-11 of the Code of West Virginia, 1931, as amended, relating to the Temporary Assistance for Needy Families program; and authorizing Secretary of Department of Health and Human Resources to prescribe policies in accordance with the program to reform violations, sanctions and penalties.

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

**By Senators Trump, Kessler, Unger, Nohe, Boso, Blair, Prezioso, D. Hall, Beach and Romano:**

**Senate Bill No. 275**—A Bill to amend and reenact §29B-1-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-4 of said code, all relating to concealed weapon permits; exempting information contained in a concealed weapon permit application from the Freedom of Information Act; protecting confidentiality of information collected in application for a concealed weapon permit; and providing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Karnes, Boley, Leonhardt, Maynard, Nohe, Plymale and D. Hall:**

**Senate Bill No. 276**—A Bill to amend and reenact §11-13A-3b of the Code of West Virginia, 1931, as amended; and to amend and

reenact §11-13V-4 of said code, all relating to removing severance tax on timber.

Referred to the Committee on Finance.

**By Senators Miller, D. Hall, Laird, Williams and Kirkendoll:**  
**Senate Bill No. 277**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5-20a, relating to a certificate of birth resulting in stillbirth; and creating “Noah’s Law”.

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

**By Senator Karnes:**

**Senate Bill No. 278**—A Bill to repeal §20-2-42w of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5, §20-2-5g and §20-2-22a of said code, all relating to hunting; prohibiting hunting with night vision technology, drone or other unmanned aerial vehicle; and permitting hunting with crossbows.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Walters, Blair, Gaunch, Boso, Karnes, Maynard and D. Hall:**

**Senate Bill No. 279**—A Bill to amend and reenact §21-1-2 of the Code of West Virginia, 1931, as amended, relating to qualifications of the Commissioner of Labor; and amending language that commissioner be identified with labor interests of the state.

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

**By Senators Cole (Mr. President), Boley, Ferns, Mullins, Nohe, Sypolt, Prezioso, Facemire, D. Hall, Williams, Kessler, Palumbo and Beach:**



**Senate Bill No. 280**—A Bill to amend and reenact §22-6A-7 of the Code of West Virginia, 1931, as amended, relating to allowing the transfer of well work permits upon approval of the Secretary of the Department of Environmental Protection.

Referred to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill No. 281**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11A-3A-1, §11A-3A-2, §11A-3A-3, §11A-3A-4, §11A-3A-5 and §11A-3A-6, all relating to creating a system of judicial in rem tax foreclosure sales; providing a judicial in rem tax foreclosure process as alternative to nonjudicial foreclosure process; defining terms; providing for identification of properties eligible for judicial foreclosure; setting forth requirements in petition for judicial foreclosure; requiring notice to owners and interested parties in order to preserve their due process rights; setting forth form of petition; detailing standards for judicial hearing on petition; requiring certain judicial order for sale; noting priority of claims; allowing for continuance upon death of interested party; providing process for redemption by owner or interested party prior to judicial foreclosure sale; stating sale procedure and timing; setting minimum bid requirements; addressing finality of purchase; permitting additional fourteen-day redemption period post sale for owner of property; requiring execution of tax deed and report of sale; and stating certain information that shall be included in deed.

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

Senators Trump, Kessler, Unger, Nohe, D. Hall and Prezioso offered the following resolution:

**Senate Concurrent Resolution No. 10**—Designating the month of September every year as U. S. Constitution Month and encouraging the people of West Virginia to remember and study the

extraordinary events of 1787, which culminated in the drafting of the U. S. Constitution at the convention in Philadelphia.

Whereas, The U. S. Constitution established America's national government and fundamental laws and guaranteed certain basic rights for its citizens. It was signed on September 17, 1787, by delegates to the Constitutional Convention in Philadelphia and presided over by George Washington. Under America's first governing document, the Articles of Confederation, the national government was weak and states operated like independent countries. At the 1787 convention, delegates devised a plan for a stronger federal government with three branches: Executive, Legislative and Judicial, together with a system of checks and balances to ensure no single branch would have too much power. The Bill of Rights, which are the first ten amendments to the Constitution guaranteeing basic individual protections such as freedom of speech and religion, became part of the Constitution in 1791. There have been a total of 27 constitutional amendments; and

Whereas, As Benjamin Franklin said on the closing day of the convention in 1787, "I agree to this Constitution with all its faults, if they are such, because I think a central government is necessary for us... I doubt too whether any other convention we can obtain may be able to make a better Constitution". It is still the most remarkable document of its kind in the political history of mankind; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby designates the month of September every year as U. S. Constitution Month and encourages the people of West Virginia to remember and study the extraordinary events of 1787, which culminated in the drafting of the U. S. Constitution at the convention in Philadelphia.

Which, under the rules, lies over one day.

Senators Ferns, Stollings, Palumbo, Kessler, Unger, Beach, Plymale, D. Hall, Trump and Prezioso offered the following resolution:

**Senate Resolution No. 9**—Designating January 21, 2015, as “Disability Advocacy Day”.

Whereas, There are over 400,000 West Virginians with disabilities; and

Whereas, People with disabilities have the right to live, work and fully participate in their communities to realize their dreams; and

Whereas, People with disabilities have the right to receive the supports they need to exercise self-determination, achieve independence and become productive employees in the workplace; and

Whereas, West Virginia’s citizens with disabilities have banded together in a collective group, called the Fair Shake Network, to help bring their concerns to the forefront of public awareness; and

Whereas, The Fair Shake Network has developed a statewide network concerned with all types of disabilities and all age groups, providing opportunities for people to learn from each other and take action together; and

Whereas, The Fair Shake Network has become a credible source of information to policymakers, advocates and the public on policies and programs that impact people with disabilities; and

Whereas, Such organizations as the West Virginia Department of Rehabilitation Services, West Virginia Developmental Disabilities Council, West Virginia Parent Training & Information, Job Squad, West Virginia Advocates, Mountain State Centers for Independent Living, Northern West Virginia Center for Independent Living, West

Virginia Statewide Independent Living Council, Appalachian Center for Independent Living, West Virginia State Rehabilitation Council, West Virginia Association of the Deaf, Open Doors, Inc., National Association of Social Workers, WV Chapter, West Virginia University Center for Excellence in Disabilities, The Arc of West Virginia, People First and West Virginia Autism Training Center at Marshall University have joined together to help increase public awareness of issues involving the many concerns of West Virginians with disabilities through the Fair Shake Network; and

Whereas, The purpose of Disability Advocacy Day is to increase the awareness and understanding of legislators, administrators, policymakers and the public of the public policy issues that are important to people with disabilities; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 21, 2015, as “Disability Advocacy Day”; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the Fair Shake Network.

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

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

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

Senators Palumbo, Plymale and Beach offered the following resolution:

**Senate Resolution No. 10**—Recognizing Jake Harriman, founder and CEO of Nuru International, a native of Preston County and proud West Virginian, and other West Virginia natives and former West Virginia University graduates who have helped Nuru International become an influential force in the fight against extreme poverty throughout the world.

Whereas, Jake Harriman grew up in Preston County, West Virginia, near Terra Alta, and attended West Virginia University before enrolling in and graduating from the United States Naval Academy, and later served in the United States Marine Corps; and

Whereas, Jake Harriman served in infantry and as a special operations platoon commander in Force Reconnaissance, receiving the Bronze Star for his actions in combat; and

Whereas, Jake Harriman identified a connection between terrorism, insurgency and extreme poverty that led him to leave the Marine Corps and enroll at Stanford University’s Graduate School of Business; and

Whereas, Jake Harriman graduated from Stanford in 2008 and officially launched Nuru International in September, 2008, creating an innovative model for addressing extreme poverty in remote rural areas around the globe; and

Whereas, Nuru International is a nonprofit organization with deep West Virginia roots that is having an incredible impact on poverty in Kenya and Ethiopia by working with extremely poor communities to train and empower them to become the answer to their own problems without giving any handouts; and

Whereas, Nuru International has served more than 50,000 people in Kuria West, Kenya, and Boreda, Ethiopia, over the last six years through its innovative holistic, sustainable and scalable model to address global extreme poverty by building capacity with local leaders; and

Whereas, Nuru International and Jake Harriman's story has been featured in articles and interviews in the New York Times, Forbes, Huffington Post, ONE, Christian Science Monitor, ABC News, Fox Business, Al Jazeera America, BBC World Service and more; and

Whereas, Four of Nuru International's original five board of directors members were either West Virginia natives or graduates of West Virginia University, including Jake Harriman's suite mate in Arnold Hall during freshman year at WVU; and

Whereas, Nuru International's board chairman, John Hancox, has family roots in Preston County, West Virginia, and is both a 1996 graduate from West Virginia University with a B. A. in Biology and a 2001 graduate from WVU School of Medicine; and

Whereas, Nuru International board member Andy Cogar is originally from Gassaway, West Virginia, previously served as the Mountaineer from 1996-1998, graduated from WVU as a University Honors Scholar with a dual degree in Mathematics and Communications and later graduated from WVU School of Law; and

Whereas, Nuru International's Grassroots Movement Director and Director of Strategic Partnerships, Billy Williams, is a native of Parkersburg, West Virginia, graduated in 1997 from West Virginia University as a University Honors Scholar with a dual degree in Chemistry and English and in 2007 earned a M. A. in English from WVU; and

Whereas, Other West Virginia University graduates have served on the staff or board of Nuru, including Trey Dunham, an original board member; Janine Brown, a 2006 MPH graduate; Megan Baird, an international studies graduate; Derek Roberts, a 2008 accounting graduate and native of Mount Zion, West Virginia, in Calhoun County; Tiffany Newcomb, a 2006 engineering graduate and native of Beckley, West Virginia, in Raleigh County; and Chris Isele, a 2013 business administration graduate; and

Whereas, Nuru International is an international organization with supporters in most of the fifty states, with more donors and a greater volume of donations coming from West Virginia annually than any other state, in part because of the great pride West Virginians have for seeing fellow Mountaineers doing good work in the world; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Jake Harriman, founder and CEO of Nuru International, a native of Preston County and proud West Virginian, and other West Virginia natives and former West Virginia University graduates who have helped Nuru International become an influential force in the fight against extreme poverty throughout the world; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Jake Harriman, John Hancox, Andy Cogar, Billy Williams and Nuru International.

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

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

Upon expiration of the recess, the Senate reconvened and proceeded to the eighth order of business.

**Com. Sub. for Senate Bill No. 1,** Repealing certain Alternative and Renewable Energy Portfolio Standard code sections; allowing net meter credit transfer by electric utility customer-generators to nonprofits.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, January 20, 2015, for amendments to be received on third reading, was reported by the Clerk.

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

On page three, section eight, after line ten, by adding a new subsection, designated subsection (h), to read as follows:

(h) The commission shall assure that any net metering tariff does not create a cross subsidization between customers within one class of service.

On motions of Senators Kessler, Unger, Beach, Kirkendoll, Laird, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings and Woelfel, the following amendment to the bill (Com. Sub. for S. B. No. 1) was next reported by the Clerk:

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

That §24-2F-2, §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12 of the Code of West Virginia, 1931, as amended, be repealed; and that §24-2F-1 and §24-2F-8 of said code be amended and reenacted, all to read as follows:

## **ARTICLE 2F. NET METERING OF CUSTOMER-GENERATORS.**

### **§24-2F-1. Audit of impact of repealing article.**

~~This article may be known and cited as the Alternative and Renewable Energy Portfolio Act. During the 2015 regular legislative session, the Legislature repealed the vast majority of this article in an attempt to create jobs and lower utility rates for consumers. The Legislative Auditor shall review the amendments made to this article during the 2015 regular legislative session and analyze the impact that the amendments had on: (1) Whether any jobs were gained or lost as a result of the amendments, including any impact on wages associated with the jobs affected by the~~



amendments, such as wage increases or decreases in existing jobs, wages of jobs lost, wages of new jobs and the net impact on wages; and (2) whether any impact was made on utility rates for West Virginia consumers. The Legislature hereby requires that the Legislative Auditor prepare report of the analysis and findings requested by this section and that the report be both presented to the Joint Committee on Government and Finance and published on the Legislature's website on or before July 1, 2016.

**§4-2F-8. Net metering and interconnection standards.**

(a) The commission shall adopt a rule requiring that all electric utilities provide a rebate or discount at fair value, to be determined by the commission, to customer-generators for any electricity generation that is delivered to the utility under a net metering arrangement.

(b) The commission shall also consider adopting, by rule, a requirement that all sellers of electricity to retail customers in the state, including rural electric cooperatives, municipally owned electric facilities or utilities serving ~~less~~ fewer than thirty thousand residential electric customers in this state, offer net metering rebates or discounts to customer-generators.

(c) The commission shall institute a general investigation for the purpose of adopting rules pertaining to net metering and the interconnection of eligible electric generating facilities intended to operate in parallel with an electric utility's system. As part of its investigation, the commission shall take into consideration rules of other states within the applicable region of the regional transmission organization, as that term is defined in 18 C. F. R. §35.34, that manages a utility's transmission system in any part of this state. Furthermore, the commission shall consider increasing the allowed kilowatt capacity for commercial customer-generators to an amount not to exceed five hundred kilowatts and for industrial customer-generators to an amount not to exceed two megawatts. The commission shall further consider interconnection standards for combined heat and power.

(d) The commission shall promulgate these rules within twelve months of the effective date of this article.

(e) The commission shall adopt a rule requiring that all electric utilities allow for customer-generators to transfer any accrued net meter credits to a utility-approved nonprofit that provides relief to customers in need of financial assistance.

(f) “Net metering” means measuring the difference between electricity supplied by an electric utility and electricity generated from an alternative or renewable energy resource facility owned or operated by an electric retail customer when any portion of the electricity generated from the alternative or renewable energy resource facility is used to offset part or all of the electric retail customer’s requirements for electricity.

(g) “Customer-generator” means an electric retail customer who owns and operates a customer-sited generation project utilizing an alternative or renewable energy resource or a net metering system in this state.

(h) The commission shall assure that any net metering tariff does not create a cross subsidization between customers within one class of service.

Following discussion,

The question being on the adoption of the amendment offered by Senators Kessler, Unger, Beach, Kirkendoll, Laird, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings and Woelfel to the bill (Com. Sub. for S. B. No. 1), and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Palumbo, Prezioso, Romano, Snyder, Stollings, Unger, Woelfel and Yost–13.

The nays were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Plymale, Sypolt, Takubo, Trump, Walters, Williams and Cole (Mr. President)—20.

Absent: Miller—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senators Kessler, Unger, Beach, Kirkendoll, Laird, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings and Woelfel to the bill rejected.

The bill, as amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill No. 1 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 1 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—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. No. 1) passed.

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

**Eng. Com. Sub. for Senate Bill No. 1**—A Bill to repeal §24-2F-1, §24-2F-2, §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-2F-8 of said code, relating to repealing the Alternative and Renewable Energy Portfolio Act; and creating net metering of customer-generators.

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

Thereafter, at the request of Senator D. Hall, and by unanimous consent, the remarks by Senators Snyder, Stollings and Kirkendoll regarding the passage of Engrossed Committee Substitute for Senate Bill No. 1 were ordered printed in the Appendix to the Journal.

**Eng. Senate Bill No. 3**, Relating to real property possessor's liability for trespasser harm.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Miller—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 3) passed with its title.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill No. 12,** Relating to payment of separated employee's outstanding wages.

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

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

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Miller.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, January 22, 2015, at 11 a.m.

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## THURSDAY, JANUARY 22, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Rick Swearengin, Madison United Methodist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan J. Ferns, a senator from the first district.

Pending the reading of the Journal of Wednesday, January 21, 2015,

On motion of Senator Kirkendoll, 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 Clerk presented a communication from the Division of Natural Resources, submitting its annual report, in accordance with chapter twenty, article one, section seven of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate then proceeded to the fourth order of business.

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 No. 13**, Reinstating open and obvious doctrine for premises liability.

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

**Com. Sub. for Senate Bill No. 13** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to liability of possessor of real property for injuries caused by open and obvious hazards; reinstating and codifying open and

obvious doctrine of common law as it existed prior to judicial abolition; clarifying that this section does not create, recognize or ratify claim or cause of action; and stating legislative intent.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 138**, Relating to posting of property to prohibit hunting or trespassing.

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

**Com. Sub. for Senate Bill No. 138** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3B-1 of said code, all relating to posting of property to prohibit hunting or trespassing; and allowing posting by certain clearly visible paint markings.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. No. 138), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill No. 144**, Authorizing CPRB promulgate legislative rule relating to refund, reinstatement, retroactive service, loan and employer error interest factors.

**Senate Bill No. 145**, Authorizing CPRB promulgate legislative rule relating to Deputy Sheriffs Retirement System.

And,

**Senate Bill No. 229**, Authorizing CPRB promulgate legislative rule relating to service credit for accrued and unused sick and annual leave.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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



Your Committee on Natural Resources has had under consideration

**Senate Bill No. 146**, Authorizing DNR promulgate legislative rule relating to defining terms used in hunting and trapping rules.

**Senate Bill No. 148**, Authorizing DNR promulgate legislative rule relating to general hunting.

And,

**Senate Bill No. 150**, Authorizing DNR promulgate legislative rule relating to wildlife damage control agents.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 183**, Authorizing Office of Technology promulgate legislative rule relating to sanitization, retirement and disposition of equipment.

**Senate Bill No. 187**, Authorizing Racing Commission promulgate legislative rule relating to thoroughbred racing.

**Senate Bill No. 197**, Authorizing Board of Medicine promulgate legislative rule relating to licensure, disciplinary and complaint procedures; continuing education; physician assistants.

**Senate Bill No. 198**, Authorizing Enterprise Resource Planning Board promulgate legislative rule relating to user fee.

**Senate Bill No. 200**, Authorizing Board of Physical Therapy promulgate legislative rule relating to fees for physical therapists and physical therapist assistants.

**Senate Bill No. 201**, Authorizing Board of Osteopathy promulgate legislative rule relating to board fees.

And,

**Senate Bill No. 204**, Authorizing Board of Pharmacy promulgate legislative rule relating to pharmacy technician registration.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Leonhardt, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Concurrent Resolution No. 4**, Requesting Joint Committee on Government and Finance study issues facing military veterans and active duty service personnel.

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

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

The Senate proceeded to the sixth order of business.

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

**By Senators D. Hall and Stollings:**

**Senate Bill No. 282**—A Bill to amend and reenact §29-27-1, §29-27-2, §29-27-3, §29-27-4, §29-27-5 and §29-27-6 of the Code of West Virginia, 1931, as amended, all relating to the National Coal Heritage Area Authority; expanding number of member counties; increasing number of members and providing for appointments by county commissions rather than the Governor; providing for chairperson appointed by and serving at the will and pleasure of the Secretary of Education and the Arts rather than the Governor; creating standing committee and its responsibilities; and transferring all assets and responsibilities of the Coal Heritage Highway Authority to the National Coal Heritage Area Authority.

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

**By Senators Nohe, Gaunch and Plymale:**

**Senate Bill No. 283**—A Bill to amend and reenact §31A-4-40 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31A-8-12d of said code, all relating to replacing requirement of a board resolution and legal advertisement for any change in days or hours a bank office is open for business with a requirement that the banking institution provide forty-five days' advance written notice in the form of signage at the office and written notice to the Commissioner of Financial Institutions; and reducing time for consideration of expedited branch applications from thirty-five days to twenty-one days.

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

**By Senators Nohe, Plymale, Sypolt, Walters, Blair, Williams, Prezioso and D. Hall:**

**Senate Bill No. 284**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-7-16, relating to dangerous weapons; when chief law-enforcement officer is required to certify transfer or making of certain firearms; providing definitions; and right of appeal if request for certification is denied.

Referred to the Committee on the Judiciary.

**By Senators Nohe, Gaunch and Plymale:**

**Senate Bill No. 285**—A Bill to amend and reenact §31-17-1 and §31-17-8 of the Code of West Virginia, 1931, as amended, all relating to including consumer credit sales that are secured by mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate in definitions of “primary mortgage loan” and “subordinate mortgage loan”; providing exception to prohibition of balloon payments; and further extending exception to the ban on loans greater than one hundred percent loan-to-value for loan modifications or refinancing loans done through and in compliance with government programs or litigation settlements.

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

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 10**, Designating September each year as US Constitution Month.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 12**, Relating to payment of separated employee's outstanding wages.

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.

**Com. Sub. for Senate Bill No. 43**, Limiting tolling of statute of limitations for third-party complaints.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Miller.

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

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, January 23, 2015, at 11 a.m.

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## FRIDAY, JANUARY 23, 2015

The Senate met at 11 a.m. May 1, 2015

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

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

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jeff Mullins, a senator from the ninth district.

Pending the reading of the Journal of Thursday, January 22, 2015,

On motion of Senator Blair, the Journal was approved and the further reading thereof dispensed with.

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill No. 2001**—A Bill to repeal §24-2F-1, §24-2F-2, §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12, of the Code of West Virginia, 1931, as amended, all relating to repealing certain provisions of the Alternative and Renewable Energy Portfolio Act.

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

### **Executive Communications**

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

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

January 22, 2015

The Honorable William P. Cole III  
President, West Virginia Senate  
The Honorable Tim Armstead  
Speaker, West Virginia House of Delegates  
State Capitol  
Charleston, West Virginia

Dear President Cole and Speaker Armstead:

My recommended FY 2016 Executive Budget, which was submitted on January 14, 2015, included retirement contributions based on the best estimates available at that time. Those estimated retirement contribution numbers have been updated and the final contribution amounts for West Virginia's retirement systems are now available. Due to these changes in the final actuarial valuations for the Teachers' Defined Benefit System (TRS), State Police Retirement System, and Public Employees Retirement System (PERS), various line items throughout the Budget Bill can be adjusted.

These adjustments amount to a net decrease of \$43,927,000 in the required contributions for the various retirement systems in FY 2016 for the General Revenue and Lottery Funds.

I recommend that all of these available funds be appropriated for the Medicaid program which will reduce the appropriation in the FY 2016 budget from the Revenue Shortfall Reserve Fund by \$43,927,000. This will minimize the usage of the fund and maintain a healthy reserve balance, which, among others, is a factor in the State's bond rating.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2016 Budget Bill for the TITLE II – APPROPRIATIONS as follows:

### **Section 1. Appropriations from general revenue.**

Funds appropriated for the Public Employees Retirement System (PERS), are adjusted in numerous line items throughout the Governor's Recommended FY 2016 Budget Bill in General Revenue. Please see the attached spreadsheet for the adjustments relating to the January 14, 2015, final actuarial estimation. The total reduction for PERS in the General Revenue Fund is \$1,629,731.

#### **Department of Education**

*State Board of Education - State Department of Education, Fund 0313, Fiscal Year 2016, Org 0402*

(To adjust the Teachers' Retirement Savings Realized appropriations due to the January 14, 2015, final actuarial estimation.)

- Increase "Teachers' Retirement Savings Realized" Appropriation 09500 by \$972,000.

*State Board of Education - State Aid to Schools, Fund 0317, Fiscal Year 2016, Org 0402*

(To adjust the State Aid Formula Teachers' Retirement System and the Retirement Systems - Unfunded Liability appropriations due to the January 14, 2015, final actuarial estimation.)

- Decrease "Teachers' Retirement System" Appropriation 01900 by \$5,466,000



- Decrease “Retirement Systems - Unfunded Liability” Appropriation 77500 by \$37,056,000.

### **Department of Health and Human Resources**

*Division of Human Services, Fund 0403, Fiscal Year 2016, Org 0511*  
(To increase the appropriation for Medical Services.)

- Increase “Medical Services” Appropriation 18900 by \$43,927,000

### **Department of Military Affairs and Public Safety**

*West Virginia State Police, Fund 0453, Fiscal Year 2016, Org 0612*  
(To adjust the appropriation due to the January 14, 2015, final actuarial estimation for State Police Plan A Retirement and State Police Plan B Retirement.)

- Decrease “Retirement Systems - Unfunded Liability” Appropriation 77500 by \$723,000.

### **Bureau of Senior Services**

*Bureau of Senior Services, Fund 0420, Fiscal Year 2016, Org 0508*  
(To move part of the appropriation for Title XIX Waiver to the Lottery Fund.)

- Decrease “Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens” Appropriation 53900 by \$24,269.

## **Section 3. Appropriations from other funds.**

### **Department of Administration**

*Department of Administration - Office of the Secretary Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2016, Org 0201*

(To adjust the appropriation to allow for the full transfer of the Teachers’ Realized Savings Realized.)

- Increase “Current Expenses” Appropriation 13000 by \$972,000.

**Department of Health and Human Resources**

*Division of Human Services - Medical Services Trust Fund, Fund 5185, Fiscal Year 2016, Org 0511*

(To adjust the appropriation due to the reduced transfer from the Revenue Shortfall Reserve Fund.)

- Decrease “Medical Services” Appropriation 18900 by \$43,927,000.

**Department of Revenue**

*Office of the Secretary - Revenue Shortfall Reserve Fund, Fund 7005, Fiscal Year 2016, Org 0701*

(To reduce the transfer to the Medical Services Trust Fund now funded from General Revenue.)

- Decrease “Medical Services Trust Fund - Transfer” Appropriation 51200 by \$43,927,000.

**Section 4. Appropriations from lottery net profits.**

Funds appropriated for the Public Employees Retirement System (PERS), are adjusted in various line items throughout the Governor’s Recommended FY 2016 Budget Bill in Lottery Net Profits. Please see the attached spreadsheet for the adjustments relating to the January 14, 2015, final actuarial estimation. The total reduction for PERS in the Lottery Fund is \$24,269.

**Bureau of Senior Services**

*Bureau of Senior Services, Lottery Senior Citizens Fund, Fund 5405, Fiscal Year 2016, Org 0508*

(To adjust the appropriation for Title XIX Waiver moved from General Revenue.)

- Increase “Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens” Appropriation 53900 by \$24,269.

Thank you for your prompt attention of this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,

Earl Ray Tomblin,  
*Governor.*

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

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 8**, Providing for DOH performance and efficiency audit.

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

**Com. Sub. for Senate Bill No. 8** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-6a, relating to auditing the Division of Highways.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 196**, Authorizing Real Estate Appraiser Licensing and Certification Board promulgate legislative rule relating to registration and renewal of appraisal management companies.

**Senate Bill No. 206**, Authorizing Board of Dental Examiners promulgate legislative rule relating to formation and approval of professional limited liability companies.

**Senate Bill No. 209**, Authorizing Board of Dental Examiners promulgate legislative rule relating to formation and approval of dental corporations and dental practice ownership.

And,

**Senate Bill No. 223**, Authorizing Board of Pharmacy promulgate legislative rule relating to licensure and practice of pharmacy.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 207**, Authorizing Board of Dental Examiners promulgate legislative rule relating to board.

And,

**Senate Bill No. 208**, Authorizing Board of Dental Examiners promulgate legislative rule relating to dental recovery networks.

And reports the same back with the recommendation that they each do pass; but under the original triple committee references first be referred to the Committee on Finance; and then to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bills, under the original triple committee references, were referred to the Committee on Finance; and then to the Committee on the Judiciary.

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 No. 280**, Allowing well work permit transfers.

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

**Com. Sub. for Senate Bill No. 280** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §22-6A-7 of the Code of West Virginia, 1931, as amended, relating to allowing transfer of

well work permits upon prior written approval of the Secretary of the Department of Environmental Protection; providing for forms prescribed by the secretary; requiring transferee to give notice of transfer; requiring transferee to update their emergency point of contact; and providing for permit transfer fee.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Trump, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 280) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Prezioso and Yost—3.

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

Engrossed Committee Substitute for Senate Bill No. 280 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 280 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Prezioso and Yost—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 280) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Prezioso and Yost—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 280) takes effect from passage.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Facemire, Miller and Romano regarding the passage of Engrossed Committee Substitute for Senate Bill No. 280 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the sixth order of business.

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

**By Senators Ferns, Trump, D. Hall, Blair, Boley, Gaunch, M. Hall, Leonhardt, Maynard, Mullins, Walters and Karnes:**

**Senate Bill No. 286**—A Bill to amend and reenact §16-3-4 and §16-3-5 of the Code of West Virginia, 1931, as amended, all relating generally to mandatory immunizations; setting forth immunization dosage levels; adding required immunizations; providing medical and religious exemptions from mandatory immunizations for school children; requiring parents and guardians to assert their beliefs in affidavit; providing that affidavit be provided before exemption applies; allowing removal of students who are not immunized from school in times of emergency or epidemic; granting legislative rule-making authority to the Secretary of the Department of Health and Human Resources to add or delete diseases for which vaccines are required for school attendance, to develop necessary forms and to create process for reviewing any verification of affidavits for completeness; nullifying an interpretive rule and any action taken pursuant to the interpretive rule; modifying the Immunization Advisory Committee; and establishing a chair of the committee.



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

**By Senators Takubo, Boley, Carmichael, Gaunch, Stollings, Walters, Williams, Trump and Blair:**

**Senate Bill No. 287**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-34a, relating to the State Board of Education; providing for awarding of posthumous high school diploma to parents of high school senior who dies during senior year; providing exceptions; and designating said section as “Todd’s Law”.

Referred to the Committee on Education.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 288**—A Bill to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-7, §18-9A-11 and §18-9A-12 of said code, all relating to public school finance; eliminating authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to Growth County School Facilities Act Fund; adjusting foundation school program allowance for transportation costs; including propane as an eligible fuel for the ten-percent additional percentage allowance for school bus systems using alternative fuels; changing percentage of the replacement value of bus fleets included in calculation of allowance in foundation school program for transportation; and eliminating certain adjustments in basic foundation program.

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

**By Senators Takubo, Stollings, Carmichael, Ferns, Walters, Gaunch and Miller:**

**Senate Bill No. 289**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§33-6-38, relating to prohibiting requiring insured person to pay higher copayment, deductibles or coinsurance for orally administered anti-cancer medications than is required for those injected or intravenously administered by health care provider.

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

**By Senators Williams, Beach, Blair, Kirkendoll, Stollings, Sypolt, Palumbo and Miller:**

**Senate Bill No. 290**—A Bill to amend and reenact §11-16-6 and §11-16-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §11-16-8a and §11-16-11b, all relating to regulation of nonintoxicating beer brewers and retailers; authorizing licensed brewers and brewpubs to sell growlers of nonintoxicating beer for off-premises consumption; limiting refunds of license application fees; providing for designated point of communication for inquiries about status of license and registration applications; changing structure and amounts of fees for brewers and brewpubs; requiring brewers to submit annual reports of production; allowing brewers of nonintoxicating craft beer to offer complimentary samples; and removing redundant and outdated language.

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

**By Senators Ferns, D. Hall, Karnes and Leonhardt:**

**Senate Bill No. 291**—A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended, all relating to clarifying powers of the Attorney General to enter into contracts for legal services with attorneys outside the Attorney General's Office.

Referred to the Committee on the Judiciary.

**By Senators Nohe and Gaunch:**

**Senate Bill No. 292**—A Bill to amend and reenact §32A-2-4 and §32A-2-13 of the Code of West Virginia, 1931, as amended, all relating to licenses for business of currency exchange, transportation or transmission; establishing expiration date of December 31 for those licensees; and requiring licensees to provide sixty days' advance notice of any change in control or change in principals.

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

**By Senators Beach, Kessler and Miller:**

**Senate Bill No. 293**—A Bill to amend and reenact §17A-2-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; and to amend and reenact §17D-2-2 of said code, all relating to increasing fees; increasing fee for vehicle records and certified record fee; increasing registration fee for Class A motor vehicles; increasing fee for issuance and duplication of various documents by the division including titles, registrations, plates and decals; increasing fee for issuance, duplication and renewal of a driver's license; requiring payment of fee for each attempt at written and road skills test; and increasing fee for driving records.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 294**—A Bill to repeal §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code; to amend and reenact §15-5-28 of said code; to amend and reenact

§18A-3-2c of said code; and to amend and reenact §33-16D-16 of said code, all relating to eliminating unnecessary, inactive or redundant councils, committees and boards; terminating the Council for Community and Economic Development and transferring powers and duties to the Executive Director of the West Virginia Development Office; terminating the Statewide Intrastate Mutual Aid Committee and making technical corrections to the code to reference a state of preparedness; terminating the Principals Standards Advisory Council; and terminating the West Virginia Health Insurance Plan Board.

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

**By Senators Ferns and Trump:**

**Senate Bill No. 295**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-13, relating to judicial review of decisions of the West Virginia Department of Health and Human Resources Board of Review and the Bureau for Medical Services affecting applicants, recipients or providers of state or federal assistance programs.

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

**By Senators Walters and D. Hall:**

**Senate Bill No. 296**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-18f, relating to county boards of education; licensed school psychologists; and providing that the maximum licensed school psychologist-pupil ratio is fifteen hundred pupils for each licensed school psychologist.

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

**By Senators Walters and Palumbo:**

**Senate Bill No. 297**—A Bill to amend and reenact §11-16-3, §11-16-6 and §11-16-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-16-6b, all relating generally to nonintoxicating beer; changing the amount of nonintoxicating draught beer that may be sold to a consumer in certain instances; removing limitation on how much nonintoxicating beer may be sold to consumers for consumption off premises; permitting licensees to sell growlers; setting forth conditions that must be met for those sales; permitting certain licensees to obtain newly established class of sales endorsement; establishing cost; and defining terms.

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

Senators Yost, Facemire, Kessler, Romano, D. Hall, Snyder, Unger, Plymale, Sypolt and Williams offered the following resolution:

**Senate Concurrent Resolution No. 11**—Requesting the Joint Committee on Government and Finance study workplace safety for employees at state-operated behavioral health facilities.

Whereas, The State of West Virginia operates two hospitals dedicated to the care of patients with acute and chronic psychiatric illnesses, and operates additional facilities providing long-term and residential care for patients with complex behavioral, developmental and emotional needs; and

Whereas, Well-trained and experienced personnel are an essential component to the provision of quality care for these patients; and

Whereas, Some patients with psychiatric, behavioral, developmental or emotional conditions may become aggressive and violent at times, often in unpredictable ways, and these types of behaviors pose a significant risk to the health and safety of the employees and to other patients in the health facilities; and

Whereas, Many of the patients in the state's psychiatric hospitals have been committed through the criminal justice system after having allegedly committed violent crimes and the psychiatric hospitals do not have the authority to refuse to receive these patients or defer their care to another institution; and

Whereas, During the 2014 calendar year, worker injuries due to assaults by patients at the state's two psychiatric hospitals resulted in 98 medical claims and 789 lost work hours; and

Whereas, Considerable time and attention have been devoted to the articulation and awareness of the rights of patients in behavioral health facilities, but there has been significantly less attention given to the rights of the health care workers to a safe and reasonable work environment and to development of procedures, programs and options for the safety of these health care workers; and

Whereas, The Legislature's Joint Committee on Labor and Worker Safety Issues began to study the general issue of employee safety in all state hospitals during the Legislature's interim period of 2014-2015 and, in the process, became more fully aware of the difficult and sometimes conflicting legal, administrative and educational requirements that affect the safety of health care workers in our state's behavioral health facilities; and

Whereas, The Joint Committee on Labor and Worker Safety Issues has recommended that the Joint Committee on Government and Finance devote further study dedicated to all issues relating to the safety of workers in state-operated behavioral health facilities; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Joint Committee on Government and Finance study workplace safety for employees at state-operated behavioral health facilities; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance is hereby requested to study all matters relating to the safety of health care workers in state-operated behavioral health facilities, including education, training, staffing levels (acuity), hiring processes, root cause analyses, response times, incident and injury statistics, work loss and other costs of worker injuries, methods for better communication between staff and supervisors and all other material and issues relevant to this topic; and, be it

*Further Resolved*, That if the Joint Committee on Government and Finance finds it appropriate, this study be referred to a subcommittee created for this purpose and dedicated to this topic; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2016, 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.

Which, under the rules, lies over one day.

Senators Leonhardt, Facemire, Kessler, D. Hall and Plymale offered the following resolution:

**Senate Resolution No. 11**—Recognizing the counties of Calhoun and Gilmer for their many contributions to the State of West Virginia.

Whereas, Calhoun County was created in 1856 from Gilmer County and was named for John C. Calhoun, eminent statesman of South Carolina; and

Whereas, Gilmer County was formed in 1845 from parts of Lewis County and Kanawha County and was named for Thomas Walker Gilmer, Governor of Virginia, 1840-1841, and later a representative in Congress and Secretary of the Navy in President Tyler's cabinet; and

Whereas, Calhoun County is located on the Allegheny Plateau, where its leading industries include petroleum, natural gas, coal, lumber and RPR Industries, and is surrounded by livestock and dairy farms, as well as fruit and tobacco farms; and

Whereas, Gilmer County is centrally located in West Virginia on the Allegheny Plateau and is known for its oil and natural gas wells, livestock, fruit, potatoes, corn and timber; and

Whereas, Calhoun and Gilmer counties play an important role in the history, culture, economic development and future development in the State of West Virginia; and

Whereas, It is fitting to recognize the contributions of Calhoun and Gilmer counties to the State of West Virginia as their citizens converge on the Capitol to share their accomplishments, aspirations and concerns with lawmakers; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the counties of Calhoun and Gilmer for their many contributions to the State of West Virginia; and, be it

*Further Resolved,* That the Senate hereby acknowledges the accomplishments and successes of Calhoun and Gilmer counties and their citizens, and encourages them to continue their contributions to the State of West Virginia, as we strive to reach our potential; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives from Calhoun and Gilmer counties.



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

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

Upon expiration of the recess, the Senate reconvened and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 12**, Relating to payment of separated employee's outstanding wages.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill No. 12 pass?"

On the passage of the bill, the yeas were: Beach, Blair, Boley, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—24.

The nays were: Facemire, Kessler, Laird, Miller, Romano, Snyder and Unger—7.

Absent: Boso, Prezioso and Yost—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 12) passed with its title.

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

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Romano regarding the passage of Engrossed Committee Substitute for Senate Bill No. 12 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 43**, Limiting tolling of statute of limitations for third-party complaints.

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.

**Com. Sub. for Senate Bill No. 13**, Reinstating open and obvious doctrine for premises liability.

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

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

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Plymale, the name of Senator Plymale was removed as a sponsor of **Senate Bill No. 120** (*Recodifying laws relating to DHHR and Bureau for Medical Services*).

At the request of Senator M. Hall, the name of Senator M. Hall was removed as a sponsor of **Senate Bill No. 286** (*Relating to compulsory immunizations of students; exemptions*).

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Boso, Prezioso and Yost.

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

On motion of Senator Carmichael, the Senate adjourned until Monday, January 26, 2015, at 11 a.m.

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## MONDAY, JANUARY 26, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Michael Knotts, Saulsville Baptist Church, Saulsville, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Craig Blair, a senator from the fifteenth district.

Pending the reading of the Journal of Friday, January 23, 2015,

On motion of Senator Prezioso, the Journal was approved and the further reading thereof dispensed with.

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill No. 2025**—A Bill to amend and reenact §62-12-26 of the Code of West Virginia, 1931, as amended,

relating to prohibiting certain sex offenders from loitering within one thousand feet of a school, child care facility, or victim; and defining loitering.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill No. 2201**—A Bill to amend and reenact §24-2F-8 of the Code of West Virginia, 1931, as amended, all relating to providing a definition for net metering, requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards, and striking deadlines for rule-making by the Public Service Commission.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

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

**By Senators Gaunch and Trump:**

**Senate Bill No. 298**—A Bill to amend and reenact §5-10-28 of the Code of West Virginia, 1931, as amended, relating to the Public Employees Retirement System; and clarifying that members deposit fund, employers accumulation fund, retirement reserve fund, income fund and expense fund all refer to the Public Employees Retirement Fund.

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

**By Senators Gaunch and Trump:**

**Senate Bill No. 299**—A Bill to amend and reenact §15-2A-9 and §15-2A-10 of the Code of West Virginia, 1931, as amended, all relating to duty-related disability retirement in the West Virginia State Police Retirement System; and specifying that disability disbursements shall begin the first day of the month following approval by the Consolidated Public Retirement Board and member's termination of employment.

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

**By Senators Gaunch, Trump and Stollings:**

**Senate Bill No. 300**—A Bill to amend and reenact §5-10-15 of the Code of West Virginia, 1931, as amended, relating to availability of military service credit for members of the West Virginia Public Employees Retirement System; clarifying that Title 10 and Title 32 National Guard service qualify for military service credit; awarding up to five years of noncontributory military service credit for any time served in active military duty for persons who first became employees of participating public employer prior to July 1, 2015; providing that persons who first become employees of participating public employer on or after July 1, 2015, may purchase military service credit for eligible periods, but may not receive noncontributory military service credit; clarifying prohibition on use of military service to obtain military service credit in more than one retirement system administered by the board; clarifying applicability of federal law to purchases of qualified military service; eliminating applicability of liberality clause to the board's decisions to grant or deny requests for military service credit; and other technical clarifications and corrections.

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

**By Senators Gaunch and Trump:**

**Senate Bill No. 301**—A Bill to amend and reenact §8-22A-2 and §8-22A-6 of the Code of West Virginia, 1931, as amended, all

relating to membership provisions in the West Virginia Municipal Police and Firefighters Retirement System.

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

**By Senators Gaunch and Trump:**

**Senate Bill No. 302**—A Bill to amend and reenact §5-10A-2 and §5-10A-6 of the Code of West Virginia, 1931, as amended, all relating to disqualification for public retirement plan benefits when a participant is determined to have rendered less than honorable service; adding the West Virginia Municipal Police Officers and Firefighters Retirement System to definition of “retirement plan”; and specifying that former participants of the West Virginia Teachers’ Defined Contribution Retirement System who elected to transfer to the West Virginia Teachers Retirement System and whose benefits have been terminated for less than honorable service shall not be refunded any transferred vested employer contributions.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 303**—A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended, relating to certain deposits of tax proceeds; reducing amount of sales tax proceeds annually dedicated to the School Major Improvement Fund by \$2,000,004 for fiscal years 2016, 2017, 2018, 2019 and 2020; reducing amount of sales tax proceeds annually dedicated to the School Construction Fund by \$6 million for fiscal years 2016, 2017, 2018, 2019 and 2020; and making stylistic changes.

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

**By Senators Miller, Williams, Beach, D. Hall, Nohe, Sypolt, Snyder and Stollings:**

**Senate Bill No. 304**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-35-1, §19-35-2, §19-35-3, §19-35-4 and §19-35-5, all relating to farmers markets; stating purpose and definitions; establishing farmers market vendor permit, scope and fees; permitting consignment farmers markets; and requiring rulemaking.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senators Gaunch and Trump:**

**Senate Bill No. 305**—A Bill to amend and reenact §5-10-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-5 of said code; to amend and reenact §8-22A-6 of said code; to amend and reenact §15-2A-3 of said code; to amend and reenact §16-5V-6 of said code; and to amend and reenact §18-7A-13 of said code, all relating to retirement system participation and concurrent employment provisions; clarifying that members first employed in covered employment in the West Virginia Deputy Sheriffs Retirement System, West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia Emergency Medical Services Retirement System shall participate in only one retirement system administered by the Consolidated Public Retirement Board in which the member has the earliest date of hire; and specifying that members of the Public Employees Retirement System, the State Police Retirement System and the Teachers Retirement System who are employed in an additional job that requires membership in the West Virginia Deputy Sheriffs Retirement System, the West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia Emergency Medical Services Retirement System shall abide by the concurrent employment provisions of said system and participate in only one system administered by the Consolidated Public Retirement Board.

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

**By Senators Ferns, Carmichael, D. Hall, Mullins and Blair:**

**Senate Bill No. 306**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §51-1B-1, §51-1B-2, §51-1B-3, §51-1B-4, §51-1B-5, §51-1B-6, §51-1B-7, §51-1B-8, §51-1B-9, §51-1B-10, §51-1B-11 and §51-1B-12, all relating to creation of a new court to be known as the West Virginia Intermediate Court of Appeals; requiring court to be operational by January 1, 2016; establishing northern and southern districts; providing three judges for each district; establishing qualifications for judges; establishing jurisdiction of the court; providing for deflective review; providing that the West Virginia Supreme Court of Appeals will either keep an appeal or transfer it to the Intermediate Court; providing that appeals in certain administrative cases are discretionary; authorizing appeals from the Intermediate Court to the Supreme Court; authorizing the Governor to make initial appointments by July 1, 2016; creating staggered terms; providing for elections for ten-year terms after initial appointments; authorizing a Chief Judge of the Intermediate Court; authorizing staff for court and judges; providing for compensation and expenses of judges and staff; providing for temporary assignment of circuit court judges; authorizing the Supreme Court to provide facilities, furniture, fixtures and equipment for the Intermediate Court; establishing precedential effect of Intermediate Court orders and decisions; providing that budget of the Intermediate Court will be part of the Supreme Court budget; and providing for severability of this article.

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

**By Senators Blair and Carmichael:**

**Senate Bill No. 307**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-1E-1, relating to creating the Paycheck Protection Act;



establishing acts prohibited by a public employer; providing purpose; establishing acts prohibited by a labor organization; and requiring bargaining representatives to file annual reports.

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

**By Senators Trump and Carmichael:**

**Senate Bill No. 308**—A Bill to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating to the rate of interest allowed for prejudgment and post-judgment interest.

Referred to the Committee on the Judiciary.

**By Senators Trump, Laird, Walters and Nohe:**

**Senate Bill No. 309**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1-5a, relating to authorizing the Commissioner of Corrections to enter into mutual aid agreements.

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

**By Senators Sypolt, Williams and Nohe:**

**Senate Bill No. 310**—A Bill to amend and reenact §11-13-3 of the Code of West Virginia, 1931, as amended, relating to exempting nonprofit public utility companies from the West Virginia Business and Occupation Tax.

Referred to the Committee on Finance.

**By Senators Beach, Kessler, D. Hall and Prezioso:**

**Senate Bill No. 311**—A Bill to amend and reenact §20-1-19 of the Code of West Virginia, 1931, as amended, relating to West Virginia state parks and state forests; and changing the name of Coopers Rock State Forest to Coopers Rock State Park.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Nohe, Boley, Leonhardt, Palumbo and D. Hall:**

**Senate Bill No. 312**—A Bill to amend and reenact §3-8-7 of the Code of West Virginia, 1931, as amended, relating to disqualification of nominees for general election due to failure to file campaign finance statements.

Referred to the Committee on the Judiciary.

**By Senators Nohe, Blair, Carmichael, Gaunch, D. Hall, M. Hall, Laird, Palumbo and Stollings:**

**Senate Bill No. 313**—A Bill to amend and reenact §33-10-4 and §33-10-26 of the Code of West Virginia, 1931, as amended, all relating to delinquency proceedings of insurers; issuance of injunctions or orders following commencement of rehabilitation or liquidation proceeding of an insurer; and providing limitations on avoidance of transfer to federal home loan bank in liquidation proceeding of insurer-member of federal home loan bank.

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

Senators Unger, Snyder, Blair, Trump, Kessler, Beach, Prezioso and Stollings offered the following resolution:

**Senate Resolution No. 12**—Recognizing Leadership Berkeley for its service, dedication and commitment to Berkeley County.

Whereas, The objective of Leadership Berkeley is to promote knowledge and awareness of the problems, opportunities and issues facing Berkeley County; and

Whereas, Leadership Berkeley is designed to provide a series of educational and participatory experiences, as well as an opportunity for dialogue and the development of a correlation among

participants in order to encourage local participation in the growth of Berkeley County; and

Whereas, The membership of Leadership Berkeley includes individuals from nearly every facet of Berkeley County's business, professional, religious, governmental, educational, civic, the arts, organized labor and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2015 membership of Leadership Berkeley consists of Vicki L. Barnard, Court Appointed Special Advocates of the Eastern Panhandle; Amy L. Castle, Heartland of Martinsburg; Tonya L. Clark-Dorsey, Department of Veteran Affairs; Daniel Decker, Berkeley Medical Center; Meghan M. Dunn, CNB Bank, Inc.; Sandra J. Hamilton, Berkeley County Development Authority; Tina L. Hammel, Department of Veteran Affairs; Jamie S. Harrison, Blue Ridge Community and Technical College; James W. Hess, Hess Holdings LLC; Ashley P. Horst, Hospice of the Panhandle; Brian L. Jolliff, Pro Design, LLC; Allen R. Kees, United Bank; James W. Klein, Shepherd University Martinsburg Center; Anne C. Myers, Blue Ridge Community and Technical College; Dawn M. Newland, Newland Insurance Agency, Inc.; Douglas J. Pixler, Eastern Panhandle Transit Authority; Brandy M. Reed, CNB Bank, Inc.; Cammie J. Shrewsbury, City National Bank; Kelsey L. Swaim, Steptoe and Johnson PLLC; Amanda D. Vance, Bank of Charles Town; Rich L. Wallace, Jr., Kelley Allstate Agency; Robin Zanotti, Rotary Club of Martinsburg; Tina H. Combs, Martinsburg-Berkeley County Chamber of Commerce; and Todd McKinney, Outdoor Education Center; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Leadership Berkeley for its service, dedication and commitment to Berkeley County; and, be it

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

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.

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

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

At the request of Senator Carmichael, unanimous consent being granted, Senators Cole (Mr. President), Carmichael and Kessler offered the following resolution from the floor:

**Senate Concurrent Resolution No. 12**—Adopting joint rules of the Senate and House of Delegates.

*Resolved by the Legislature of West Virginia:*

That the Joint Rules of the Senate and House of Delegates to be adopted as follows and shall govern the proceedings of the ~~eightieth~~ eighty-second Legislature, subject to amendment as provided in the standing rules of the Senate and the House of Delegates:

### **Joint Assembly**

1. Whenever there shall be a joint assembly of the two houses, a brief account of the proceedings shall be entered upon the Journal of each house, except in the joint assembly for counting votes for state officers.

### **Joint Assembly to Open and Publish Election Returns**

2. As soon as the Senate, being organized, is informed that the House of Delegates is ready to proceed, as provided by ~~section three of article seven~~ Article VII, Section 3 of the Constitution of West

Virginia, to open and publish the returns of the election for state officers, the Senate, preceded by its presiding officer and other officers, shall repair in a body to the hall of the House of Delegates. Upon their arrival the Sergeant at Arms of the House of Delegates shall announce the presence of the Senate. The presiding officer of the Senate shall then address the Speaker of the House, stating that a majority of the Senate has assembled in the hall of the House of Delegates to be present at the opening and publishing of the returns of the elections for State officers, held on the \_\_\_\_\_ day of \_\_\_\_\_ . The Speaker of the House of Delegates shall invite the presiding officer of the Senate to a seat upon his right, and the other members of the Senate and officers thereof to take seats assigned to them, and after announcing that a majority of the House of Delegates is present, shall then open and publish the returns of said election, proceeding by counties in alphabetical order, the Clerks of the two houses each taking down the returns as announced by the Speaker, to be entered upon the Journal of the House, and when completed and tabulated the Speaker shall announce the votes received by each person voted for, for each of said offices, and those receiving the largest number of votes, shall be by him declared duly elected; and the Senate shall then return to its hall, and if any two or more candidates for any of said offices have an equal and the highest number of votes for the same office, the two houses shall immediately proceed to choose one of such persons for said office by a joint vote, as provided by ~~Section 3~~ of Article VII, Section 3 of the Constitution of West Virginia.

### **Disagreement and Conference**

3. (a) Whenever a measure of one house is amended in the other and the house in which it originated shall refuse to concur in the amendment, the house amending the measure may either insist or recede therefrom. But when a measure originating in one house is amended in the other, the house in which it originated may amend such amendment and a motion therefor shall take precedence of a motion to concur. If said house refuses to concur, the other house may either recede from or insist upon its amendment, and a motion to recede shall take precedence of a motion to insist. The motion to

lay on the table or to postpone indefinitely shall not be in order in respect to the motion to recede from or to insist.

A motion to recede having failed shall be equivalent to the adoption of a motion to insist and shall be so entered upon the Journal. A motion to insist being decided in the negative shall be equivalent to the adoption of a motion to recede and shall be so entered upon the Journal. If the motion to insist prevails, the house so insisting shall request a committee of conference on the subject of disagreement; and shall appoint a committee therefor. The other house may thereupon appoint such committee. Unless a different number is agreed upon, such conference committee shall consist of five members from each house.

Such committee shall consider and report upon only the subject matter of the amendment or amendments which were in disagreement, with necessary consequential changes. The committee shall meet at a convenient time, to be agreed upon by their ~~Chairmen~~ Chairs, and upon notifying all conferees of the time and place of any such meeting, and having conferred freely, shall report to their respective houses the result of the conference. In case of agreement, the report shall be first made, with the papers referred accompanying it, to the house which refused to concur, and there acted upon; and such action, with the papers referred, shall be immediately reported by the Clerk to the other house. In case of disagreement, the papers shall remain with the house in which the measure originated. If an agreement is reached, the report shall be made and signed in duplicate by at least a majority of the conferees from each house, one of the duplicates being retained by the conferees of each house.

(b) With respect to any conference agreed to within the first fifty-one days of a regular session, the conference committee shall report to each house within seven days of agreement to conference or be discharged, except that upon a concurrent resolution duly adopted by a majority of those present and voting in each house, the presiding officer of each house may extend the conference not to

exceed an additional three days. In no event shall a conference committee report to each house later than ~~9:00~~ 8:00 P.M. on the sixtieth day.

With respect to any conference agreed to after the fifty-first day of a regular session, or any time during any extraordinary session, the conference committee shall report to each house within three days after agreement to conference or be discharged, except that such conference may be extended by concurrent resolution duly adopted by a majority of those present and voting in each house, for a period not to exceed one additional day. In no event shall a conference committee report to each house later than ~~9:00~~ 8:00 P.M. on the sixtieth day.

Any conference committee which fails to report within the time limits established by this rule shall be deemed to be discharged, and the papers referred shall remain with the house in which the measure originated.

Any conference report shall, upon recognition by the presiding officer, be communicated to each house by its Clerk and made available to members of each house. Each house shall designate a location or office where copies of such report shall be made available. The Clerk shall communicate availability of conference reports by an announcement to the members of said house during the session. Such announcement can be made at any time upon recognition by the presiding officer, and the Clerk shall duly note the time of said announcement. Except as provided herein, the conference report shall lie over one day and shall not be considered in either house until at least the next day following, but thereafter it shall be proper to take up consideration of the conference report at any time otherwise permitted by the rules of such house whether or not such house met on the preceding day: *Provided*, That after the fifty-ninth day of any regular session or on any day of any extraordinary session a conference committee report may be considered the same day if availability of written copies of such report is communicated to that house while in session at least two

hours prior to any consideration: *Provided, however,* That the conference report may be taken up for immediate consideration at any time by a two-thirds vote of the members of that house present.

Nothing herein shall affect the right of the presiding officer of either house to appoint or discharge any conference committee as heretofore provided, such right to appoint and discharge such committee being subject to the rules of each respective house.

The provisions of subsection (b) above shall not apply to the Budget Bill.

### **Messages Between the Houses**

4. When a message is sent by one house to the other, it shall be communicated by the Clerk thereof to the Clerk of the house to which it is sent, but no message shall be received during a call of the roll. The Clerk of one house may communicate a message to the Clerk of the other ~~after adjournment~~ at any time, and any message so sent shall be received by the house to which it is sent whenever it may be in session.

### **Bill Processing**

5. (a) ~~In every regular session beginning after the effective date of this rule, legislation~~ Legislation recommended by the Governor or by executive departments or agencies is requested to be filed in the respective Clerks' offices<sub>2</sub> and a copy sent to Legislative Services, no later than the tenth day of each regular session of a Legislature.

(b) No bill or joint resolution shall be considered on third reading in its house of origin after the fiftieth day, unless authorization shall be granted by a concurrent resolution adopted by a two-thirds vote of the members present of both houses: *Provided,* That the Budget Bill, or any salary or supplementary appropriation bills<sub>2</sub> may be considered at any time.



(c) This rule may be suspended by adopting a concurrent resolution approved by a two-thirds majority of those present and voting in each house. A house desiring to suspend this rule may adopt a concurrent resolution and proceed as if the concurrent resolution had been adopted in both houses and the rule suspended. Any bill or joint resolution passed pursuant to such concurrent resolution may be communicated to the other house with the concurrent resolution or at any time after the concurrent resolution has been communicated to the other house. The other house may proceed to consider such bill or joint resolution only after adopting the concurrent resolution. The provisions of this rule shall not apply to any extended regular session or to any extraordinary session.

### **Processing of Bills Authorizing the Promulgation of Proposed Legislative Rules; Duplication and Distribution of Proposed Legislative Rules**

5a. A “bill authorizing the promulgation of proposed legislative rules” or a “bill of authorization” is a measure intended to be enacted as general law, which incorporates by reference a proposed legislative rule, with or without amendments or substitutions set forth in the bill, and which authorizes the promulgation and implementation of the proposed legislative rule. The processing of bills authorizing the promulgation of proposed legislative rules shall be governed by the standing rules of the Senate and the House of Delegates, which are supplemented by the provisions of this joint rule. In the case of any conflict between this rule and a standing rule of the Senate or the House of Delegates, the provisions of this rule shall control.

(1) The requirement of either house that bills shall be presented in duplicate applies to bills authorizing the promulgation of proposed legislative rules, but does not apply to the proposed legislative rule which the bill incorporates by reference. Of the duplicate copies, only the designated original copy shall have appended thereto the full text of the proposed legislative rule as finally approved by the agency seeking permission for its

promulgation. Other copies of the full text of the proposed legislative rule shall be made available to members of the Legislature as hereinafter provided.

(2) Copies of the full text of each proposed legislative rule shall be reproduced by printing or duplication by the Clerk prior to, or as soon as is reasonably practicable after, the introduction of the bill which would authorize by law the promulgation of the proposed legislative rule. Prior to such printing or duplication, a notation shall be affixed to the proposed legislative rule which identifies the bill number of the introduced bill which would authorize its promulgation and which also identifies the committee or committees of the house to which the bill is to be referred by the presiding officer following its introduction. Otherwise, the copies printed or duplicated shall conform to the copy of the proposed legislative rule appended to the original bill, so as to facilitate the consideration and amendment of the rule throughout the legislative process.

(3) The Clerk shall furnish to any member, upon his or her request, without cost, one copy of the full text of a proposed legislative rule as reproduced by the Clerk in accordance with the provisions of subsection (2) of this ~~joint rule~~ Joint Rule. For any request for an additional copy or copies of the proposed legislative rule, the member requesting the copy or copies shall pay to the Clerk, in advance, a charge which the Clerk has reasonably determined to be adequate to cover the actual cost of the printing or duplication: *Provided*, That the provisions herein for the Clerk to furnish a member with an additional copy or copies, with a cost charged, may not interfere with or delay the prompt and otherwise timely consideration of bills of authorization by the house or its committees or subcommittees.

(4) Whenever the standing rules of either house require the printing or reprinting of a bill, the rules apply to bills authorizing the promulgation of a proposed legislative rule with the same force and effect as they apply to other bills. However, no printing or reprinting of the proposed legislative rule which is incorporated by

reference in the bill of authorization shall be required, other than the printing required by subsection (2) of this ~~joint rule~~ Joint Rule.

(5) Whenever the standing rules of either house require a bill to be read, or fully and distinctly read, the rules apply to bills authorizing the promulgation of a proposed legislative rule with the same force and effect as they apply to other bills. However, no reading of the proposed legislative rule which is incorporated by reference in the bill of authorization shall be required.

### **One House to Notify Other of Rejection of Bill**

6. When a bill or resolution passed in one house is rejected in the other, notice thereof shall be sent to the house in which the same shall have been passed.

### **Record of Bills and Resolutions**

7. The Clerks of the two houses shall keep separate records or registers, in which shall be recorded every action taken by the Senate and House on each bill and resolution.

### **Clerks to Endorse Bills or Resolutions**

8. The Clerks of the two houses shall endorse on each bill or resolution a statement of any action taken by their respective bodies.

### **Notice Messages to Be in Writing**

9. ~~Notice~~ Messages to either house of the action of the other shall be in writing, signed by the Clerk of the house ~~giving such notice sending the message~~.

### **Each House to Have Control of Own Printing**

10. Each house may order the printing of ~~bills, resolutions, reports, and other~~ documents without the consent of the other.

### Joint Committees

11. Joint standing committees of the Senate and House shall be appointed as follows:

(1) *Joint Committee on Enrolled Bills* – To consist of five members from each house.

(2) *Joint Committee on Joint Rules* – To consist of the presiding officers and two members of each house, to be appointed by the presiding officers.

~~(3) Such other joint committees as may be provided for by concurrent resolution. A bill or resolution referred to a joint committee may be recalled from such committee by the house in which it originated.~~ *Joint Committee on Pensions and Retirement*

(a) The Joint Committee on Pensions and Retirement shall continually study and investigate public retirement systems. All pension and retirement related legislation introduced in the Legislature shall be referred to the committee in addition to any other reference the presiding officer may designate. Upon reference of any pension or retirement related legislation, the committee shall forward such legislation to the actuary of the Consolidated Public Retirement Board or other actuary or actuarial firm who shall return an actuarial letter or note to the committee prior to the committee's consideration of such legislation.

(b) The committee shall consist of seven members of the Senate to be appointed by the presiding officer of the Senate and seven members of the House of Delegates to be appointed by the presiding officer of the House of Delegates. If possible, no more than five of the seven members appointed by the presiding officers of the Senate and the House of Delegates, respectively, may be members of the same political party.

(c) The committee shall make a continuing study and investigation of retirement benefit plans applicable to nonfederal government employees in this state. The powers and duties of the committee include, but are not limited to, the following:

(1) Studying retirement benefit plans applicable to nonfederal government employees in the State of West Virginia, including, without limitation, federal plans available to such employees;

(2) Making recommendations within the scope of the study with particular attention to financing of the various pension funds and financing of accrued liabilities;

(3) Considering all aspects of pension planning and operation, and making recommendations designed to establish and maintain sound pension policy as to all funds;

(4) Filing a report to each regular session of the Legislature concerning activities conducted between sessions;

(5) Analyzing each item of proposed pension and retirement legislation, including amendments thereto, with particular reference to analysis as to cost, actuarial soundness and adherence to sound pension policy, and reporting of its findings in regard thereto to the Legislature; and

(6) Maintaining reference materials concerning pension and retirement matters, including, without limitation, information as to laws and systems in other states.

(d) The committee shall hold meetings at such times and places as it may designate. The presiding officer of each house shall appoint a cochair of the committee. When the Legislature is not in session, the committee shall meet and conduct its business as a joint committee.

When the Legislature is in session, in addition to joint meetings, the members of either house may meet separately from members of

the other house to conduct committee business concerning pension and retirement related legislation introduced or originated in that house. When the members meet separately, they may function as other committees of that house. As far as practicable, relevant information, including actuarial letters or notes, gathered by members meeting separately from the other house shall be sent to the cochair of the other house if it is considering the same or similar legislation.

12. Other joint committees may be created by concurrent resolution or by approval of the presiding officers of each house.

### **Engrossed Bills to Be Filed with Clerk of the House**

~~12.~~ 13. All engrossed bills passed by, and joint and concurrent resolutions adopted by, both houses shall be filed with the Clerk of the House of Delegates to be kept with the rolls of the Legislature and to be used ~~by him~~ in printing and publishing the Acts of the Legislature.

### **Joint Committee on Enrolled Bills**

~~13.~~ 14. The Joint Committee on Enrolled Bills shall consist of five members of the Senate and five members of the House of Delegates, to be appointed by the presiding officer of each house, whose duty it shall be to compare carefully all bills and joint resolutions passed by both houses, with the enrollment thereof, and to correct any errors or omissions they may discover and to make reports to their respective houses, from time to time, of the correctly enrolled bills or joint resolutions. It shall be in order for the Joint Committee on Enrolled Bills to report at any time.

### **Printing Enrolled Bills**

~~14.~~ 15. After a bill has been passed by both houses, the ~~type~~ text from which it was originally printed shall be corrected as to any typographical errors that may not previously have been corrected

and to include any amendments that may have been made by either house since the last printing of the bill. After the ~~type text~~ has been so corrected, ~~three hundred fifty copies~~ not less than fifty copies of the bill shall be printed (~~except charter bills, of which only twenty-five of each shall be printed~~). Twelve of these copies shall be on seven and one-fourth by ten bond paper, twenty-pound basis of at least fifty percent rag content for the use of the Joint Committee on Enrolled Bills, one of which copies, when properly authenticated, shall become the Enrolled Bill, and the remainder shall be on twenty-pound basis, sulphite bond paper. ~~From these copies all judges shall be furnished enrolled bills as provided for in section fourteen, article one, chapter four of the code.~~ In the case of enrolled bills authorizing the promulgation of a proposed legislative rule, a copy of the full text of the proposed legislative rule which the bill incorporates by reference shall be appended to the bill which has been properly authenticated and designated to be the Enrolled Bill. The copy appended to the Enrolled Bill shall conform to the copy of the full text of the proposed legislative rule appended to the introduced bill. Copies of the proposed legislative rule shall not be appended to the additional copies of the Enrolled Bill. Following action by the Governor, or the failure or refusal of the Governor to approve or disapprove a bill of authorization, the copy of the Enrolled Bill with the proposed legislative rule appended shall be the copy of the bill filed with the Secretary of State in accordance with the provisions of Rule ~~18~~ 19 of these Joint Rules.

### **Authentication of Enrolled Bills**

~~15.~~ 16. Enrolled Bills shall be authenticated by the signature of the ~~Chairman~~ Chair of the House Committee and the ~~Chairman~~ Chair of the Senate Committee, composing such Joint Committee on Enrolled Bills, but in the absence of such ~~Chairman~~ Chair another member of the committee may act in his stead, and they shall require all bills and joint resolutions before such authentication to be free from interlineations or erasures and destroy any previous enrollment containing any interlineations or erasures. A certificate, showing in which house the bill originated and when it takes effect, signed by

the Clerks of the two houses, shall be endorsed on the bill. After enrolled bills and joint resolutions are authenticated as aforesaid, they shall be signed by the presiding officer of each house.

### **Presenting Enrolled Bills to Governor**

~~16.~~ 17. After a bill shall have thus been signed in each house, it shall be presented by the ~~said committee~~ Joint Committee on Enrolled Bills to the Governor, for his approval. The said committee shall report the day of presentation to the Governor, which time shall be entered on the Journal of each house.

### **Record of Enrolled Bills**

~~17.~~ 18. It shall be the duty of the Clerk of the House of Delegates, as Keeper of the Rolls of the Legislature, to keep a record book of all bills presented to the Governor for his approval. The title and number of each bill presented to the Governor shall be entered in this book, and when a bill is presented to ~~him~~ the Governor, the date presented and the signature of the Governor, showing receipt of same, shall be entered at the side of each title.

### **Action of Governor on Bills**

~~18.~~ 19. When the Legislature is in session, any bill, including an appropriation bill or any part thereof, disapproved by the Governor shall be returned ~~by him~~ to the house in which it originated, with ~~his~~ objections thereto, within five days after receipt thereof, Sundays excepted, or become a law. If the Legislature, by adjournment, prevents the return of a disapproved bill, other than an appropriation bill, within such time, it shall be filed by the Governor in the office of the Secretary of State with ~~his~~ objections within fifteen days, Sundays excepted, after adjournment, or become a law. If the Legislature, by adjournment, prevents the return of a disapproved appropriation bill or any part thereof, it shall be filed by the Governor in the office of the Secretary of State with ~~his~~ objections within five days after adjournment, or become a law. When any bill,



including an appropriation bill or any part thereof, is disapproved after adjournment of the Legislature and such bill with the Governor's objections is filed in the office of the Secretary of State within the prescribed time as aforesaid, the Governor shall notify the house in which the bill originated ~~of his action~~.

Every bill approved by the Governor shall, within the prescribed time after it is presented ~~to him~~, as aforesaid, be filed by the Governor in the office of the Secretary of State and the fact of such approval communicated by the Governor to the house in which said bill originated.

Any bill which shall be neither approved nor disapproved by the Governor shall immediately, after the expiration of the time fixed by the Constitution of West Virginia in which he may disapprove the same, be filed in the office of the Secretary of State, who shall forthwith engross thereon a certificate to the following effect: "I certify that the foregoing act, having been presented to the Governor for ~~his~~ approval, and not having been returned ~~by him~~ to the house of the Legislature in which it originated within the time prescribed by the Constitution of the State, has become a law without ~~his~~ approval;" and shall date and sign the same. The Governor shall notify the house in which the bill originated of each bill becoming a law without his approval.

When a bill is returned to either house of the Legislature with the objections of the Governor, proceedings thereon shall be governed by ~~section fourteen, article seven~~ Article VII, Section 14 of the State Constitution of West Virginia. In such cases the Clerk of the Senate and the Clerk of the House of Delegates shall engross the action, if any, of their respective houses on the reconsideration of the bill; and sign the same.

The action of the Governor on all bills presented ~~to him~~ shall be appropriately noted in the Journals of the two houses.

### **Joint Meetings of Committees**

~~19.~~ 20. Whenever any bill has been referred by the Senate to one of its standing committees, and the same or like bill has been referred by the House to one of its committees, the ~~Chairmen~~ Chairs of the respective committees, when in their judgment the interest of legislation or the expedition of business will be better served thereby, may arrange for a joint meeting of their committees for the consideration of such bill. All joint committee meetings shall be presided over by the ~~Chairman~~ Chair of the Senate committee.

### **What Shall Be Printed in the Journal**

~~20.~~ 21. The following shall always be printed in the Journal of each house:

(a) Messages from the Governor and messages from the other house, the titles of all bills and the title and text of all resolutions.

(b) A record of all votes taken by yeas and nays as required by the Constitution of West Virginia, the rules of the respective houses and these rules; and a brief statement of the contents of each petition, memorial; or paper presented to each house.

(c) A true and accurate account of the proceedings of each house.

### **Manner of Printing the Journal and Bills**

~~21.~~ 22. In printing the daily Journal of the proceedings of each house there shall be printed at the top of each page, except the first, the date of the Journal; and on the last page of each day's Journal shall be printed the calendar for the next day.

At the top of the first page of each bill, preceding the title and number thereof, there shall be printed the name of the person by

whom, or the committee by which, it was introduced and the date of introduction; and at the top of each page, except the first, shall be printed the number of the bill.

### **Regulation and Use of Legislative Offices, Chambers, Halls, Stairways and Corridors**

~~22.~~ 23. The presiding officer of each house shall have power to assign and regulate the office space in the portions of the Capitol used by their respective houses and to grant permission for the use of such space and the legislative Chambers for other than legislative purposes. They shall also have jurisdiction over all halls, stairways and corridors in the areas used by their respective houses. The presiding officers may submit any question or request arising under the foregoing provisions of this rule to the Committee on Rules of their respective houses for determination and action.

The area on the second floor between the legislative Chambers and surrounding the rotunda on the second floor shall be under the jurisdiction of the Joint Committee on Rules. It shall be the duty of this committee to maintain and preserve the aesthetic features of this area of the Capitol. No display or exhibition of any material or objects in this area shall be permitted without approval of the committee.

Attaching pictures, posters, cards or placards on the walls in any manner whatsoever in the halls, stairways and corridors in the areas used by the respective houses and in the area between the legislative Chambers surrounding and to the east and west of the rotunda is prohibited.

### **Resolutions**

~~23.~~ 24. Resolutions requiring concurrent action may originate in either house; and shall be of two kinds, namely:

*Joint Resolutions:* These resolutions shall be used for proposing amendments to the ~~State~~ Constitution of West Virginia and for

ratifying amendments to the Constitution of the United States. Joint resolutions proposing amendments to the State Constitution of West Virginia shall be adopted as provided in ~~section two, article fourteen~~ Article XIV, Section 2 of said Constitution.

*Concurrent Resolutions:* Such resolutions shall be used for all purposes not covered by joint resolutions as defined above.

### **Suspension of Joint Rules**

~~24: 25. No Joint Rule shall~~ Joint Rules may only be suspended; ~~except by a two-thirds vote of each house, and unless there be unanimous consent, such vote shall be taken by yeas and nays, or by unanimous consent.~~

### **Transfer Amounts Between Items**

~~25: 26.~~ 26. The Clerk of the Senate, with the approval of the presiding officer, is authorized to make written request to the State Auditor for the transfer of amounts between items of the total appropriations for the Senate; in order to protect or increase the efficiency of the service. Upon receipt of such written request, the State Auditor shall transfer the amounts as requested.

~~26: 27.~~ 27. The Clerk of the House of Delegates, with the approval of the presiding officer, is authorized to make written request to the State Auditor for the transfer of amounts between items of the total appropriations for the House of Delegates; in order to protect or increase the efficiency of the service. Upon receipt of such written request, the State Auditor shall transfer the amounts as requested.

~~27: 28.~~ 28. The Clerk of the Senate and the Clerk of the House of Delegates, with the approval of the presiding officers, are authorized to make a joint written request to the State Auditor for the transfer of amounts between items of the total appropriations for joint expenses of the Legislature; in order to protect or increase the

efficiency of the service. Upon receipt of such written request, the State Auditor shall transfer the amounts as requested.

### **Lobbying**

~~28. (Rescinded by SCR2, 2nd Ex. Sess., 1990)~~

### **Joint Committee on Pensions and Retirement**

~~29. (a) A joint standing committee of the Senate and House of Delegates, named the Joint Committee on Pensions and Retirement, shall continually study and investigate public retirement systems. All pension and retirement related legislation introduced in the Legislature shall be referred to the committee in addition to any other reference the presiding officer may designate. Upon reference of any pension or retirement related legislation, the committee shall forward such legislation to the actuary of the Consolidated Public Retirement Board or other actuary or actuarial firm who shall return an actuarial letter or note to the committee prior to the committee's consideration of such legislation.~~

~~(b) The committee shall consist of seven members of the Senate to be appointed by the presiding officer of the Senate and seven members of the House of Delegates to be appointed by the presiding officer of the House of Delegates. If possible, no more than five of the seven members appointed by the presiding officers of the Senate and the House of Delegates, respectively, may be members of the same political party.~~

~~(c) The committee shall make a continuing study and investigation of retirement benefit plans applicable to non-federal government employees in this state. The powers and duties of the committee include, but are not limited to, the following:~~

~~(1) Studying retirement benefit plans applicable to non-federal government employees in the state of West Virginia, including, without limitation, federal plans available to such employees;~~

~~(2) Making recommendations within the scope of the study with particular attention to financing of the various pension funds and financing of accrued liabilities;~~

~~(3) Considering all aspects of pension planning and operation, and making recommendations designed to establish and maintain sound pension policy as to all funds;~~

~~(4) Filing a report to each regular session of the Legislature concerning activities conducted between sessions;~~

~~(5) Analyzing each item of proposed pension and retirement legislation, including amendments thereto, with particular reference to analysis as to cost, actuarial soundness, and adherence to sound pension policy, and reporting of its findings in regard thereto to the Legislature; and~~

~~(6) Maintaining reference materials concerning pension and retirement matters, including, without limitation, information as to laws and systems in other states.~~

~~(d) The committee shall hold meetings at such times and places as it may designate. The presiding officer of each house shall appoint a co-chair of the committee. When the Legislature is not in session, the committee shall meet and conduct its business as a joint committee.~~

~~When the Legislature is in session, in addition to joint meetings, the members of either house may meet separately from members of the other house to conduct committee business concerning pension and retirement related legislation introduced or originated in that house. When the members meet separately, they may function as other committees of that house. As far as practicable, relevant information, including actuarial letters or notes, gathered by members meeting separately from the other house shall be sent to the co-chair of the other house if it is considering the same or similar legislation.~~

**Bill Carryover**

~~30. (Rescinded by SCR 1, Reg. Sess., 1988)~~

**Governing Powers**

~~31.~~ 29. The presiding officers of each house, as selected in accordance with the Constitution of West Virginia, the Rules of the Senate, the Rules of the House of Delegates, respectively, these Joint Rules; and laws of the State, shall have the power to and are hereby authorized to act on behalf of the Legislature as required by the business and legal affairs of the Legislature unless otherwise directed by a majority vote of both houses while the Legislature is in session or by the majority vote of the Joint Committee on Government and Finance while the Legislature is not in session.

**Receipt of Constitutional Petitions and Resolutions**

~~32.~~ 30. Any application from a county commission or a verified petition from the voters of a county seeking to reform, alter or modify a county commission pursuant to Article IX, Section 13 of the ~~West Virginia~~ Constitution of West Virginia and any related documents that may be subsequently submitted shall be filed with the Clerk of the Senate and the Clerk of the House of Delegates. The Clerk of the Senate and the Clerk of the House of Delegates shall verify that the application, petition or related document has been properly submitted to the other ~~clerk~~ Clerk before processing it in his or her respective house. Such applications, petitions and related documents not submitted to both the Clerk of the Senate and the Clerk of the House of Delegates will not be submitted to either house for processing or consideration by the Legislature.

When the Legislature is not sitting in regular session, upon receipt of an application, petition or related document from a county commission by the Clerk of the Senate and the Clerk of the House of Delegates, it shall be processed as a regular order of business at the next regular session following receipt of the application, petition or related document.

~~Effective with the 2009 regular session of the Legislature, an An~~ application or petition to reform, alter or modify a county commission filed with the Legislature on or after the tenth day of a regular legislative session may not be processed or considered by the Legislature until the next regular legislative session.

An application or petition to reform, alter or modify a county commission filed with the Legislature is only valid for the session in which it was processed and such application or petition not acted upon during that session is null and void.

If an application or petition to reform, alter or modify a county commission filed with the Legislature is determined by the Legislature to have an unconstitutional provision, then the Legislature may: (a) Request that the application or petition be corrected and resubmitted; or (b) make changes necessary to meet the constitutional objection. A corrected application or petition may be processed by the Legislature if there is sufficient time remaining in the session for full consideration. If any request by the Legislature to correct an application or petition prevents full consideration of that application or petition during the session in which it would have been considered, the Senate and the House of Delegates ~~and the Senate~~ may process the corrected application or petition at the next regular session.

At the request of Senator Carmichael, unanimous consent being granted, the resolution (S.C.R. No. 12) was taken up for immediate consideration and reference to a committee dispensed with.

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

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

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



The Senate then proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 11**, Requesting Joint Committee on Government and Finance study workplace safety at state-operated behavioral health facilities.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Health and Human Resources; and then to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 43**, Limiting tolling of statute of limitations for third-party complaints.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. No. 43) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 13**, Reinstating open and obvious doctrine for premises liability.

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

**Eng. Com. Sub. for House Bill No. 2001**, Repealing portions of the Alternative and Renewable Energy Portfolio Act.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill No. 8**, Providing for DOH performance and efficiency audit.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Miller, M. Hall and D. Hall.

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

The Senate next proceeded to the thirteenth order of business.

At the request of Senator Walters, the name of Senator Walters was removed as a sponsor of **Senate Bill No. 286** (*Relating to compulsory immunizations of students; exemptions*).

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Yost.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, January 27, 2015, at 11 a.m.

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## TUESDAY, JANUARY 27, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Jeff Biddle, Jr., Emmanuel Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert Karnes, a senator from the eleventh district.

Students from Highland Adventist School, Elkins, West Virginia, proceeded in the performing of "The Star-Spangled Banner".

Pending the reading of the Journal of Monday, January 26, 2015,

On motion of Senator Unger, 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 fourth order of business.

Senator Nohe, 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 No. 188**, Authorizing Insurance Commissioner promulgate legislative rule relating to using mortality tables to determine reserve liabilities for annuities.

And has amended same.

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

Respectfully submitted,

David Nohe,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Banking and Insurance pending.

Senator Nohe, 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 No. 189**, Authorizing Insurance Commissioner promulgate legislative rule relating to annuity disclosure.

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

Respectfully submitted,

David Nohe,  
*Chair.*

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

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 216**, Authorizing Agriculture Commissioner promulgate legislative rule relating to Spay Neuter Assistance Program.

**Senate Bill No. 218**, Authorizing Agriculture Commissioner promulgate legislative rule relating to equine rescue facilities.

**Senate Bill No. 220**, Authorizing Agriculture Commissioner promulgate legislative rule relating to aquaculture importation.

And,

**Senate Bill No. 221**, Authorizing Agriculture Commissioner promulgate legislative rule relating to industrial hemp.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 217**, Authorizing Agriculture Commissioner promulgate legislative rule relating to livestock care standards.

And has amended same.

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

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Agriculture and Rural Development pending.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 219**, Authorizing Agriculture Commissioner promulgate legislative rule relating to Rural Rehabilitation Loan Program.

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

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bill, under the original triple committee reference, was referred to the Committee on Finance; and then to the Committee on the Judiciary.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 237**, Creating Captive Cervid Farming Act.

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

**Com. Sub. for Senate Bill No. 237** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-2H-1, §19-2H-2, §19-2H-3, §19-2H-4, §19-2H-5, §19-2H-6, §19-2H-7, §19-2H-8, §19-2H-9, §19-2H-10, §19-2H-11 and §19-2H-12; to amend and reenact §19-29-2 of said code; to amend and reenact §20-1-2 of said code; and to amend and reenact §20-2-11 and §20-2-12 of said code, all relating to the Captive Cervid Farming Act; regulating captive cervid farming as an agricultural business; stating legislative findings and definitions; permitting sale of venison; stating powers and duties of the Department of Agriculture and commissioner; creating application process and classes of licenses; issuing,

renewing, modifying and transferring licenses; inspecting facilities; transitioning current facilities to new licensure procedures; creating penalties for noncompliance with article; amending other statutes to comport with the Captive Cervid Farming Act; permitting rulemaking; prohibiting certain conduct; and providing for certain criminal penalties.

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,

Daniel J. Hall,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Agriculture and Rural Development.

Senator D. Hall, from the Committee on Labor, submitted the following report, which was received:

Your Committee on Labor has had under consideration

**Senate Bill No. 279**, Clarifying qualifications of Labor Commissioner.

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

**Com. Sub. for Senate Bill No. 279** (originating in the Committee on Labor)—A Bill to amend and reenact §21-1-2 of the Code of West Virginia, 1931, as amended, relating to establishing new qualifications for the appointment of the Commissioner of Labor; and deleting outdated language.



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,

Daniel J. Hall,  
*Chair.*

The bill (Com. Sub. for S. B. No. 279), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Concurrent Resolution No. 8**, Urging US EPA withdraw and/or rescind proposed definition of “waters of the United States”.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senators Nohe, Carmichael, Mullins and Blair:**

**Senate Bill No. 314**—A Bill to amend and reenact §23-5-7 of the Code of West Virginia, 1931, as amended, relating to authorization

of compromise and settlement of indemnity portion of occupational pneumoconiosis claims.

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

**By Senator Mullins:**

**Senate Bill No. 315**—A Bill to amend and reenact §46A-6-101, §46A-6-105 and §46A-6-106 of the Code of West Virginia, 1931, as amended, all relating to civil actions filed under the Consumer Protection Act.

Referred to the Committee on the Judiciary.

**By Senators D. Hall, Leonhardt, Trump, Stollings, Plymale, Kirkendoll and Nohe:**

**Senate Bill No. 316**—A Bill to amend and reenact §59-1-2 and §59-1-2a of the Code of West Virginia, 1931, as amended, all relating to defining “veteran-owned business” and exempting such businesses from initial registration and certain annual report fees paid to the Secretary of State.

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

**By Senators Miller, Beach, Laird, Walters and Woelfel:**

**Senate Bill No. 317**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-12-7a, relating to requiring state agency owning a state building to maintain insurance on the building and its contents in an amount approved by the Board of Risk and Insurance Management.

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

**By Senators Trump, Karnes, Carmichael and Blair:**

**Senate Bill No. 318**—A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to payment of

wages by employers; and authorizing payment of employees twice a month.

Referred to the Committee on the Judiciary.

**By Senators D. Hall and Trump:**

**Senate Bill No. 319**—A Bill to amend and reenact §59-1-2 of the Code of West Virginia, 1931, as amended, relating to donations of overpayment of fees to the Secretary of State.

Referred to the Committee on Finance.

**By Senators D. Hall and Trump:**

**Senate Bill No. 320**—A Bill to amend and reenact §31B-10-1006 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-9-53a of said code, all relating to notices of revocation of certificate of authority.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill No. 321**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4 and §21-1E-5, all relating to creating the Paycheck Protection Act; providing short title; protecting rights of employers and employees under federal labor law; prohibiting employers from deducting fees from wages of an employee which would be paid to a labor organization except upon request of employee; prohibiting employers from contracting with labor organizations to deduct fees from wages of an employee which would be paid to a labor organization except upon the request of employee; providing certain agreements are not impaired; and defining terms.

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

**By Senators Nohe, Boley, Palumbo, Leonhardt and Trump:**

**Senate Bill No. 322**—A Bill to amend and reenact §3-4A-28 of the Code of West Virginia, 1931, as amended, relating to removing unnecessary requirement of mandatory electronic recount of ballots in recounts.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill No. 323**—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §8-1-5b, all relating to extending home rule to all Class I, II and III municipalities; eliminating Municipal Home Rule Pilot Program; and providing that the Municipal Home Rule Board will terminate five years after enactment of statute unless extended.

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

**By Senators Blair, Trump, Laird, Kessler, D. Hall, Palumbo and Plymale:**

**Senate Bill No. 324**—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to increasing by seven the number of participants in the Home Rule Pilot Program.

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

**By Senators Nohe, Boley, Leonhardt, Sypolt, Palumbo, Trump and Blair:**

**Senate Bill No. 325**—A Bill to amend and reenact §6B-2-6 of the Code of West Virginia, 1931, as amended, relating to filing dates for financial disclosure statements by candidates; setting deadlines for candidates to file financial disclosure statements with the Ethics Commission; clarifying to which office the Ethics Commission sends copies of statements; and disqualifying candidates who fail to file statement by the deadline.

Referred to the Committee on the Judiciary.

**By Senators Nohe, Boley, Leonhardt, Sypolt, Palumbo, Trump and Blair:**

**Senate Bill No. 326**—A Bill to amend and reenact §3-8-2 of the Code of West Virginia, 1931, as amended, relating to campaign finance reports for candidates for delegate to a national party convention.

Referred to the Committee on the Judiciary.

**By Senators Williams and Sypolt:**

**Senate Bill No. 327**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1A-6; and to amend said code by adding thereto a new section, designated §20-1-7a, all relating to requiring public hearings upon transfer of certain land to or from the state; requiring public hearing be held at least thirty days prior to closing of sale; requiring certain notice of public hearing; and providing for availability of transcript of public hearing and list of attendees.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Boley, Sypolt and D. Hall:**

**Senate Bill No. 328**—A Bill to repeal §59-1-7 of the Code of West Virginia, 1931, as amended, relating to repealing outdated language for fees to be charged by a notary public.

Referred to the Committee on Finance.

**By Senators Walters, Leonhardt and Takubo:**

**Senate Bill No. 329**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, §37-16-2 and §37-16-3, all relating to requirement that a seller of real property satisfy upon closing any unpaid charges owed to the county and municipality in which the property is located.

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

**By Senator Ferns:**

**Senate Bill No. 330**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-3F-1, §30-3F-2, §30-3F-3, §30-3F-4, §30-3F-5, §30-3F-6, §30-3F-7, §30-3F-8, §30-3F-9, §30-3F-10, §30-3F-11, §30-3F-12, §30-3F-13, §30-3F-14, §30-3F-15, §30-3F-16, §30-3F-17, §30-3F-18, §30-3F-19, §30-3F-20, §30-3F-21, §30-3F-22, §30-3F-23 and §30-3F-24, all relating to adopting the Interstate Medical Licensure Compact; strengthening access to health care; developing comprehensive process that complements current statutes regarding medical practices; providing streamlined process that allows physicians to become licensed in multiple states, thereby enhancing portability of a medical license and ensuring safety of patients; creating another pathway for licensure; adopting prevailing standard for licensure and affirming that practice of medicine occurs where the patient is located at the time of physician-patient encounter; and requiring the physician to be under jurisdiction of the state medical board where the patient is located.

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

**By Senator Palumbo:**

**Senate Bill No. 331**—A Bill to amend and reenact §3-5-11, §3-5-18 and §3-5-19 of the Code of West Virginia, 1931, as amended, all relating to withdrawal of candidates for office and filling vacancies; requiring the Secretary of State to create a notarized statement of withdrawal form; setting certain deadlines for the filing of a notarized statement of withdrawal form in order to have one's name removed from ballot; setting deadline for when the Secretary of State shall certify names of general election candidates to counties; prohibiting certification of the name of a candidate who filed a timely notarized statement of withdrawal; clarifying process for

determining candidate is disqualified; removing the State Election Commission from process of voluntary withdrawal of candidates; authorizing executive committee to replace a candidate who files a timely notarized statement of withdrawal and whose name would have otherwise appeared on the general election ballot; and setting and adjusting certain deadlines.

Referred to the Committee on the Judiciary.

**By Senator M. Hall:**

**Senate Bill No. 332**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-27, relating to administrative fees for the Tax Division of the Department of Revenue; specifying imposition and retention of fees by the Tax Division of the Department of Revenue from specified taxes and fees and from any interest, additions to tax and penalties related thereto; specifying imposition and retention of fees in payment for Tax Division services in the collection, distribution and administration of taxes for state and local departments, divisions, subdivisions and agencies; authorizing reimbursements to the Tax Division for transaction fees imposed by the Enterprise Resource Planning System; authorizing fee increases by legislative rule; specifying limitations; and specifying effective date.

Referred to the Committee on Finance.

**By Senator M. Hall:**

**Senate Bill No. 333**—A Bill to repeal §11-1-5 of the Code of West Virginia, 1931, as amended, relating to removing certain officials from office for misconduct or neglect of official duties.

Referred to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill No. 334**—A Bill to amend and reenact §30-3-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3-13a, all relating

generally to practice of medicine; rewriting licensing requirements for practice of medicine and surgery or podiatry; making exceptions; providing for unauthorized practice; requiring notice; establishing criminal penalties; permitting practice of telemedicine; establishing requirements; making exceptions; defining terms; and authorizing rulemaking.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 335**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5, §16-46-6 and §16-46-7, all relating generally to accessing and administering opioid antagonists in overdose situations; establishing short title; defining terms; establishing objectives and purpose; allowing licensed health care providers to prescribe opioid antagonist to initial responders and certain individuals; allowing initial responders to possess and administer opioid antagonists; providing for limited liability for initial responders who possess and administer opioid antagonist; providing for limited liability for licensed health care providers who prescribe opioid antagonist in accordance with this article; establishing responsibility of licensed health care providers to provide educational materials on overdose prevention and administration of opioid antagonist; and providing for data collection and reporting.

Referred to the Committee on Health and Human Resources.

**By Senators Ferns and Takubo:**

**Senate Bill No. 336**—A Bill to repeal §16-29B-19, §16-29B-20, §16-29B-21 and §16-29B-21a of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-29B-10 of said code, all relating generally to powers and duties of the Health Care Authority; eliminating authority of the Health Care Authority to conduct rate



review and set rates for hospitals; and establishing grandfathering clause.

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

**By Senators Carmichael, Blair, Boso, Sypolt and Trump:**

**Senate Bill No. 337**—A Bill to amend and reenact §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6, §21-5G-7, §21-5G-8 and §21-5G-9, all relating to establishing the West Virginia Right to Work Law; prohibiting any requirement that a person become or remain a member of a labor organization as condition of employment; prohibiting any requirement that a person must pay dues or other fees to a labor organization; prohibiting any requirement that a person contribute to a charity in lieu of paying dues or other fees to a labor organization; providing that certain agreements or practices between labor organizations and employers are null and void; providing for monetary penalties; providing for injunctive relief; providing for private cause of action for damages and attorney's fees; providing exceptions; requiring prosecuting attorneys and the Attorney General to investigate complaints; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Gaunch, Snyder, M. Hall, Williams, Blair, Unger, Trump and Stollings:**

**Senate Bill No. 338**—A Bill to amend and reenact §11-13X-3 and §11-13X-5 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Film Industry Investment tax credit; defining terms; specifying amount of West Virginia Film Industry Investment tax credit authorized as percentage of qualified expenditures for purposes of calculating tax credit; decreasing percentage authorized for expenditures on projects that do not employ ten or more West Virginia residents as part of the full-time

employees working on the project in West Virginia or as apprentices working in West Virginia; increasing percentage authorized for expenditures on projects that do employ ten or more West Virginia residents as part of the full-time employees working on the project in West Virginia or as apprentices working in West Virginia; and specifying effective date.

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

**By Senators Carmichael, D. Hall and Nohe:**

**Senate Bill No. 339**—A Bill to amend and reenact §11-13V-4 of the Code of West Virginia, 1931, as amended, relating to reducing the additional tax on privilege of severing coal, effective July 1, 2015.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on Finance.

**By Senators Trump, Carmichael, Blair and Takubo:**

**Senate Bill No. 340**—A Bill to amend and reenact §3-1-34 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17B-2-1 of said code, all relating to voting procedures; requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; providing for casting of provisional ballot by a person without adequate proof of identification; and providing for issuance of identification cards at no charge.

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

Senators Ferns, D. Hall and Sypolt offered the following resolution:

**Senate Concurrent Resolution No. 13**—Urging the Congress of the United States to propose a balanced budget amendment to the United States Constitution and applying to the Congress, pursuant

to Article V of the United States Constitution, to call a convention for proposing a balanced budget amendment.

Whereas, The Legislature of West Virginia urges the Congress of the United States to propose a balanced budget amendment to the United States Constitution for the calling of a convention of the states limited to proposing an amendment to the United States Constitution requiring that, in the absence of a national emergency, the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints; and

Whereas, It is the intention of the Legislature that matters shall not be considered at the convention that do not pertain to an amendment requiring that, in the absence of a national emergency, the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints; and

Whereas, This application is to be considered as covering the balanced budget amendment language of the presently outstanding balanced budget applications from other states, including previously adopted applications from Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Indiana, Iowa, Kansas, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Pennsylvania and Texas. This application shall be aggregated with those other applications for the purpose of attaining the two thirds of states necessary to require the calling of a convention for proposing a balanced budget amendment, but shall not be aggregated with any applications on any other subject; and

Whereas, This application constitutes a continuing application in accordance with Article V of the United States Constitution until the legislatures of at least two thirds of the several states have made

applications on the same subject or the Congress has proposed an amendment to the United States Constitution equivalent to the amendment proposed in this resolution. This application supersedes all previous applications by the Legislature of the State of West Virginia on the same subject; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the Congress of the United States to propose a balanced budget amendment to the United States Constitution and applying to the Congress, pursuant to Article V of the United States Constitution, to call a convention for proposing a balanced budget amendment; and, be it

*Further Resolved,* If the convention called by the Congress is not limited to considering a balanced budget amendment, then any delegates, representatives or participants from the State of West Virginia asked to participate in the convention are authorized to debate and vote only on a proposed amendment or amendments to the United States Constitution requiring that, in the absence of a national emergency, the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints; and, be it

*Further Resolved,* This application constitutes a continuing application in accordance with Article V of the United States Constitution until the legislatures of at least two thirds of the several states have made applications on the same subject or the Congress has proposed an amendment to the United States Constitution equivalent to the amendment proposed in this resolution. This application supersedes all previous applications by the Legislature of the State of West Virginia on the same subject; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward copies of this resolution to the President and Secretary of the U. S. Senate, the Speaker and Clerk of the House of Representatives of

Congress, the members of the Senate and House of Representatives from the State of West Virginia and to the presiding officers of each of the legislative houses of the several states, requesting their cooperation.

Which, under the rules, lies over one day.

Senators Sypolt, Boley, Stollings, Plymale, Unger, Williams, D. Hall, Beach, Kessler, Nohe and Leonhardt offered the following resolution:

**Senate Resolution No. 13**—Designating January 27, 2015, as “Higher Education Day at the Legislature”.

Whereas, The foundation of any society’s success is the degree to which its citizens are educated; and

Whereas, The citizens of West Virginia are committed to supporting higher education; and

Whereas, West Virginia’s colleges and universities increase the knowledge base of West Virginia’s students, as well as those from other states; and

Whereas, West Virginia’s education system will help students achieve their education goals and meet the workforce needs of West Virginia and the United States; and

Whereas, Not only does the education system contribute to the economic vitality of the state, but it enriches the culture and life of all communities and regions within the state and outside its boundaries; and

Whereas, West Virginia’s colleges and universities advance the development of technology, partner in business and industry, conduct groundbreaking research and improve lives through advanced health care; and

Whereas, Through the services of outstanding faculty, staff, administration and executive leadership, West Virginia's colleges and universities have developed student-centered programs and curriculums; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 27, 2015, as "Higher Education Day at the Legislature"; and, be it

*Further Resolved,* That the Senate recognizes the commitment to excellence that the leaders of our colleges and universities have demonstrated; and, be it

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

At the request of Senator Sypolt, 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 Plymale, and by unanimous consent, the remarks by Senator Sypolt regarding the adoption of Senate Resolution No. 13 were ordered printed in the Appendix to the Journal.

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

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

Senators Karnes, Boso, Stollings, Unger, D. Hall, Williams, Beach and Kessler offered the following resolution:

**Senate Resolution No. 14**—Designating January 27, 2015, as "Randolph County Day at the Legislature".

Whereas, Randolph County was founded in 1787 and named in honor of Edmund Jennings Randolph; and

Whereas, Randolph County makes vital contributions to the economy of West Virginia, particularly in the valuable hardwoods industry; and

Whereas, Randolph County's role in the West Virginia economy has grown and will continue to expand with the completion of Corridor H; and

Whereas, Randolph County has a significant place in the history and formation of West Virginia due to the importance of a major Civil War battle fought in the vicinity of Rich Mountain; and

Whereas, Herman Guy Kump, a resident of Elkins in Randolph County, was elected the 19th Governor of the Great State of West Virginia and fought to support public education and the rights of property owners; and

Whereas, Randolph County serves as a central hub in the Potomac Highlands for health care, education, commerce, the arts and tourism; and

Whereas, Many citizens of Randolph County travel to the State Capitol on an annual basis during the legislative session to participate in the democratic process, where they share their accomplishments, aspirations and concerns with lawmakers; and

Whereas, It is fitting to recognize Randolph County for its economic, cultural, historic and future contributions to the State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 27, 2015, as "Randolph County Day at the Legislature"; and, be it

*Further Resolved*, The Senate acknowledges the many important contributions the citizens of Randolph County make in the State of West Virginia and encourages those citizens to continue to participate in the democratic process; and, be it

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

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

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

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

Senators Romano, Beach and Williams offered the following resolution:

**Senate Resolution No. 15**—Recognizing Mr. Timothy W. Dyer of the Dyer Insurance Agency for his recent accomplishments and for his long-time dedication to the insurance industry.

Whereas, Timothy W. Dyer was born and raised in Clarksburg, West Virginia, is a graduate of Washington Irving High School in Clarksburg and graduated from West Virginia University with a bachelor's degree in accounting; and

Whereas, Timothy W. Dyer is President and owner of P. M. Long & Son, Inc. (d/b/a Dyer Insurance Agency), which was founded by his family in 1896 and is the oldest insurance agency in Harrison County; and

Whereas, Timothy W. Dyer continues a family tradition as the fifth generation in the insurance business; and



Whereas, Timothy W. Dyer and the Dyer Insurance Agency have grown the business with the additions of the Dyer, Heflin, Bowers & Eckels Agency in Morgantown and the Mountain Lakes Insurance Agency in Buckhannon; and

Whereas, Timothy W. Dyer is entering his thirtieth year as an independent insurance agent and was selected as the 2014 Earle S. Dillard Agent of the Year by the Independent Insurance Agents of West Virginia; and

Whereas, Timothy W. Dyer is the past President of the Independent Insurance Agents of West Virginia and currently serves as the Independent Insurance Agents and Brokers of America State Director; and

Whereas, In 2014, Timothy W. Dyer led the efforts for West Virginia to host the 46th Trusted Choice Big "I" National Championship Golf Tournament at Pete Dye Golf Course by encouraging widespread community support and participation; and

Whereas, Through his efforts, Timothy W. Dyer brought to West Virginia this prestigious national golf tournament, bringing with it hundreds of golfers, family members and spectators, thereby creating economic development for all of West Virginia; and

Whereas, Timothy W. Dyer and his wife of twenty-one years, Julie, have two sons, Nick and Luke, both of whom are excellent golfers; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Timothy W. Dyer of the Dyer Insurance Agency for his recent accomplishments and for his long-time dedication to the insurance industry; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Timothy W. Dyer.

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

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

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 341** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend and reenact §19-1C-4 of the Code of West Virginia, 1931, as amended, relating to the Livestock Care Standards Board; and permitting the commissioner to approve and submit rules established by the board.

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

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 13**, Reinstating open and obvious doctrine for premises liability.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. No. 13) passed with its title.

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

**Eng. Com. Sub. for House Bill No. 2001**, Repealing portions of the Alternative and Renewable Energy Portfolio Act.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill No. 2001 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost–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. No. 2001) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)–33.

The nays were: None.

Absent: Yost–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. No. 2001) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence in the changed effective date.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 8**, Providing for DOH performance and efficiency audit.

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

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

The Senate next proceeded to the thirteenth order of business.

At the request of Senator Maynard, the name of Senator Maynard was removed as a sponsor of **Senate Bill No. 286** (*Relating to compulsory immunizations of students; exemptions*).

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Yost.

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, January 28, 2015, at 11 a.m.

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## WEDNESDAY, JANUARY 28, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Chuck Lawrence, Christ Temple Church, Huntington, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable C. Edward Gaunch, a senator from the eighth district.

Pending the reading of the Journal of Tuesday, January 27, 2015,

On motion of Senator Palumbo, 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 concurrence by that body in the adoption of

**Senate Concurrent Resolution No. 12**, Adopting Joint Rules of Senate and House of Delegates.

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

**Eng. Com. Sub. for House Bill No. 2002**—A Bill to repeal §55-7-13 and §55-7-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §55-7-13a, §55-7-13b, §55-7-13c and §55-7-13d, all relating to predicating actions for damages upon principles of comparative fault; establishing the comparative fault standard; abolishing joint liability and implementing several liability; establishing how to consider the fault of nonparties; establishing how to consider the fault of, and the amounts paid by, settling parties; providing for the use of special interrogatories; clarifying fault may be imputed to another person who was acting as an agent or servant of another; providing for the burden of proof and limitations; and defining terms.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

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

**Senate Bill No. 4**, Relating to development of state plan under Clean Air Act.

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

**Com. Sub. for Senate Bill No. 4** (originating in the Committee on Energy, Industry and Mining)—A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended, relating to development of a state plan under Section 111(d) of the Clean Air Act; requiring the Department of Environmental Protection, in consultation with other state agencies, to study feasibility of a state plan; permitting the Department of Environmental Protection to create a mass-based state plan; requiring standards considered by Department of Environmental Protection in drafting plan to be unit specific; requiring the Department of Environmental Protection to submit report to the Legislature determining whether a state plan is feasible and, if so, recommending a proposed state plan to the Legislature; providing any state plan created by the Department of Environmental Protection has no legal effect under certain circumstances; and requiring approval of the Legislature before any state plan is submitted to the United States Environmental Protection Agency.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Jeff Mullins,  
*Chair.*

At the request of Senator Palumbo, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 4) contained in the preceding report from the Committee on Energy, Industry and Mining was taken up for immediate consideration.

On motion of Senator Palumbo, the bill was referred to the Committee on the Judiciary.

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 No. 6**, Relating to medical professional liability.

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

**Com. Sub. for Senate Bill No. 6** (originating in the Committee on the Judiciary)—A Bill to repeal §55-7B-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §55-7B-2, §55-7B-7, §55-7B-8, §55-7B-9, §55-7B-9a, §55-7B-9c and §55-7B-11 of said code; and to amend said code by adding thereto two new sections, designated §55-7B-7a and §55-7B-9d, all relating to medical professional liability; adding provisions to control increase in cost of liability insurance and to maintain access to affordable health care services for West Virginians; providing mechanism to increase limitation on civil damages in medical malpractice cases to account for inflation by linking increases to the Consumer Price Index; adding provisions limiting admissibility and use of certain information; and requiring adjustment of verdicts for past medical expenses.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Education has had under consideration



**Senate Bill No. 7**, Requiring CPR and care for conscious choking instruction in public schools.

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

**Com. Sub. for Senate Bill No. 7** (originating in the Committee on Education)—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to required instruction in cardiopulmonary resuscitation (CPR) and first aid in public school health education subjects; adding care for conscious choking first aid instruction; requiring minimum thirty minutes' instruction prior to graduation in cardiopulmonary resuscitation and psychomotor skills necessary to perform after certain date; defining "psychomotor skills"; requiring CPR instruction be based on program established by American Heart Association or the American Red Cross or other recognized guidelines; authorizing various persons and community members by whom instruction may be given; encouraging such community members to provide training and instructional resources; authorizing school districts to exceed minimum requirements; and requiring authorized CPR/automated external defibrillator instructor for instruction that results in certification being earned.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 106**, Excepting professional engineer member from sanitary board when project engineer is under contract.

**Senate Bill No. 114**, Requiring municipal police officers wear armor vest.

**Senate Bill No. 184**, Authorizing State Fire Commission promulgate legislative rule relating to volunteer firefighters' training, equipment and operating standards.

**Senate Bill No. 185**, Authorizing State Fire Marshal promulgate legislative rule relating to fire protection work supervision.

And,

**Senate Bill No. 202**, Authorizing Board of Osteopathic Medicine promulgate legislative rule relating to osteopathic physician assistants.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of Senate Bill No. 106 contained in the foregoing report from the Committee on Government Organization.

Thereafter, Senate Bill Nos. 114, 184, 185 and 202, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 141**, Authorizing Department of Administration promulgate legislative rule relating to state-owned vehicles.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

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

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

Your Committee on Finance has had under consideration

**Senate Bill No. 171**, Authorizing DHHR promulgate legislative rule relating to chronic pain management clinic licensure.

And,

**Senate Bill No. 172**, Authorizing DHHR promulgate legislative rule relating to Fatality and Mortality Review Team.

And reports the same back with the recommendation that they each do pass; but under the original triple committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mike Hall,  
*Chair.*

The bills, under the original triple committee references, were then referred to the Committee on the Judiciary.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 192**, Authorizing DMV promulgate legislative rule relating to examination and issuance of driver's licenses.

And has amended same.

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

Respectfully submitted,

Chris Walters,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Transportation and Infrastructure pending.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 253**, Recodifying chapter relating to child welfare and juvenile disposition.

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

**Com. Sub. for Senate Bill No. 253** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §49-1-101, §49-1-102, §49-1-103, §49-1-104, §49-1-105, §49-1-106, §49-1-201, §49-1-202, §49-1-203, §49-1-204, §49-1-205, §49-1-206, §49-1-207, §49-1-208, §49-1-209, §49-2-101, §49-2-102, §49-2-103, §49-2-104, §49-2-105, §49-2-106, §49-2-107, §49-2-108, §49-2-109, §49-2-110, §49-2-111, §49-2-112, §49-2-113, §49-2-114, §49-2-115, §49-2-116, §49-2-117, §49-2-118, §49-2-119, §49-2-120, §49-2-121, §49-2-122, §49-2-123, §49-2-124, §49-2-125, §49-2-201, §49-2-202, §49-2-203, §49-2-204, §49-2-205, §49-2-206, §49-2-207, §49-2-301, §49-2-302, §49-2-303, §49-2-304, §49-2-401, §49-2-501, §49-2-502, §49-2-503, §49-2-504, §49-2-505, §49-2-601, §49-2-602, §49-2-603, §49-2-604, §49-2-605, §49-2-701, §49-2-702, §49-2-703, §49-2-704, §49-2-705, §49-2-706, §49-2-707, §49-2-708, §49-2-801, §49-2-802, §49-2-803, §49-2-804, §49-2-805, §49-2-806, §49-2-807, §49-2-808, §49-2-809, §49-2-810, §49-2-811, §49-2-812, §49-2-813, §49-2-901, §49-2-902, §49-2-903, §49-2-904, §49-2-905, §49-2-906, §49-2-907, §49-2-908, §49-2-909, §49-2-910, §49-2-911, §49-2-1001, §49-2-1002, §49-2-1003, §49-2-1004, §49-2-1005, §49-2-1006, §49-3-101, §49-3-102, §49-4-101, §49-4-102, §49-4-103, §49-4-104, §49-4-105, §49-4-106, §49-4-107, §49-4-108, §49-4-109, §49-4-110, §49-4-111, §49-4-112, §49-4-113, §49-4-114, §49-4-115, §49-4-116, §49-4-201, §49-4-202, §49-4-203, §49-4-204, §49-4-205, §49-4-301, §49-4-302, §49-4-303, §49-4-401, §49-4-402, §49-4-403, §49-4-404, §49-4-405, §49-4-406, §49-4-407, §49-4-408, §49-4-409, §49-4-410, §49-4-411, §49-4-412, §49-4-501, §49-4-502, §49-4-503, §49-4-504, §49-4-601, §49-4-602, §49-4-603, §49-4-604, §49-4-605, §49-4-606, §49-4-607, §49-4-608, §49-4-609, §49-4-610, §49-4-701, §49-4-702, §49-4-703, §49-4-704, §49-4-705, §49-4-706, §49-4-707, §49-4-708, §49-4-709, §49-4-710, §49-4-711, §49-4-712, §49-4-713, §49-4-714, §49-4-715, §49-4-716, §49-4-717, §49-4-718, §49-4-719, §49-4-720, §49-4-721, §49-4-722, §49-

4-723, §49-4-801, §49-4-802, §49-4-803, §49-4-901, §49-4-902, §49-4-903, §49-4-904, §49-5-101, §49-5-102, §49-5-103, §49-5-104, §49-5-105, §49-6-101, §49-6-102, §49-6-103, §49-6-104, §49-6-105, §49-6-106, §49-6-107, §49-6-108, §49-6-109, §49-6-110, §49-6-111, §49-6-112, §49-6-113, §49-6-114, §49-6-115, §49-7-101, §49-7-102, §49-7-201, §49-7-202, §49-7-203, §49-7-204, §49-7-301, §49-7-302, §49-7-303 and §49-7-304 of the Code of West Virginia, 1931, as amended, all relating to revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare; and removing outdated language to comply with court rulings concerning child welfare.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. No. 253), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 258**, Creating Letting Our Counties Act Locally Act.

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

**Com. Sub. for Senate Bill No. 258** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of

West Virginia, 1931, as amended, by adding thereto a new article, designated §7-26-1, §7-26-2, §7-26-3, §7-26-4, §7-26-5, §7-26-6, §7-26-7, §7-26-8, §7-26-9, §7-26-10, §7-26-11, §7-26-12, §7-26-13, §7-26-14, §7-26-15, §7-26-16, §7-26-17, §7-26-18, §7-26-19, §7-26-20, §7-26-21, §7-26-22, §7-26-23, §7-26-24, §7-26-25, §7-26-26, §7-26-27, §7-26-28, §7-26-29, §7-26-30, §7-26-31, §7-26-32, §7-26-33, §7-26-34, §7-26-35, §7-26-36, §7-26-37, §7-26-38, §7-26-39, §7-26-40, §7-26-41, §7-26-42, §7-26-43, §7-26-44 and §7-26-45, all relating generally to the role of county commissions and Commissioner of Highways in construction and financing of road and bridge projects in counties; providing short title, legislative purpose and findings; defining terms; authorizing county commissions to develop road construction project plans; specifying process for development and approval of road construction project plans and plan amendments; allowing joint road construction project plans; requiring county commissions to submit road construction project plans and plan amendments to Commissioner of Highways for approval; specifying contents of application and approval process; creating new account and subaccounts in State Road Fund; allowing road construction projects to be financed on cash basis or by special revenue bonds issued by Commissioner of Highways; giving Commissioner of Highways jurisdiction over all road construction projects accepted into state road system; specifying that road construction projects are public improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds and refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions, are negotiable instruments and are exempt from taxation; specifying that persons executing bonds have no personal liability; providing that powers relating to road construction project plans, construction of projects and issuance of special revenue bonds are additional powers; allowing county commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; requiring transactions and uses subject or exempt from county sales and use taxes to conform to

state consumers sales and service tax and use tax requirements except that county tax may not apply to sales of motor vehicles, motor fuels or to purchases where local taxation is prohibited by federal law; requiring Tax Commissioner to administer, collect and enforce county transportation sales and use tax and, for that purpose, specifying a fee allowed for commissioner's services; making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act and to West Virginia Tax Crimes and Penalties Act; requiring that definitions, taxable transactions and exemptions from county transportation sales and use taxes automatically update when state consumers sales and service tax and use tax laws are amended; requiring county commissions to develop and maintain county rate and boundary databases; requiring county commission to notify Tax Commissioner if tax has been imposed or tax rate has changed; specifying when collection of county transportation sales and use taxes begins; requiring that net collection of county transportation sales and use taxes be deposited in subaccount of county in county road improvement account in the State Road Fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; providing criminal penalties; and providing Commissioner of Highways with authority to propose rules for legislative approval.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. No. 258), under the original double committee reference, was then referred to the Committee on Finance.



Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 259**, Relating to examination, licensing and endorsement requirements for autocycles.

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

**Com. Sub. for Senate Bill No. 259** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; defining “autocycle”; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver’s license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; and deleting obsolete language regarding the motorcycle safety and education committee.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. No. 259), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 262**, Transferring CHIP and Children's Health Insurance Agency from Department of Administration to DHHR.

**Senate Bill No. 274**, Relating to TANF program.

And,

**Senate Bill No. 295**, Establishing appeal process for DHHR Board of Review and Bureau for Medical Services decisions.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 266**, Eliminating sales tax exemption on certain highway construction and maintenance materials.

And,

**Senate Bill No. 268**, Terminating dedication of corporation net income tax proceeds to railroads.

And reports the same back without recommendation as to passage; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Chris Walters,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on Finance.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 335**, Creating Access to Opioid Antagonists Act.

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

**Com. Sub. for Senate Bill No. 335** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5 and §16-46-6; and to amend and reenact §30-1-7a of said code, all relating generally to accessing and administering opioid antagonists in overdose situations; establishing short title; defining terms; establishing objectives and purpose; allowing licensed health care providers to prescribe opioid antagonist to initial

responders and certain individuals; allowing initial responders to possess and administer opioid antagonists; providing for limited liability for initial responders; providing for limited liability for licensed health care providers who prescribe opioid antagonist in accordance with this article; providing for limited liability for anyone who possesses and administers an opioid antagonist; establishing responsibility of licensed health care providers to provide educational materials on overdose prevention and administration of opioid antagonist; providing for data collection and reporting; providing for training requirements; and providing for rule-making authority.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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

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

**Eng. House Bill No. 2201**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

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

Respectfully submitted,

Jeff Mullins,  
*Chair.*

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

The Senate proceeded to the sixth order of business.

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

**By Senators Gaunch, Trump and Plymale:**

**Senate Bill No. 342**—A Bill to amend and reenact §5-10-44 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-7a of said code; to amend and reenact §8-22A-8 of said code; to amend said code by adding thereto a new section, designated §8-22A-8a; to amend said code by adding thereto a new section, designated §15-2-54; to amend said code by adding thereto a new section, designated §15-2A-23; to amend and reenact §16-5V-8a of said code; to amend and reenact §18-7A-14c of said code; to amend and reenact §18-7B-21 of said code; and to amend said code by adding thereto a new section, designated §51-9-18, all relating to correction of errors under the West Virginia Public Employees Retirement System, the West Virginia Deputy Sheriff Retirement System, the West Virginia Municipal Police Officers and Firefighters Retirement System, the West Virginia Emergency Medical Services Retirement System, the State Teachers Retirement System, the Teachers' Defined Contribution Retirement System, the West Virginia State Police Death, Disability and Retirement System, the West Virginia State Police Retirement System and the Judges' Retirement System; and clarifying scope, application and requirements for error correction by the Consolidated Public Retirement Board.

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

**By Senators Blair, Snyder and Nohe:**

**Senate Bill No. 343**—A Bill to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating to removing chiropractors from the list of medical professionals required to

obtain continuing education on mental health conditions common to veterans and family members of veterans.

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

**By Senators Trump, Carmichael and Blair:**

**Senate Bill No. 344**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7E-1 and §55-7E-2, all relating to setting adequate and reasonable amounts of compensatory and punitive damages available to an employee in statutory and common law wrongful or retaliatory discharge causes of action and other employment law claims.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Blair, Ferns, D. Hall, M. Hall, Laird, Leonhardt, Mullins, Nohe, Trump and Williams:**

**Senate Bill No. 345**—A Bill to amend and reenact §62-3-3 of the Code of West Virginia, 1931, as amended, relating to changing the number of strikes in jury selection in felony cases to provide four strikes each to the accused and the prosecution; and setting forth the order the strikes are to be taken.

Referred to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill No. 346**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §62-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12, §62-16-13 and §62-16-14, all relating to establishing a Mental Health, Veteran and Service Member Court within the Supreme Court of Appeals; defining terms; setting forth policy and goals of the Legislature in establishing the court; granting authority to oversee the court to the Administrator of the Supreme Court; setting forth structure of the court; providing for written agreement to

participate in the court; setting forth incentives for successful participation; providing for sanctions for violation of provisions of the court; setting out disposition on successful completion; providing for teams to function within the court; setting forth eligibility requirements for participation; setting forth procedure to participate in the court; allowing for mental health and drug treatment services for participants; providing for governance of the court by the Supreme Court of Appeals; setting forth information to be maintained on participants; providing for funding mechanisms which may include court fees; providing for limitation of liability; and providing for statutory construction.

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

**By Senators Sypolt, Beach, Blair, Gaunch, D. Hall, Karnes, Leonhardt, Maynard, Williams and Ferns:**

**Senate Bill No. 347**—A Bill to repeal §61-7-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §20-2-5 and §20-2-6a of said code; and to amend and reenact §61-7-3, §61-7-4 and §61-7-14 of said code, all relating to creating the West Virginia Firearms Act of 2015; repealing exceptions section of said code to prohibitions against carrying concealed handguns and exemptions from licensing fees; authorizing carrying a handgun for purposes of self defense while in the woods of this state whether concealed or not; providing that if findings of fact and conclusions of law of the court fail to uphold denial of a license, the applicant is entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued denial; who is prohibited from possessing firearms under section seven of this article and retaining criminal penalties; procedure for sheriff in determining eligibility for license when license holder changes home county; and right of certain persons to limit possession of firearms on premises and private real property.

Referred to the Committee on the Judiciary.

**By Senators Blair, Carmichael and Karnes:**

**Senate Bill No. 348**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-3-6, relating to creation of a pilot program by the Secretary of the Department of Health and Human Resources to provide drug screening of applicants for cash assistance.

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

**By Senators Kessler, Unger, Beach, Facemire, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Williams, Woelfel and Yost:**

**Senate Bill No. 349**—A Bill to amend and reenact §5B-2-12 of the Code of West Virginia, 1931, as amended, relating to providing funds for the Tourism Promotion Fund; requiring annual deposit from general revenue into the Tourism Promotion Fund; creating subaccounts of the Tourism Promotion Fund; setting parameters for spending money in subaccounts; detailing certain transfers of funds; and requiring Division of Tourism to conduct study.

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

**By Senators D. Hall, Beach, Blair, Facemire, Ferns, Gaunch, M. Hall, Kessler, Kirkendoll, Laird, Mullins, Plymale, Prezioso, Snyder, Stollings, Trump, Walters, Romano, Nohe, Williams and Leonhardt:**

**Senate Bill No. 350**—A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to protection of utility workers from crimes against the person; defining “utility worker”; and establishing penalties.

Referred to the Committee on the Judiciary.

**By Senator Ferns:**

**Senate Bill No. 351**—A Bill to amend and reenact §29-19-5 of the Code of West Virginia, 1931, as amended, relating to contribution



levels by charitable organizations necessary for submission of an audit report of the organization by an independent certified public accountant.

Referred to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill No. 352**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22C-4-23a; and to amend and reenact §24A-2-5 of said code, all relating to allowing certain county or regional solid waste authorities in growth areas to designate common carriers of solid waste exempt from requirement for certificate of convenience and necessity; establishing criteria for exemption; and establishing requirements for notice and public hearing.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senators Walters and Nohe:**

**Senate Bill No. 353**—A Bill to amend and reenact §17C-16-4 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the West Virginia State Police to make necessary rules as the current administrator and enforcer of the motor vehicle inspection program.

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

**By Senators Plymale and Stollings:**

**Senate Bill No. 354**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-10G-5a, relating to creating the Rehabilitation Services Vending Program Fund.

Referred to the Committee on Finance.

Senators D. Hall, Kessler, Stollings, Plymale, Palumbo, Laird and Williams offered the following resolution:

**Senate Resolution No. 16**—Designating Wednesday, January 28, 2015, as “Generation West Virginia Day” and encouraging all citizens to join the Senate in this observance.

Whereas, Generation West Virginia is the statewide movement committed to cultivating and engaging young talent, those 21 to 45 in age; and

Whereas, The future of West Virginia relies heavily on the retention, recruitment and advancement of young talent to ensure that our intellectual capital base is strong for the future success of our state’s economy, communities and intellectual infrastructure; and

Whereas, In 2014, the U. S. Census Bureau reported that West Virginia was the only state in the nation that experienced a decline in population from 2010 to 2014; and

Whereas, We are still losing too many of our energetic, entrepreneurial and driven West Virginians to neighboring states, presenting challenges for sustaining a stable tax base and attracting a viable workforce to advance present companies and recruit new ones, and draining future leadership in local communities and on the state level; and

Whereas, This motivated and dynamic group of young talent within Generation West Virginia is tired of our state being known as a place that people have to leave in order to find opportunity and is dedicated to making our state a true destination for young talent; and

Whereas, Generation West Virginia is an innovative, results-oriented and dedicated organization that represents young talent from all walks of life, careers and communities who are committed to a positive and strong present and future for our great state; and

Whereas, Those 21 to 45 years of age in West Virginia include more than 600,000 of our state's population and represent our state's future base of workers, dreamers, innovators, educators, entrepreneurs, leaders and, most importantly, our hope for a successful future; and

Whereas, These young leaders are not just the future of our state, but the rising leaders of today who are making it possible for West Virginia to compete successfully with the world; and

Whereas, By working to make our state attractive for young talent, steps are being taken to encourage a "brain gain" for West Virginia that will build a strong future for our state to become a global leader; and

Whereas, The Senate recognizes the importance of this growing movement and will listen and collaborate with its leadership and regional organizations to develop positive solutions and opportunities to create an abundance of prosperity in our state; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates Wednesday, January 28, 2015, as "Generation West Virginia Day" and encourages all citizens to join the Senate in this observance; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the representatives of Generation West Virginia.

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

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

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

Senators Ferns, Kessler, Stollings, Plymale, Palumbo, Laird and Williams offered the following resolution:

**Senate Resolution No. 17**—Designating January 28, 2015, as West Virginia Kids at Risk Day at the Legislature.

Whereas, The State of West Virginia and the West Virginia Child Care Association (WVCCA) have some of the best child welfare professionals and agencies in the country; and

Whereas, These child welfare professionals and agencies have dedicated their time to making life better for West Virginia's children who are at risk; and

Whereas, These West Virginia professionals and agencies have a compassion that never ends, a hope for a better tomorrow and a dedication to their efforts through the long haul; and

Whereas, These West Virginia professionals and agencies work with West Virginia's child welfare stakeholders to eliminate policy barriers and day-to-day practices that reduce the effective utilization of in-state resources; and

Whereas, Our state's child welfare professionals and agencies do everything possible to provide opportunities for West Virginia's kids at risk to receive care in West Virginia, where they can remain in their communities with their families and connected to their support systems; and

Whereas, These professionals and agencies are regulated by the State of West Virginia through legislation and by oversight of the West Virginia Department of Health and Human Resources and Department of Education; and

Whereas, Our state's stringent licensing requirements and standards of care ensure that children at risk in West Virginia are receiving the best quality of care; and

Whereas, By using West Virginia child welfare professionals and agencies our state is doing what is best for West Virginia's kids at risk and their families; and

Whereas, These West Virginia child care professionals and agencies advocate for and deliver services and support to provide for the safety, well being and opportunity for kids at risk to achieve their hopes and dreams; and

Whereas, These professionals and agencies provide family-driven, youth-guided, culturally competent and trauma-informed care for the citizens of West Virginia; and

Whereas, The West Virginia professionals who care for the at-risk children in our state and the organizations that exist to impact the lives of these children and their families provide quality care in the kids' and families' communities; and

Whereas, This quality care is provided in a variety of settings, including community agencies, hospitals, residential group homes, foster families, emergency shelters and community and educational institutions and seeks to provide resources and guidance that promotes the safety, well being and permanency of West Virginia's at-risk kids; and

Whereas, West Virginia's child welfare providers dedicate themselves to excellence in their profession through licensing, advocacy, education and professional development; and

Whereas, The Senate recognizes and appreciates the outstanding dedication, devotion and care of West Virginia's child welfare professionals and agencies, and of the West Virginia Child Care Association, all for their caring and commitment and for making a

difference in the lives of at-risk children in the State of West Virginia, their families and communities; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 28, 2015, as West Virginia Kids at Risk Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials representing the West Virginia Child Care Association.

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

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

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

Senators Walters, Stollings, Plymale, Palumbo and Williams offered the following resolution:

**Senate Resolution No. 18**—Recognizing the value and importance of the state’s innovation industry on Innovation & Entrepreneurship Day at the Capitol.

Whereas, Research and innovation continue to be the bedrocks of America’s economic strength and vitality; and

Whereas, Facilitating innovation-based economic development and the growth of entrepreneurial companies is critical to our state’s future and prosperity; and

Whereas, In 2013, West Virginia continued to make good progress toward a broader, more robust innovation economy; and

Whereas, Entrepreneurs and small businesses create the vast majority of the new jobs in the United States; and

Whereas, Research and development activities being done in federally funded, university and private laboratories in our state are important for new discoveries, scientific and engineering solutions and potential commercialization opportunities; and

Whereas, Recent studies point to the need for states to nurture research and development activities, develop innovation assets and grow businesses to diversify their economies; and

Whereas, A technology-based economic development study by the Battelle Technology Partnership Practice highlighted four key innovation clusters where West Virginia should focus its innovation efforts; and

Whereas, These four key innovation clusters are advanced energy, chemicals/advanced materials, biometrics and identity management and biotechnology; and

Whereas, Innovations in manufacturing, such as 3D printing, are opening new opportunities for West Virginia's small manufacturing firms to develop new products and processes to improve their bottom lines; and

Whereas, There is growing interest in entrepreneurship across our state as business plan competitions are attracting record-setting numbers of applications and other groups are exploring ways to bring entrepreneurship education into the K-12 system; and

Whereas, Improving access to risk capital is a critical need that is being addressed by existing and new public and private programs, such as the West Virginia Capital Access Program, the INNNOVA

Fund, the West Virginia Growth Investment LLC and the Appalachian Community Capital; and

Whereas, More than one hundred organizations, agencies and companies are working together to help advance the state's innovation and entrepreneurship potential and capacity; and

Whereas, West Virginia has developed an integrated ecosystem of organizations, agencies and financial firms working collaboratively to spur innovation enterprises and jobs; and

Whereas, Many of these innovation drivers are here at the Capitol today as part of the Innovation & Entrepreneurship Day hosted by Industries of the Future—West Virginia and TechConnect WV; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the value and importance of the state's innovation industry on Innovation & Entrepreneurship Day at the Capitol; and, be it

*Further Resolved,* That the innovation industry is interested in realizing the long-term economic opportunities that an innovation-based economy can provide our state's citizens; and, be it

*Further Resolved,* That the Senate expresses its strong support for continued research and development advancements and applauds the collaborative efforts that are demonstrated by the organizations, agencies and companies that are supporting Innovation & Entrepreneurship Day at the Capitol; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Industries of the Future—West Virginia and TechConnect WV.



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

On motion of Senator Carmichael, 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 No. 8**, Urging US EPA withdraw and/or rescind proposed definition of “waters of the United States”.

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

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

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

**Senate Concurrent Resolution No. 13**, Urging Congress propose balanced budget amendment.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 8**, Providing for DOH performance and efficiency audit.

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

Pending discussion,

Senator Unger moved that the bill be referred to the Committee on Finance, and on this question, Senator Unger demanded the yeas and nays.

The question being on the adoption of Senator Unger's aforestated motion, the same was put.

Senator Unger then arose to a point of order that, under Senate Rule No. 12, which states in part "that the mover of the question shall have the right to close the debate thereon", the Chair did not recognize Senator Unger for that purpose.

Which point of order, the President ruled not well taken.

The question now being on the adoption of Senator Unger's motion that the bill (Eng. Com. Sub. for S. B. No. 8) be referred to the Committee on Finance.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost-16.

The nays were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)-18.

Absent: None.

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

The question now being on the passage of the bill,

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill No. 8 pass?"

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—26.

The nays were: Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Unger and Yost—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 8) passed with its title.

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

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Unger regarding the passage of Engrossed Committee Substitute for Senate Bill No. 8 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill No. 237**, Creating Captive Cervid Farming Act.

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

**Senate Bill No. 341**, Permitting Agriculture Commissioner approve and submit Livestock Care Standards Board rules.

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

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Kessler.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, January 29, 2015, at 11 a.m.

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## THURSDAY, JANUARY 29, 2015

The Senate met at 11 a.m.

(Senator Cole, 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 Tom Takubo, a senator from the seventeenth district.

Pending the reading of the Journal of Wednesday, January 28, 2015,

On motion of Senator Snyder, 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 concurrence by that body in the passage, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill No. 280**, Allowing well work permit transfers.

A message from the Clerk of the House of Delegates announced that that body had agreed to the changed effective date to take effect from passage, of

**Eng. Com. Sub. for House Bill No. 2001**, Repealing portions of the Alternative and Renewable Energy Portfolio Act.

The Senate proceeded to the fourth order of business.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 151**, Authorizing DNR promulgate legislative rule relating to special boating.

**Senate Bill No. 152**, Authorizing DNR promulgate legislative rule relating to commercial whitewater outfitters.

**Senate Bill No. 160**, Authorizing DEP promulgate legislative rule relating to Stream Partners Program grants.

**Senate Bill No. 161**, Authorizing DEP promulgate legislative rule relating to hazardous waste management system.

**Senate Bill No. 195**, Authorizing Conservation Committee promulgate legislative rule relating to financial assistance programs.

**Senate Bill No. 250**, Relating to Conservation Agency financial assistance applications from district supervisors.

And,

**Senate Bill No. 261**, Clarifying definition of “owner” of dam.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 159**, Authorizing Division of Forestry promulgate legislative rule relating to ginseng.

And has amended same.

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

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Natural Resources pending.

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 Nos. 171, 172, 173, 174, 175, 176 and 177,** Authorizing DHHR promulgate legislative rule relating to public water systems.

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

**Com. Sub. for Senate Bill No. 175** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Health and Human Resources; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to chronic pain management clinic licensure; authorizing the Department of Health and Human

Resources to promulgate a legislative rule relating to the Fatality and Mortality Review Team; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication administration and performance of health maintenance tasks by approved medication assistive personnel; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the nurse aid abuse and neglect registry; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to nursing home licensure; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the statewide trauma/emergency care system.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 249**, Prohibiting straight party voting.

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

**Com. Sub. for Senate Bill No. 249** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-4A-9, §3-4A-11a and §3-4A-27 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-6-2, §3-6-3, §3-6-5 and §3-6-6 of said code, all relating to disallowing voting a straight party ticket by one mark or punch in a general election.



With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senator M. Hall:**

**Senate Bill No. 355**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3-19, relating to implementing a quality control procedure for agency rules.

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

**By Senators D. Hall, Yost and Gaunch:**

**Senate Bill No. 356**—A Bill to amend and reenact §17A-10-3b of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-15-44 of said code; and to amend said code by adding thereto a new section, designated §17C-15-44a, all relating to motorcycle safety and equipment; increasing motorcycle safety fee; providing for motorcycle helmet exemption for motorcyclists meeting certain requirements; providing for helmet exemption sticker and fees; penalties; and providing for rulemaking.

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

**By Senators Mullins, Blair, Boley, Boso, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Carmichael, Kirkendoll, Leonhardt,**

**Maynard, Nohe, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters and Williams:**

**Senate Bill No. 357**—A Bill to repeal §22A-2A-302, §22A-2A-303, §22A-2A-304, §22A-2A-305, §22A-2A-306 and §22A-2A-307 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-13 and §22-3-19 of said code; to amend and reenact §22-11-6 and §22-11-8 of said code; to amend said code by adding thereto a new section, designated §22-11-22a; to amend said code by adding thereto a new section, designated §22A-1-41; to amend and reenact §22A-1A-1 of said code; to amend and reenact §22A-2-6, §22A-2-28 and §22A-2-37 of said code; to amend and reenact §22A-2A-101, §22A-2A-301, §22A-2A-308, §22A-2A-309, §22A-2A-310, §22A-2A-402, §22A-2A-403, §22A-2A-404, §22A-2A-405, §22A-2A-501, §22A-2A-601, §22A-2A-602, §22A-2A-603 and §22A-2A-604 of said code; and to amend said code by adding thereto a new section, designated §22A-2A-204a, all relating to creating the Coal Jobs and Safety Act of 2015; providing methods of assuring that discharges from waste piles do not exceed applicable water quality standards; conforming rules regarding procedures for requesting and obtaining inactive status and rules relating to requirements for contemporaneous reclamation under the West Virginia Surface Coal Mining and Reclamation Act to corresponding federal requirements; abolishing the West Virginia Diesel Equipment Commission; transferring duties and responsibilities of commission to the Director of the Office of Miners' Health, Safety and Training; defining terms; providing rule-making authority; providing that rules previously approved by commission continue in full force and effect; developing emergency rules for statewide hardness-based aluminum water quality criteria for protection of aquatic life; prohibiting wholesale incorporation of water quality standards into permits rather than specifically developing terms and conditions on a permit-by-permit basis that are designed to protect water quality standards; scope of permit shield as it relates to compliance with water quality standards; establishing an administrative and civil enforcement process for coal mining-related permits that conforms with corresponding federal requirements; making legislative findings; permitting immediate temporary suspension, suspension or revocation of a certificate held by

a certified person who has tested positive for certain drugs or alcohol, refused to submit a sample for screening, possessed or submitted a substituted sample or possessed or submitted an adulterated sample for testing; providing that if a drug test is positive a certified employee may not rely on the fact that the drug was prescribed if the prescription is more than one year old; setting forth requirements for movement of off-track mining equipment in areas of active workings where energized trolley wires or trolley feeder wires are present; establishing premovement requirements; increasing distance from five hundred feet to one thousand five hundred feet of the nearest working face where transportation of certain personnel in certain instances is done exclusively by rail; increasing distance of track to be maintained when a section is fully developed and being prepared for retreating; permitting use of sideboards on shuttle cars if they are equipped with cameras; requiring shelter holes be provided along haulage entries and be placed not more than one hundred five feet apart; providing exception; removing requirement that locomotives, personnel carriers, barrier tractors and other related equipment be equipped with lifting jacks and handles; and prescribing that no one, other than motorman and brakeman, should ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided.

Referred to the Committee on the Judiciary.

**By Senators Leonhardt, Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Maynard, Miller, Mullins, Nohe, Romano, Snyder, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Plymale, Prezioso, Stollings and Kirkendoll:**

**Senate Bill No. 358**—A Bill to amend and reenact §48-5-613 of the Code of West Virginia, 1931, as amended, relating to requiring a court, when ordering divorce that includes a change in name, to issue divorce certificate reflecting new name; and setting forth what information certificate is to contain.

Referred to the Committee on the Judiciary.

**By Senators Unger, Laird, Miller, Palumbo, Plymale, Prezioso, Stollings, M. Hall, Snyder, Kirkendoll and Kessler:**

**Senate Bill No. 359**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-40; to amend said code by adding thereto a new section, designated §18B-1B-7; to amend said code by adding thereto a new article, designated §27-6-1 and §27-6-2; and to amend and reenact §30-1-7a of said code, all relating generally to suicide prevention training; requiring middle and high schools to provide information and opportunities for discussion of suicide prevention to students; authorizing the State Board of Education to consult with the Bureau for Behavioral Health to assure quality and accuracy of information provided; providing that institutions of higher education will develop and implement a policy to advise students and staff on available depression and suicide prevention resources; requiring suicide prevention information to be provided to all incoming students; requiring suicide prevention information to be posted on websites of institutions of higher education; requiring free prevention materials and programs to be posted on websites of all institutions of higher education, the Higher Education Policy Commission and the Bureau for Behavioral Health and Health Facilities; requiring the Bureau for Behavioral Health and Health Facilities to review such posted materials annually; providing legislative findings; requiring the Bureau for Behavioral Health and Health Facilities to post certain suicide prevention and awareness information on its website; providing for the Bureau for Behavioral Health and Health Facilities to assist middle and high schools in providing suicide prevention information to students; requiring certain health care professionals to obtain continuing education courses on suicide prevention and related topics as part of their license renewal; providing that certain health care professionals may only be required to complete two hours of suicide prevention training; and requiring certain health care licensing boards to establish continuing education requirements and criteria and approve continuing education courses on suicide prevention and related topics.

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

**By Senators Miller, Beach, Carmichael, D. Hall, Mullins, Nohe, Sypolt, Williams, Woelfel, Laird, Plymale and Facemire:**

**Senate Bill No. 360**—A Bill to repeal §51-4-9 and §51-4-11 of the Code of West Virginia, 1931, as amended, relating to outdated provisions containing circuit clerk responsibilities with regard to indexes of books and reports concerning claims against the state.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill No. 361**—A Bill to repeal §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-7, §21-5A-8, §21-5A-9, §21-5A-10 and §21-5A-11 of the Code of West Virginia, 1931, as amended, relating to repealing prevailing hourly rate of wages requirements by or on behalf of public authorities engaged in construction of public improvements.

Referred to the Committee on Government Organization.

**By Senators Boley, Blair, Karnes and Leonhardt:**

**Senate Bill No. 362**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-1A-1, §18-1A-2, §18-1A-3, §18-1A-4, §18-1A-5, §18-1A-6, §18-1A-7, §18-1A-8 and §18-1A-9, all relating to public school curricular standards and assessments; prohibiting school board from ceding authority over curricular standards or student data to federal government or private entities; prohibiting use of Common Core standards and assessments; implementing temporary curricular standards; limiting use of statewide assessments; prohibiting sharing of student-level data; creating the West Virginia Legislative Education Standards Development Steering Commission and Education Standards Development subcommittees; and prohibiting colleges in the state from denying admission based on participation in Common Core programs or tests.

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

**By Senator Cole (Mr. President):**

**Senate Bill No. 363**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §14-2A-19b, relating to allowing the Court of Claims to establish maximum rates and service limitations for reimbursement of health care services.

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

**By Senators M. Hall, Snyder, D. Hall, Plymale and Facemire:**

**Senate Bill No. 364**—A Bill to amend and reenact §5A-3-1 and §5A-3-3 of the Code of West Virginia, 1931, as amended, all relating to exempting the West Virginia State Police Forensic Laboratory from state purchasing guidelines.

Referred to the Committee on Finance.

**By Senators Nohe, Gaunch, D. Hall and Palumbo:**

**Senate Bill No. 365**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12-32b, relating to travel insurance limited lines producers; defining terms; authorizing the Commissioner of Insurance to issue travel insurance entity producer license; establishing fees; requiring licensee to maintain register of travel retailers offering insurance on its behalf and designate a responsible individual producer; authorizing travel retailer to offer travel insurance and receive compensation under certain conditions; requiring training of travel retailer employees offering travel insurance; exempting travel insurance entity producers and travel retailers and employees from examination and continuing education requirements; requiring travel retailer employees offering travel insurance to provide certain information; and providing for enforcement.

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

**By Senators Ferns, Stollings, Walters and D. Hall:**

**Senate Bill No. 366**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-50-1, §33-50-2, §33-50-3 and §33-50-4, all relating to the West Virginia Health Benefit Exchange; establishing patient protections; and providing public disclosures.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 367**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-22-7a, relating to sales tax increment financing; authorizing recalculation of base tax revenue amount, subject to specified limitations; specifying that, upon written request of the county commission, filed not later than April 30, 2015, with the Development Office, base tax revenue amounts greater than \$1 million for a given district may be recalculated; specifying limitations on changes to base tax revenue amount; specifying that recalculated base tax revenue amount shall be used to determine net annual district tax revenue amount for the district beginning on July 1, 2015; specifying that decrease to base tax revenue amount upon recalculation is limited to \$1 million; specifying that no adjustment, refund, payment or repayment of special district excise tax, or consumers sales and service tax and use tax, or net annual district tax revenue amount, or accrual thereof, attributable to periods prior to July 1, 2015, is authorized; providing for sharing of certain information respecting the district; defining terms; specifying that if tax revenues in a sales tax increment financing district are deficient, such that the amount withheld in any month is insufficient to fully recover base tax revenue amount attributable to that month, that such deficit shall be carried forward to subsequent months until base tax revenue amount deficit is paid; and specifying that any unpaid deficit carried forward shall be discharged and set at zero on the first day of each fiscal year.

Referred to the Committee on Finance.

**By Senator Nohe:**

**Senate Bill No. 368**—A Bill to amend and reenact §33-24-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-25-6 of said code; to amend and reenact §33-25A-24 of said code; to amend and reenact §33-25D-26 of said code; to amend and reenact §33-40-1, §33-40-2, §33-40-3, §33-40-6 and §33-40-7 of said code; and to amend said code by adding thereto a new article, designated §33-40A-1, §33-40A-2, §33-40A-3, §33-40A-4, §33-40A-5, §33-40A-6, §33-40A-7, §33-40A-8, §33-40A-9, §33-40A-10, §33-40A-11, §33-40A-12 and §33-40A-13, all relating to risk-based capital reporting for health organizations; making health organizations subject to statutory provisions concerning risk-based capital reporting; defining terms associated with risk-based capital reporting for health organizations; requiring domestic health organization to file risk-based capital report with the Insurance Commissioner; requiring health organization to perform certain actions if risk-based capital report indicates a negative financial trend or hazardous financial condition; requiring the Insurance Commissioner to conduct certain actions if risk-based capital report of health organization indicates negative financial trend or hazardous financial condition; providing health organization right to confidential hearing with respect to its risk-based capital report; making risk-based capital reports confidential; prohibiting use of risk-based capital reports in ratemaking of health organization; granting the Insurance Commissioner authority to promulgate rules; requiring foreign health organization to file risk-based capital report with the Insurance Commissioner; and providing immunity to the Insurance Commissioner and his employees or agents for actions taken with respect to monitoring financial stability of health organization.

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



**By Senators Karnes and Leonhardt:**

**Senate Bill No. 369**—A Bill to repeal §17C-16-1, §17C-16-2, §17C-16-3, §17C-16-4, §17C-16-5, §17C-16-6, §17C-16-7, §17C-16-8 and §17C-16-9 of the Code of West Virginia, 1931, as amended, relating to mandatory state inspections of motor vehicles.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 237**, Creating Captive Cervid Farming Act.

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

**Senate Bill No. 341**, Permitting Agriculture Commissioner approve and submit Livestock Care Standards Board rules.

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

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill No. 6**, Relating to medical professional liability.

**Com. Sub. for Senate Bill No. 7**, Requiring CPR and care for conscious choking instruction in public schools.

**Senate Bill No. 106**, Excepting professional engineer member from sanitary board when project engineer under contract.

And,

**Com. Sub. for Senate Bill No. 335**, Creating Access to Opioid Antagonists Act.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Kessler, Boley, D. Hall and Unger.

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

At the request of Senator D. Hall, unanimous consent being granted, the remarks by Senator Boley were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, January 30, 2015, at 11 a.m.

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FRIDAY, JANUARY 30, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Father Leon Alexander, Saint John XXIII Pastoral Center, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Thursday, January 29, 2015,

On motion of Senator Laird, 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 concurrence by that body in the passage of

**Eng. Senate Bill No. 3**, Relating to real property possessor's liability for trespasser harm.

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 No. 2138**—A Bill to amend and reenact §19-25-5 of the Code of West Virginia, 1931, as amended, relating to adding aircraft operations on private airstrips and farms to the definition of “recreational purpose” for the purpose of limiting the liability of landowners.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 29th day of January, 2015, presented to His

Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for H. B. No. 2001)**, Repealing portions of the Alternative and Renewable Energy Portfolio Act.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 60**, Requiring food handler examinations and cards.

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

**Com. Sub. for Senate Bill No. 60** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-6-25, relating to food handler examinations and cards; requiring food handler card within thirty days of being hired; and establishing that cards are valid for three years and in all counties.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. No. 60), under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 66**, Revising fees for manufacturer, distributor, dispenser and researcher of controlled substances.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 88**, Creating WV Clearance for Access: Registry and Employment Screening Act.

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

**Com. Sub. for Senate Bill No. 88** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5, §16-46-6, §16-46-7, §16-46-8, §16-46-9 and §16-46-10, all relating to requiring background checks for individuals who have direct access to residents, members or beneficiaries of covered providers or covered contractors participating in the West Virginia Clearance for Access: Registry and Employment Screening program; providing short title; defining terms; requiring the Secretary of the Department of Health and Human Resources to develop plan and program for conducting background checks; requiring centralized database to maintain criminal history record information and results; establishing prescreening process conducted by covered providers and covered contractors; requiring applicants to provide fingerprints and undergo criminal background check; establishing procedures and criteria for obtaining and reviewing criminal history record information; establishing criteria for approving applicants for employment; authorizing contractors and fees; creating special revenue account for administrative fees; providing for protests of the secretary's decisions and permitting variances; creating exceptions; authorizing legislative rules; providing monetary penalties; and providing for civil and criminal immunity.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. No. 88), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 94**, Establishing driver's license restoration program.

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

**Com. Sub. for Senate Bill No. 94** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-3-14; and to amend and reenact §17B-4-3 of said code, all relating to suspension or revocation of driver's licenses; making legislative findings; establishing driver's license restoration program; waiving certain reinstatement requirements to restore driving privileges; reducing period for suspension upon receipt of notice of driving while suspended for offenses other than driving under the influence; and granting rule-making authority.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. No. 94), under the original double committee reference, was then referred to the Committee on Finance.

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

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

**Senate Bill No. 162**, Authorizing DEP promulgate legislative rule relating to control of air pollution from hazardous waste treatment, storage and disposal facilities.

**Senate Bill No. 163**, Authorizing DEP promulgate legislative rule relating to standards of performance for new stationary sources.

**Senate Bill No. 164**, Authorizing DEP promulgate legislative rule relating to permits for construction and major modification of major stationary sources for prevention of significant deterioration of air quality.

**Senate Bill No. 166**, Authorizing DEP promulgate legislative rule relating to WV/NPDES rule for coal mining facilities.

**Senate Bill No. 168**, Authorizing DEP promulgate legislative rule relating to emission standards for hazardous air pollutants.

**Senate Bill No. 169**, Authorizing DEP promulgate legislative rule relating to requirements for operating permits.

And,

**Senate Bill No. 170**, Authorizing OMHST promulgate legislative rule relating to employee safety in and around quarries.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.



Respectfully submitted,

Jeff Mullins,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Finance has had under consideration

**Senate Bill No. 186**, Authorizing Tax Department promulgate legislative rule relating to appointment of special assessors.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 199**, Authorizing Board of Registration for Professional Engineers promulgate legislative rule relating to examination, licensure and practice.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill No. 243**, Relating to school nutrition standards during state of emergency or preparedness.

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

**Com. Sub. for Senate Bill No. 243** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-6a, relating to school nutrition standards during a state of emergency or state of preparedness; authorizing Governor or Legislature to temporarily suspend legislative rules establishing nutrition standards for foods and beverages served to students in public schools during a state of emergency or state of preparedness; and providing limitations.

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,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. No. 243), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 255**, Eliminating certain boards, councils, task forces, commissions and committees.

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

**Com. Sub. for Senate Bill No. 255** (originating in the Committee on Government Organization)—A Bill to repeal §15-8-1, §15-8-2, §15-8-3, §15-8-4, §15-8-5, §15-8-6, §15-8-7, §15-8-8, §15-8-9, §15-8-10, §15-8-11 and §15-8-12 of the Code of West Virginia, 1931, as amended; to repeal §16-5J-5 of said code; to repeal §16-5T-1 of said code; to repeal §16-42-1, §16-42-2, §16-42-3, §16-42-4, §16-42-5 and §16-42-6 of said code; to repeal §18-2J-1, §18-2J-2, §18-2J-3, §18-2J-4, §18-2J-5, §18-2J-6 and §18-2J-7 of said code; to repeal §18B-1C-3 of said code; to repeal §18B-14-11 of said code; to repeal §18B-16-6 of said code; to repeal §20-2B-2a of said code; to repeal §21-3A-10 and §21-3A-18 of said code; to repeal §21-3B-3 of said code; to repeal §22C-5-1, §22C-5-2, §22C-5-3, §22C-5-4, §22C-5-5, §22C-5-6, §22C-5-7 and §22C-5-8 of said code; to repeal §23-1-1a of said code; to repeal §29-12B-4 and §29-12B-5 of said code; to repeal §31-16-1, §31-16-2, §31-16-3 and §31-16-4 of said code; to repeal §33-48-2 and §33-48-3 of said code; to

repeal §55-15-1, §55-15-2, §55-15-3, §55-15-4, §55-15-5 and §55-15-6 of said code; and to repeal §62-11E-1, §62-11E-2 and §62-11E-3 of said code, relating to eliminating unnecessary, inactive or redundant boards, councils, committees, panels, task forces and commissions; terminating West Virginia Sheriffs' Bureau; terminating Clinical Laboratories Quality Assurance Advisory Board; terminating Care Home Advisory Board; terminating Comprehensive Behavioral Health Commission; terminating Public and Higher Education Unified Educational Technology Strategic Plan, including Governor's Advisory Council for Educational Technology; terminating West Virginia Consortium for Undergraduate Research and Engineering; terminating Governor's Commission on Graduate Study in Science, Technology, Engineering and Mathematics; terminating West Virginia Rural Health Advisory Panel; terminating Ohio River Management Fund Advisory Board; terminating Occupational Safety and Health Review Commission; terminating Occupational Safety and Health Advisory Board; terminating Environmental Assistance Resource Board; terminating Commercial Hazardous Waste Management Facility Siting Board; terminating Workers' Compensation Board of Managers; terminating State Medical Malpractice Advisory Panel; terminating West Virginia Steel Futures Program, including Steel Advisory Commission; terminating West Virginia Health Insurance Plan Board; terminating Alternative Dispute Resolution Commission; and terminating Sexually Violent Predator Management Task Force.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. No. 255), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 267**, Repealing code relating to Governor's Office of Health Enhancement and Lifestyle Planning.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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

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 No. 284**, Relating to chief law-enforcement officer's requirement to certify transfer or making of certain firearms.

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

**Com. Sub. for Senate Bill No. 284** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931,

as amended, by adding thereto a new section, designated §61-7-16, relating to dangerous weapons generally; requiring certification of responsible persons seeking federal authorization to possess certain firearms by a chief law-enforcement officer when person is not legally proscribed therefrom; clarifying what criteria may be considered when certification is sought from law enforcement that applicant is not prohibited from securing or possessing firearms covered by the National Firearms Act; defining terms; and allowing circuit court appeals or adverse decisions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 312**, Relating to disqualification of general election nominees for failure to file campaign finance statements.

**Senate Bill No. 318**, Relating to payment of wages by employers.

**Senate Bill No. 322**, Eliminating mandatory electronic recount of ballots in recounts.

And,

**Senate Bill No. 326**, Eliminating campaign finance reporting by candidates for delegate to national convention.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 323**, Relating to municipal home rule.

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

**Com. Sub. for Senate Bill No. 323** (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to extending home rule to all Class I, II and III municipalities; providing that the Municipal Home Rule Board will terminate five years after enactment of statute unless extended; making an increasing number of Class IV municipalities eligible to participate in the Home Rule Pilot Program; amending powers and duties of the Municipal Home Rule Board; amending requirements for enactment of ordinances, acts, resolutions, rules or regulations by municipalities participating in the Home Rule Pilot Program; and eliminating requirement for the performance review of the Home Rule Pilot Project.

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,

Craig Blair,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 334**, Relating to practice of medicine and surgery or podiatry.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

The Senate proceeded to the sixth order of business.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 370**—A Bill to amend and reenact §15-9-1, §15-9-2, §15-9-3 and §15-9-5 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section,



designated §15-9-6; to amend and reenact §15-9A-1, §15-9A-2 and §15-9A-3 of said code; to amend and reenact §15-9B-1 and §15-9B-2 of said code; to amend and reenact §30-29-2, §30-29-3, §30-29-4, §30-29-5, §30-29-6 and §30-29-7 of said code; and to amend and reenact §62-11C-2, §62-11C-3, §62-11C-4, §62-11C-6 and §62-11C-8 of said code, all relating to reorganization of the Governor's Committee on Crime, Delinquency and Correction and its subcommittees; continuing the Governor's Committee on Crime, Delinquency and Correction and providing for membership, terms and authority of the chair; requiring facility inspection in accordance with the Prison Rape Elimination Act; granting authority to the Governor's Committee on Crime, Delinquency and Correction to establish bylaws, policies and procedures; establishing responsibilities of the Governor's Committee on Crime, Delinquency and Correction; stating legislative findings; designating a staffing agency for the Governor's Committee on Crime, Delinquency and Correction and providing authority and responsibilities; establishing duties of the Director of the Governor's Committee on Crime, Delinquency and Correction; establishing membership criteria and subcommittee status of the Sexual Assault Forensic Examination Commission; establishing powers and duties of the Sexual Assault Forensic Examination Commission; establishing membership criteria and subcommittee status of the Law-Enforcement Professional Standards Subcommittee; establishing powers and duties of the Law-Enforcement Professional Standards Subcommittee; providing for uses of fees collected for the Law-Enforcement Professional Standards Subcommittee and authorizing adjustments of such fees by legislative rule; establishing the Community Corrections Subcommittee, membership and authority; and making technical edits.

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

**By Senators Carmichael and Karnes:**

**Senate Bill No. 371**—A Bill to amend and reenact §56-1-1a of the Code of West Virginia, 1931, as amended, relating to application of

the doctrine of forum non conveniens when civil actions involve both legal resident and nonresident plaintiffs.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill No. 372**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-10A-1, §55-10A-2, §55-10A-3, §55-10A-4, §55-10A-5, §55-10A-6 and §55-10A-7, all relating to mediation of civil actions pending in the circuit courts of this state.

Referred to the Committee on the Judiciary.

**By Senators Nohe, Gaunch, D. Hall, Karnes and Blair:**

**Senate Bill No. 373**—A Bill to amend and reenact §17D-2A-4 of the Code of West Virginia, 1931, as amended, relating to allowing image displayed on a wireless communication device to serve as proof of insurance on a motor vehicle.

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

**By Senators Trump and D. Hall:**

**Senate Bill No. 374**—A Bill to amend and reenact §62-12-13 of the Code of West Virginia, 1931, as amended, relating to permitting in absentia parole hearings in certain instances.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill No. 375**—A Bill to amend and reenact §62-12-23 of the Code of West Virginia, 1931, as amended, relating to specifying who receives notice of parole hearings via regular or certified mail.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill No. 376**—A Bill to repeal §44-2-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-5-9a; to amend and reenact §44-1-14a of said code; to amend said code by adding thereto a new section, designated §44-1-30; and to amend and reenact §44-2-1 of said code, all relating generally to administration of estates and trusts; repealing redundant provision requiring fiduciary commissioner to publish notice of time for receiving claims against decedents' estates; requiring legal residences to be included on certificates of death; reducing claim period from ninety to sixty days; increasing value of estates for which a fiduciary commissioner need not be appointed; and authorizing clerk of the county commission to require a certified copy of a decedent's certificate of death or other proof of death and residence.

Referred to the Committee on the Judiciary.

**By Senators Boso and Gaunch:**

**Senate Bill No. 377**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to manufacturers and sellers of prescription and over-the-counter drugs; and adopting the learned intermediary doctrine as defense to civil action based upon inadequate warnings or instructions.

Referred to the Committee on the Judiciary.

**By Senators Snyder, Blair, Miller, Kessler, Kirkendoll and Gaunch:**

**Senate Bill No. 378**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-3B-6, relating to permitting licensing of any electrician who did not renew his or her electrician's license issued earlier by the State Fire Marshal; and renewing license without retesting if twice the renewal fee is paid and earlier license was not revoked.

Referred to the Committee on Government Organization.

**By Senators Walters, D. Hall, Beach and Miller:**

**Senate Bill No. 379**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all relating to authorizing the West Virginia Division of Highways to enter into cooperative agreements with the United States Secretary of Transportation to establish infrastructure revolving funds eligible to be capitalized with federal transportation funds; and creating State Infrastructure Bank.

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

**By Senators Kessler, Stollings, Unger, Miller and Yost:**

**Senate Bill No. 380**—A Bill to amend and reenact §11-13A-5b of the Code of West Virginia, 1931, as amended, relating to the West Virginia Future Fund; including the Revenue Shortfall Reserve Fund - Part B in calculation of when deposits may be made into fund; and adding definition for “education and workforce development”.

Referred to the Committee on Finance.

**By Senators M. Hall, Stollings, D. Hall, Nohe, Boso, Miller, Kessler and Prezioso:**

**Senate Bill No. 381**—A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to creating a special revenue account to offset costs for the West Virginia State Police one hundredth anniversary in 2019.

Referred to the Committee on Finance.

**By Senators M. Hall and Walters:**

**Senate Bill No. 382**—A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing Auditor to issue warrants for the payment thereof.

Referred to the Committee on Finance.

Senators Beach, Kessler, Leonhardt, Prezioso, Unger, Stollings, Miller and Yost offered the following resolution:

**Senate Concurrent Resolution No. 14**—Requesting the Division of Highways to erect signs along Interstate 79 in Marion County designated “Home of Francis H. Pierpont”.

Whereas, Francis H. Pierpont was one of the delegates to the Great Railroad Convention to bring the B&O Railroad into Marion County; and

Whereas, Francis H. Pierpont, working along with James Otis Watson, opened the first rail-shipping bituminous coal mine west of the Allegheny Mountains; and

Whereas, May 13, 1861, Francis H. Pierpont became Delegate of the First Wheeling Convention; and

Whereas, June 20, 1861, Francis H. Pierpont was elected Provisional Governor of the Restored Virginia by an unanimous 77 votes; and

Whereas, May 13, 1862, Francis H. Pierpont called a special session of the Restored Virginia General Assembly which granted counties in Northwestern Virginia permission for their separation from the remainder of Virginia and the formation of a new state into the Union: West Virginia; and

Whereas, May 22, 1862, Francis H. Pierpont was elected Governor of the Restored Virginia; and

Whereas, In June, 1863, Francis H. Pierpont declined to be Governor of West Virginia, remaining Governor of Restored Virginia until April 4, 1868; and

Whereas, In 1869, Francis H. Pierpont was elected to the West Virginia Legislature; and

Whereas, Francis H. Pierpont established the first local school for African Americans; and

Whereas, On April 30, 1910, a statue honoring Francis H. Pierpont as the “Father of West Virginia” was accepted by the Capitol Building in Washington, D. C., one of only two statues representing West Virginia in Statuary Hall in the United States Capitol Building; and

Whereas, Stephen B. Elkins, former Secretary of War, on the day of the statue dedication proclaimed, “He (Francis H. Pierpont) founded a state whose people will love and bless his memory as the sun rolls on.”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Division of Highways to erect signs along Interstate 79 in Marion County designated “Home of Francis H. Pierpont”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs along Interstate 79 at locations entering Marion County on the borders of Harrison and Monongalia counties, proclaiming this section of road “Home of Francis H. Pierpont”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of Highways, the Marion County Commission and the Marion County Historical Society.

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 237, Creating Captive Cervid Farming Act.**

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 237 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—28.

The nays were: Miller, Mullins, Prezioso, Takubo and Unger—5.

Absent: Beach—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. No. 237) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—28.

The nays were: Miller, Mullins, Prezioso, Takubo and Unger—5.

Absent: Beach—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. No. 237) takes effect from passage.

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

Thereafter, at the request of Senator Sypolt, and by unanimous consent, the remarks by Senator Williams regarding the passage of Engrossed Committee Substitute for Senate Bill No. 237 were ordered printed in the Appendix to the Journal.

**Eng. Senate Bill No. 341**, Permitting Agriculture Commissioner approve and submit Livestock Care Standards Board rules.

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

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 341) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler,



Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 341) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 6**, Relating to medical professional liability.

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

On motion of Senator Walters, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page fourteen, section eight, line thirty-five, after the word “action” by changing the period to a colon and inserting a new subsection, designated subsection (e), to read as follows:

(e) The limitation on liability provided under this section shall not apply where health care or assistance is rendered in willful and wanton or reckless disregard of a risk of harm to the patient.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of the amendments offered by Senator Walters to the bill (Com. Sub. for S. B. No. 6), and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Facemire, Romano, Snyder and Walters—4.

The nays were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Williams, Woelfel, Yost and Cole (Mr. President)—29.

Absent: Beach—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendments offered by Senator Walters to the bill rejected.

On motion of Senator Romano, the following amendments to the bill (Com. Sub. for S. B. No. 6) were next reported by the Clerk and considered simultaneously:

On page four, section two, line forty-five, after the word “treatment;” by inserting the word “and”;

On page five, section two, line fifty-four, after the word “services” by changing the semicolon to a period and striking out the word “and”;

And,

On page five, section two, lines fifty-five through fifty-eight by striking out all of subdivision (3).

Following discussion,

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

The bill (Com. Sub. for S. B. No. 6) was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill No. 7**, Requiring CPR and care for conscious choking instruction in public schools.

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

**Senate Bill No. 106**, Excepting professional engineer member from sanitary board when project engineer is under contract.

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 No. 335**, Creating Access to Opioid Antagonists Act.

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.

**Com. Sub. for Senate Bill No. 175**, Authorizing DHHR promulgate legislative rules.

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

**Com. Sub. for Senate Bill No. 249**, Prohibiting straight party voting.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Miller, Unger, Karnes and Woelfel.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Beach.

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 2, 2015, at 11 a.m.

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## MONDAY, FEBRUARY 2, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Troy Rackliffe, Glade Community Church, Daniels, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Chris Walters, a senator from the eighth district.

Pending the reading of the Journal of Friday, January 30, 2015,

On motion of Senator Kessler, 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 Clerk presented a communication from the Board of Veterinary Medicine, submitting its annual report as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill No. 2053**—A Bill to amend and reenact §38-1-2 and §40-1-9 of the Code of West Virginia, 1931, as amended, all relating to the form of trust deeds; and permitting the recording of a memorandum of deed of trust in lieu of the deed of trust.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill No. 2227**—A Bill to repeal §29-28-1, §29-28-2, §29-28-3, §29-28-4, §29-28-5, §29-28-6, §29-28-7, §29-28-8, §29-28-9, §29-28-10, §29-28-11, §29-28-12, and §29-28-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-27-1, §29-27-2, §29-27-3, §29-27-4, and §29-27-6 of said code, all relating to the National Coal Heritage Area Authority; adding Lincoln and Kanawha counties as member counties; increasing number of authority board members; adding ex-officio non-voting member to the authority board from Marion County; adding working in member counties to qualifications of appointed members; providing for county commissions of member counties to recommend three nominees to Governor; providing for

the Secretary of Education and the Arts to recommend three nominees for chairperson to Governor; creating a standing committee; establishing standing committee responsibilities; repealing article relating to the Coal Heritage Highway Authority; and transferring all assets and responsibilities of the Coal Heritage Highway Authority to the National Coal Heritage Area Authority.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 147**, Authorizing DNR promulgate legislative rule relating to hunting, trapping and fishing license and stamp fees.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original triple committee reference first be referred to the Committee on Finance; and then to the Committee on the Judiciary.

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bill, under the original triple committee reference, was referred to the Committee on Finance; and then to the Committee on the Judiciary, with an amendment from the Committee on Natural Resources pending.

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

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 149**, Authorizing DNR promulgate legislative rule relating to lifetime hunting, trapping and fishing licenses.

And has amended same.

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

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Natural Resources pending.

The Senate proceeded to the sixth order of business.

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

**By Senators D. Hall, Ferns, Kirkendoll, Maynard, Mullins, Takubo and Stollings:**

**Senate Bill No. 383**—A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting or trapping on private lands; removing restrictions for hunting or trapping on private lands on Sundays; and clarifying that

hunting on private land at any time requires written consent of landowner.

Referred to the Committee on Natural Resources.

**By Senators D. Hall, Prezioso, Takubo, Stollings and Beach:**

**Senate Bill No. 384**—A Bill to amend and reenact §60-8-3 of the Code of West Virginia, 1931, as amended, relating to permitting sale of wine by wine specialty shop in a county that has not elected to permit sale of wine or alcohol beverages.

Referred to the Committee on Government Organization.

**By Senators D. Hall, Beach, Blair, Ferns, Karnes, Kessler, Kirkendoll, Mullins, Nohe, Sypolt, Trump, Walters, Williams and Stollings:**

**Senate Bill No. 385**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17 and §17-29-18, all relating to regulation of transportation network companies.

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

**By Senators Ferns, Stollings and D. Hall:**

**Senate Bill No. 386**—A Bill to amend and reenact §11-27-8 of the Code of West Virginia, 1931, as amended, relating to excluding mobile x-ray services from the health care provider tax.

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

**By Senators Walters, Stollings and D. Hall:**

**Senate Bill No. 387**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated



§18A-3A-7, relating to creating the Task Force on the Prevention of Sexual Abuse of Children within the Center for Professional Development; specifying composition of task force; including duty to make recommendations; and providing that members serve without expense reimbursement or compensation.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Beach, Blair, M. Hall, Kessler, Leonhardt, Prezioso, Snyder, Trump, Unger, Williams, Stollings and Nohe:**

**Senate Bill No. 388**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating generally to altering the way tax is collected on homeowners' associations; exempting from consumers sales and service tax liability dues, fees and assessments paid by members to homeowners' associations when used by the homeowners' association for payment of common expenses; taxable expenses of homeowners' association; and definitions.

Referred to the Committee on Finance.

Senators D. Hall, Ferns, Takubo, Stollings, Nohe, Unger, Williams and Beach offered the following resolution:

**Senate Resolution No. 19**—Recognizing Friday, February 6, 2015, as National Wear Red Day in support of the importance of the ongoing fight against heart disease and stroke by the wearing of the color red.

Whereas, Heart disease is the number one killer of women, yet eighty percent of cardiac events can be prevented; and

Whereas, Cardiovascular diseases cause one in three women's deaths each year, killing approximately one woman every minute; and

Whereas, An estimated forty-four million women in the U. S. are affected by cardiovascular diseases; and

Whereas, Ninety percent of women have one or more risk factors for developing heart disease, yet only one in five American women believe that heart disease is her greatest health threat; and

Whereas, Since 1984, more women than men have died each year from heart disease; and

Whereas, Women comprise only twenty-four percent of participants in all heart-related studies; and

Whereas, Women are less likely to call 911 for themselves when experiencing symptoms of a heart attack than they are if someone else were having a heart attack; and

Whereas, Only forty-three percent of African American women and forty-four percent of Hispanic women know that heart disease is their greatest health risk, compared with sixty percent of Caucasian women; and

Whereas, Women involved with the American Heart Association's Go Red For Women movement live healthier lives, nearly ninety percent have made at least one healthy behavior change; and

Whereas, Go Red For Women is asking all Americans to "Go Red by wearing red and speaking red; Get Your Numbers: Ask your doctor to check your blood pressure and cholesterol; Own Your Lifestyle: Stop smoking, lose weight, exercise and eat healthy; Raise Your Voice: Advocate for more women-related research and education; Educate Your Family: Make healthy food choices for you and your family. Teach your kids the importance of staying active; Don't Be Silent: Tell every woman you know that heart disease is their number one killer. Raise your voice at [GoRedForWomen.org](http://GoRedForWomen.org)"; therefore, be it

*Resolved by the Senate:*

That the Senate recognizes Friday, February 6, 2015, as National Wear Red Day in support of the importance of the ongoing fight against heart disease and stroke by the wearing of the color red; and, be it

*Further Resolved,* That the Senate acknowledges and urges all citizens to show their support for women and the fight against heart disease by commemorating this day by the wearing of the color red. By increasing awareness, speaking up about heart disease and empowering women to reduce their risk for cardiovascular disease, we can save thousands of lives each year; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the American Heart Association.

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

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

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 389** (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-13-18 of the Code of West Virginia, 1931, as amended, relating to the

Board of Registration for Professional Engineers; changing time period for renewal from fiscal year to calendar year; authorizing renewal notification by mail or electronically; requiring reinstatement of nonrenewed licenses; authorizing annual or biennial renewal periods; and authorizing legislative rules and emergency rules related to renewal and reinstatement.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 14**, Requesting DOH erect signs in Marion County designated “Home of Francis H. Pierpont”.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 6**, Relating to medical professional liability.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 6 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: Romano—1.

Absent: Miller and Yost—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 6) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: Romano—1.

Absent: Miller and Yost—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 6) takes effect from passage.

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

Thereafter, at the request of Senator Unger, and by unanimous consent, the remarks by Senators Kessler and Trump regarding the

passage of Engrossed Committee Substitute for Senate Bill No. 6 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Senate Bill No. 7**, Requiring CPR and care for conscious choking instruction in public schools.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Miller and Yost—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 7) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2015.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Miller and Yost—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 7) takes effect July 1, 2015.

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

**Eng. Senate Bill No. 106**, Excepting professional engineer member from sanitary board when project engineer is under contract.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Miller and Yost—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 106) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Miller and Yost—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 106) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill No. 335,** Creating Access to Opioid Antagonists Act.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Miller and Yost—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 335) passed with its title.

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

The Senate proceeded to the ninth order of business.



**Com. Sub. for Senate Bill No. 175**, Authorizing DHHR promulgate legislative rules.

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 No. 249**, Prohibiting straight party voting.

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

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill No. 284**, Relating to chief law-enforcement officer's requirement to certify transfer or making of certain firearms.

**Senate Bill No. 312**, Relating to disqualification of general election nominees for failure to file campaign finance statements.

**Senate Bill No. 318**, Relating to payment of wages by employers.

**Senate Bill No. 322**, Eliminating mandatory electronic recount of ballots in recounts.

**Com. Sub. for Senate Bill No. 323**, Relating to municipal home rule.

And,

**Senate Bill No. 326**, Eliminating campaign finance reporting by candidates for delegate to national convention.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Kirkendoll and Woelfel.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senators Kirkendoll and Woelfel were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Miller and Yost.

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

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 3, 2015, at 11 a.m.

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## TUESDAY, FEBRUARY 3, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Jim Butcher, Madison Baptist Church, Madison, West Virginia.

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

Pending the reading of the Journal of Monday, February 2, 2015,

On motion of Senator Williams, 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 fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 2nd day of February, 2015, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. No. 280)**, Allowing well work permit transfers.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

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

Your Committee on Finance has had under consideration

**Senate Bill No. 157**, Authorizing Division of Labor promulgate legislative rule relating to regulation of heating, venting and cooling work.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

The bill, under the original triple committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Finance has had under consideration

**Senate Bill No. 158**, Authorizing Division of Labor promulgate legislative rule relating to weights and measures calibration fees.

With an amendment from the Committee on Labor pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Labor to which the bill was first referred; but under the original triple committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mike Hall,  
*Chair.*

The bill, under the original triple committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Labor pending.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 222**, Authorizing Agriculture Commissioner promulgate legislative rule relating to dangerous wild animals.

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

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

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

Senator Nohe, 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 No. 248**, Requiring certain insurance and owner information be provided following car accident.

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

**Com. Sub. for Senate Bill No. 248** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §17C-4-3 of the Code of West Virginia, 1931, as amended, relating to the duty to give information after a car crash; and requiring person involved in a car crash to provide certain insurance, vehicle owner information and exhibit his or her driver's license.

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,

David Nohe,  
*Chair.*

The bill (Com. Sub. for S. B. No. 248), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 No. 250**, Relating to Conservation Agency financial assistance applications from district supervisors.

And,

**Com. Sub. for Senate Bill No. 279**, Clarifying qualifications of Labor Commissioner.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 261**, Clarifying definition of “owner” of dam.

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

**Com. Sub. for Senate Bill No. 261** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §22-14-3 of the Code of West Virginia, 1931, as amended, relating to dams; and clarifying definition of “owner” of dam.

**Senate Bill No. 374**, Permitting in absentia parole hearings in certain instances.

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

**Com. Sub. for Senate Bill No. 374** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-13 of the Code of West Virginia, 1931, as amended, relating to permitting parole hearings to be conducted without the presence of the inmate when a documented medical condition precludes his or her appearance.

And,

**Senate Bill No. 375**, Specifying who receives parole hearing notices via regular or certified mail.

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

**Com. Sub. for Senate Bill No. 375** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §62-12-23 of the Code of West Virginia, 1931, as amended, relating to specifying who receives notice of parole hearings via regular or certified mail.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Nohe, 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 No. 283**, Relating to branch banking.

And,

**Senate Bill No. 292**, Relating to licenses for business of currency exchange, transportation or transmission.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

David Nohe,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Nohe, 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 No. 285**, Relating to primary and subordinate mortgage loans.



And has amended same.

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

Respectfully submitted,

David Nohe,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Banking and Insurance pending.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 304**, Relating to farmers markets.

And has amended same.

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

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Agriculture and Rural Development pending.

The Senate proceeded to the sixth order of business.

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

**By Senator Trump:**

**Senate Bill No. 390**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1k, relating to additional duties of the Public Service Commission; authorizing commission to approve expedited cost recovery of natural gas utility infrastructure projects deemed just and reasonable and in the public interest; making findings; establishing application and hearing process; and providing for rulemaking.

Referred to the Committee on the Judiciary.

**By Senators Walters, Facemire, Kessler, Laird, Mullins, Nohe, Romano and Plymale:**

**Senate Bill No. 391**—A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §21A-6-18, all relating to domestic violence victims' eligibility for unemployment compensation benefits; removing disqualification for certain victims of domestic violence, sexual offenses or stalking; and requiring training of Workforce West Virginia employees in the nature and dynamics of domestic violence to aid employees who interact with claimants.

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

**By Senator Plymale:**

**Senate Bill No. 392**—A Bill to amend and reenact §12-3A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-5-4, §18B-5-6 and §18B-5-7 of said code; and to amend said code by adding thereto a new section, designated §18B-5-4a, all

relating to public higher education procurement and payment generally; receipting of electronic commerce purchases; purchase or acquisition of materials, supplies, equipment, services and printing at institutions of higher education; construction projects at Marshall University and West Virginia University; design-build procurement at institutions of higher education; and disposition of obsolete and unusable equipment, surplus supplies and other needed materials at institutions of higher education.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 393**—A Bill to amend and reenact §49-1-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-5-2a, §49-5-3, §49-5-11, §49-5-11a, §49-5-13, §49-5-13a, §49-5-14, §49-5-15, §49-5-17 and §49-5-20 of said code; to amend said code by adding thereto four new sections, designated §49-5-13h, §49-5-13i, §49-5-22 and §49-5-23; to amend and reenact §49-5B-4 and §49-5B-5 of said code; to amend and reenact §49-5D-3 and §49-5D-3c of said code; to amend and reenact §49-5E-2 of said code; and to amend said code by adding thereto two new sections, designated §49-5E-9 and §49-5E-10, all relating generally to juvenile justice reform; defining terms; providing mandatory prepetition diversion process for juveniles who commit status offenses and misdemeanor offenses effective July 1, 2016; establishing prepetition review team; providing that a juvenile may be referred to a truancy diversion specialist prior to filing of petition; permitting court to order completion of community services; requiring court to consider results of risk and needs assessment of the juvenile prior to dispositional proceedings; requiring inclusion of accepted treatment and rehabilitation goals for juveniles in certain findings of fact; providing that a juvenile adjudicated as a status offender may not be placed in out-of-home placement in certain circumstances; providing that a juvenile adjudicated delinquent for a misdemeanor offense may not be

placed in out-of-home placement in certain circumstances; requiring court to issue certain findings of fact if a juvenile is to be placed in a residential facility; providing for standardized screener to conduct a psychological evaluation of the juvenile in certain circumstances; providing that a court shall make all reasonable efforts to keep the juvenile in his or her home; permitting court to include reasonable and relevant orders to parents in its disposition order for a juvenile; providing that juveniles may only be transferred to juvenile diagnostic centers under certain circumstances; authorizing creation of restorative justice programs; establishing individualized case planning; establishing review and modification procedures for probation dispositional orders; authorizing the Supreme Court of Appeals to develop community-based juvenile probation sanctions and incentives; requiring aftercare plan for all juvenile out-of-home placements; providing for disclosure of juvenile records to Department of Health and Human Resources social workers for case planning and to the juvenile's family; providing for adoption of risk and needs assessment and validation thereof; providing for aggregate data collection related to outcomes and disproportional minority contact; requiring dedication of a percentage of funding for community services to evidence-based practices; establishing criteria for transition to juvenile's home setting following out-of-home placement; providing for cooperative agreements solely between the Department of Health and Human Resources and private agencies to house status offenders; providing for multidisciplinary team meetings; establishing members of multidisciplinary team; providing that multidisciplinary team shall advise court on treatment and rehabilitation goals for the juvenile; providing that multidisciplinary team shall monitor the juvenile's progress; providing that the Director of the Division of Juvenile Services may transfer custody of a juvenile to the Department of Health and Human Resources; establishing community-based youth reporting centers; establishing the Juvenile Justice Reform Oversight Committee; and making technical revisions.

Referred to the Committee on the Judiciary.

**By Senators M. Hall, Carmichael, D. Hall, Miller and Plymale:**

**Senate Bill No. 394**—A Bill to amend and reenact §33-6-29 of the Code of West Virginia, 1931, as amended, relating generally to motor vehicle insurance policies and coverage provided for rented or leased motor vehicles; clarifying that insured driver of a motor vehicle is covered by driver’s auto insurance policy when renting or leasing a vehicle; and providing that if the renter of a vehicle does not have auto insurance coverage, the rental or leasing car company is provider of security.

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

**By Senators Sypolt, Facemire, Gaunch, Prezioso, Stollings, Plymale, Palumbo and Williams:**

**Senate Bill No. 395**—A Bill to amend and reenact §61-2-9 and §61-2-28 of the Code of West Virginia, 1931, as amended, all relating generally to crimes against the person; and modifying definitions of “battery” and “domestic battery” to conform with federal laws.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Facemire, Gaunch, Prezioso, Stollings, D. Hall, Plymale, Karnes, Palumbo, Romano and Williams:**

**Senate Bill No. 396**—A Bill to amend and reenact §61-2-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8B-1 and §61-8B-3 of said code, all relating to crimes against the person; providing that an act of domestic violence or sexual offense by strangling is an aggravated felony offense; and providing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 397**—A Bill to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-

18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13 and §31-18D-14 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6 and §31-18-22 of said code; and to amend said code by adding thereto a new section, designated §31-18-20d, all relating to the transfer of certain powers and programs of the West Virginia Affordable Housing Trust Fund to the West Virginia Housing Development Fund; eliminating the West Virginia Affordable Housing Trust Fund and the West Virginia Affordable Housing Trust Fund Board of Directors; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fee on all sales by licensed dealers of factory-built homes to be deposited in Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fee upon the privilege of transferring real estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; defining “Affordable Housing Fund”; authorizing West Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit community housing organizations; providing for uses of funds in Affordable Housing Fund; and providing for disposition of Affordable Housing Fund in the event of termination or dissolution of West Virginia Housing Development Fund.

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

**By Senators Ferns, D. Hall and Stollings:**

**Senate Bill No. 398**—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; modifying expiration date for tax rate on eligible acute care hospitals; changing tax rate on eligible acute care hospitals; and providing for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account.

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

**By Senator Ferns:**

**Senate Bill No. 399**—A Bill to amend and reenact §16-5G-2 and §16-5G-4 of the Code of West Virginia, 1931, as amended, all relating to hospitals owned or operated by nonprofit corporations, nonprofit associations or local governmental units; clarifying that these hospitals may have only one governing body whose meetings shall be open to the public; enumerating matters which may be acted upon in executive session; and clarifying and expanding authorization for holding of executive sessions.

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

**By Senator Ferns:**

**Senate Bill No. 400**—A Bill to amend and reenact §21-3-19 of the Code of West Virginia, 1931, as amended, relating to exempting certain employers from discriminating against tobacco users.

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

**By Senator Ferns:**

**Senate Bill No. 401**—A Bill to amend and reenact §49-6-5 and §49-6-8 of the Code of West Virginia, 1931, as amended, all relating to living arrangements for children in foster care and living arrangements for children sixteen years or older; providing for considerations the court must consider when making a decision regarding planned permanent living arrangements; and setting forth necessary order provisions when the court is considering planned permanent living arrangements.

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

**By Senator Blair:**

**Senate Bill No. 402**—A Bill to amend and reenact §11-21-51 of the Code of West Virginia, 1931, as amended, relating to requiring

Tax Commissioner to include on West Virginia personal income tax return a short survey asking taxpayer top three preferences where taxpayer's taxes should be spent and bottom three least preferred preferences where taxpayer's tax dollars are spent.

Referred to the Committee on Finance.

**By Senators Walters and Nohe:**

**Senate Bill No. 403**—A Bill to amend and reenact §17A-4A-15 of the Code of West Virginia, 1931, as amended, relating to liens on vehicles; expanding period of time during which a recorded lien on a vehicle is valid; expanding period of time during which a refiled lien on a vehicle is valid; and clarifying that the lienholder may refile a lien or encumbrance without obtaining owner's consent.

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

**By Senator Walters:**

**Senate Bill No. 404**—A Bill to amend and reenact §5A-6-4c of the Code of West Virginia, 1931, as amended, relating to audits of certain government contracts; requiring certain public entities to make routine contract audits; requiring change orders be supported by certain documentation; requiring twenty-percent retainage on certain contracts; requiring post-audit review be completed on certain contracts; and requiring retainage amounts not paid to vendors be deposited in the state's general revenue account.

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

**By Senator Walters:**

**Senate Bill No. 405**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to authorizing qualified entities, as defined by this section, to access criminal history information provided by the Criminal Identification Bureau for use only for the purpose of



screening employees, foster parents, adoptive parents and volunteers or persons applying to be an employee, foster parent, adoptive parent or volunteer with a qualified entity.

Referred to the Committee on the Judiciary.

**By Senators Trump, D. Hall, Plymale and Prezioso:**

**Senate Joint Resolution No. 4**—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to exempting veterans who are one hundred percent disabled from paying ad valorem real property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on Finance.

Senators Blair, Trump, Unger, Plymale and Williams offered the following resolution:

**Senate Resolution No. 20**—Congratulating Dr. Allen Glasgow of Hampshire County, West Virginia, upon being selected as West Virginia's 2015 Outstanding Tree Farmer.

Whereas, Dr. Allen Glasgow made a formal commitment to sound forest management practices in 1983 by enrolling in the West Virginia Tree Farm Program; and

Whereas, Over the years, Dr. Allen Glasgow and his wife Mary have created Turkey Run Tree Farm, a 241-acre property on the Cacapon River in the northeastern corner of Hampshire County, West Virginia; and

Whereas, From the very beginning, Dr. Allen Glasgow's passion has been to plant trees that would benefit the wildlife and produce a source of income in the future, planting paulownia, chestnuts, crabapples, pears, ash, yellow poplars and other species at the rate of about 300 trees per year; and

Whereas, Dr. Allen Glasgow is committed to the long-term productivity of his property by performing sustainable hardwood forest management through selective timber harvests, timber stand improvement thinning, wildlife habitat improvement practices, improved road access and water resource enhancement practices; and

Whereas, Dr. Allen Glasgow's Tree Farm is enrolled in the American Tree Farm System and he receives professional forest management assistance from Verso and FMA forester Jeffrey Bracken; and

Whereas, For his hard work, dedication and commitment to cultivating a successful tree farm, Dr. Allen Glasgow was selected as the 2015 West Virginia Outstanding Tree Farmer by the West Virginia Tree Farm Committee and its state sponsor, the West Virginia Forestry Association; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates Dr. Allen Glasgow of Hampshire County, West Virginia, upon being selected as West Virginia's 2015 Outstanding Tree Farmer; and, be it

*Further Resolved,* That the Senate commends Dr. Allen Glasgow for his outstanding achievement and extends its sincere gratitude and appreciation for his determination in creating a successful West Virginia business; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Dr. Allen Glasgow.

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

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

Upon expiration of the recess, the Senate reconvened and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 175**, Authorizing DHHR promulgate legislative rules.

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

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. No. 175) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. No. 175) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill No. 249**, Prohibiting straight party voting.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 249 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—25.

The nays were: Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Stollings and Woelfel—8.

Absent: Yost—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. No. 249) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 284**, Relating to chief law-enforcement officer's requirement to certify transfer or making of certain firearms.

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

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

**Senate Bill No. 312**, Relating to disqualification of general election nominees for failure to file campaign finance statements.

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

**Senate Bill No. 318**, Relating to payment of wages by employers.

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

**Senate Bill No. 322**, Eliminating mandatory electronic recount of ballots in recounts.

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 No. 323**, Relating to municipal home rule.

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

**Senate Bill No. 326**, Eliminating campaign finance reporting by candidates for delegate to national convention.

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.

**Senate Bill No. 389**, Relating to Board of Registration for Professional Engineers license renewals and reinstatements.

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

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

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Yost.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 4, 2015, at 11 a.m.

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## WEDNESDAY, FEBRUARY 4, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Jack Richards, Interim Pastor, St. Timothy Lutheran Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable David Nohe, a senator from the third district.

Pastor Deborah Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia, proceeded in the singing of “Soon I Will Be Done with the Troubles of the World”.

Pending the reading of the Journal of Tuesday, February 3, 2015,

On motion of Senator Beach, 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 Clerk presented a communication from the Board of Respiratory Care, submitting its annual report as required by chapter thirty, article one, section twelve of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Department of Environmental Protection, submitting its Special Reclamation Fund Advisory Council annual report, in accordance with chapter twenty-two, article one, section seventeen of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the third order of business.

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

**Eng. House Bill No. 2200**—A Bill to amend and reenact chapter forty-nine of the Code of West Virginia, 1931, as amended, all relating to revising, rearranging, consolidating and recodifying the laws of the

State of West Virginia relating to child welfare; and removing outdated language and to comply with court rulings concerning child welfare.

Referred to the Committee on the Judiciary.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 3, 2015, he had approved **Enr. Committee Substitute for House Bill No. 2001**.

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 4th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. No. 3)**, Relating to real property possessor's liability for trespasser harm.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration



**Senate Bill No. 87**, Relating to standards for conversion and retrofits of alternative-fuel motor vehicles.

And,

**Senate Bill No. 353**, Transferring motor vehicle inspection program to State Police Superintendent.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Chris Walters,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 Nos. 186, 187, 188, 189, 190 and 191**, Authorizing Racing Commission promulgate legislative rule relating to thoroughbred racing.

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

**Com. Sub. for Senate Bill No. 187** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Revenue; legislative mandate or authorization for the promulgation of certain

legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing Racing Commission to promulgate a legislative rule relating to thoroughbred racing; authorizing State Tax Department to promulgate a legislative rule relating to appointment of special assessors by State Tax Commissioner; authorizing Insurance Commissioner to promulgate a legislative rule relating to recognizing annuity mortality tables for use in determining reserve liabilities for annuities; authorizing Insurance Commissioner to promulgate a legislative rule relating to annuity disclosure; authorizing Alcohol Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures; and authorizing Alcohol Beverage Control Commission to promulgate a legislative rule relating to private club licensing.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill No. 207**, Authorizing Board of Dental Examiners promulgate legislative rule relating to board.

And,

**Senate Bill No. 208**, Authorizing Board of Dental Examiners promulgate legislative rule relating to dental recovery networks.

And reports the same back with the recommendation that they each do pass; but under the original triple committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mike Hall,  
*Chair.*

The bills, under the original triple committee references, were then referred to the Committee on the Judiciary.

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

Your Committee on Education has had under consideration

**Senate Bill No. 238**, Exempting county boards of education from liability arising from unorganized recreation.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

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

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 277**, Requiring issuance of certificate of birth resulting in stillbirth.

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

**Com. Sub. for Senate Bill No. 277** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5-20a, relating to a certificate of birth resulting in stillbirth.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. No. 277), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Education has had under consideration

**Senate Bill No. 287**, Providing posthumous high school diplomas.

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

**Com. Sub. for Senate Bill No. 287** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-34a, relating to the State Board of Education; providing for awarding of posthumous high school diploma to parents of high school senior who dies during senior year; providing exceptions; and designating said section as “Todd’s Law”.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*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

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senators Plymale, Boso and Stollings:**

**Senate Bill No. 406**—A Bill to amend and reenact §47-2-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §47-2-14a, §47-2-14b, §47-2-14c and §47-2-14d, all relating to trademark counterfeiting and forfeiture; creating crime of trademark counterfeiting; and providing penalties.

Referred to the Committee on the Judiciary.

**By Senator Plymale:**

**Senate Bill No. 407**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-16E-1, §17-16E-2, §17-16E-3, §17-16E-4 and §17-16E-5, all relating to implementation of a state safety oversight program pursuant to a mandate per 49 U. S. C. §5329.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 408**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-3-1d; to amend and reenact §18A-3-2a of said code; and to amend and reenact §18C-4A-1, §18C-4A-2 and §18C-4A-3 of said code, all relating to education; providing for critical need alternative teaching certificates to teach in subject areas, public schools or geographic areas of the state in which a critical teacher shortage exists, as determined by the State Board of Education; setting forth certificate eligibility requirements; providing for orientation program for critical need alternative teaching certificate holder; providing for training, support and evaluation of critical need alternative teaching certificate holder; setting forth requirements for renewing critical need alternative teaching certificate; requiring State Board of Education to promulgate legislative rule or rules related to implementation of critical need alternative learning

certificates; expanding class of teachers that are eligible to receive assistance from Underwood-Smith Teacher Loan Assistance Program; and increasing annual amount of assistance available from Underwood-Smith Teacher Loan Assistance Program.

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

**By Senators Carmichael, Blair, Boso, Gaunch, M. Hall, Walters and Williams:**

**Senate Bill No. 409**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-10f, relating to the “Fair and Open Competition in Governmental Construction Act”; prohibiting governmental units from awarding a grant, tax abatement or tax credit that is conditioned upon a provision that requires or prohibits a bidder, offeror, contractor or subcontractor from entering into or adhering to an agreement with one or more labor organizations in regard to the project or a related construction project, or that contains a term that otherwise discriminates against a bidder, offeror, contractor or subcontractor for becoming or remaining or refusing to become or remain a signatory to, or for adhering or refusing to adhere to, an agreement with one or more labor organizations in regard to that project or a related construction project; and providing exceptions.

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

**By Senators Stollings, Prezioso, Plymale, Woelfel, Williams, Unger, Takubo, Ferns, Gaunch, D. Hall, Beach, Carmichael, Kessler, Kirkendoll, Palumbo and Nohe:**

**Senate Bill No. 410**—A Bill to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended, relating to liability insurance for certain persons connected to county boards of education; requiring Board of Risk and Insurance Management cover volunteer workers and student teachers in the same manner as other board of education employees; defining “volunteer worker”; and limiting civil liability in certain circumstances.

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

**By Senators Takubo, Carmichael, Ferns, Gaunch and Mullins:**

**Senate Bill No. 411**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7E-1, §55-7E-2, §55-7E-3, §55-7E-4, §55-7E-5, §55-7E-6, §55-7E-7, §55-7E-8, §55-7E-9, §55-7E-10 and §55-7E-11; and that said code be amended by adding thereto a new article, designated §55-7F-1, §55-7F-2, §55-7F-3, §55-7F-4, §55-7F-5, §55-7F-6, §55-7F-7, §55-7F-8, §55-7F-9, §55-7F-10, §55-7F-11, §55-7F-12, §55-7F-13, §55-7F-14, §55-7F-15, §55-7F-16 and §55-7F-17, all relating to procedures for determining liability for exposures to asbestos or silica; setting forth findings and purposes; setting forth definitions; requiring disclosures of existing and potential asbestos bankruptcy trust claims; establishing legal standards and procedures for the handling of asbestos claims; providing for sanctions; establishing procedures for set offs and credits; establishing medical criteria procedures for asbestos and silica claims; providing for statute of limitations standards and other limitations on liability; and providing for applicability to existing and future asbestos and silica claims.

Referred to the Committee on the Judiciary.

**By Senator Blair:**

**Senate Bill No. 412**—A Bill to amend and reenact §30-40-20 of the Code of West Virginia, 1931, as amended, relating to the Real Estate Commission; licenses issued by commission; establishing time limitations on filing complaints of unprofessional conduct against a licensee; and tolling the time limits during criminal investigations and prosecutions.

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



**By Senator D. Hall:**

**Senate Bill No. 413**—A Bill to amend and reenact §19-16A-7 and §19-16A-12 of the Code of West Virginia, 1931, as amended, relating to pesticide control; licensing requirements, including criminal background checks and evidence of employment or college or university degrees in entomology; and drug testing.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Government Organization.

**By Senators Plymale, Cole (Mr. President), Stollings and Woelfel:**

**Senate Bill No. 414**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3 and §17-29-4, all relating to transportation and economic development projects in West Virginia; declaring legislative findings; promoting public-private partnerships; declaring that West Virginia law is supreme to federal law and regulations in the area of creating public-private partnerships for transportation and economic development projects on reclaimed mining sites; declaring a legislative priority to complete the I-73/74 NHS Corridor Project; requiring the departments of Environmental Protection and Transportation to create a plan for completion of the I-73/74 NHS Corridor Project utilizing public-private partnerships; and requiring a report to the Legislature on the progress of public-private partnerships in transportation and economic development projects on reclaimed mining sites.

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

Senators Palumbo, Williams, Stollings, Beach and Plymale offered the following resolution:

**Senate Concurrent Resolution No. 15**—Requesting the Division of Highways name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate

77 over Garrison Avenue in Kanawha County, the “Tom Williams Family Bridge”.

Whereas, The family of Tom Williams was raised on Garrison Avenue in Charleston, West Virginia; and

Whereas, A daughter in the family, Lena Gay Williams McClandish, served in the U. S. Navy and was stationed at a Maryland hospital; and

Whereas, One son, Thomas Buck Williams, also served in the U. S. Navy as a “frogman” during the Korean War; and

Whereas, A second son, Gene Williams, served in the U. S. Army and was stationed at Fort Hood, Washington; and

Whereas, A third son, U. S. Marine Gunnery Sergeant Dennis Williams, while serving as a Platoon Sergeant with Company D, First Battalion, First Marines, First Marine Division, in connection with operations against the enemy in the Republic of Vietnam, courageously exposed himself to enemy fire to carry a wounded comrade across fifty meters of fire-swept terrain to a place of relative safety where medical aid was available; and

Whereas, Gunnery Sergeant Dennis Williams was awarded two Purple Hearts and retired after twenty-one years of service; and

Whereas, As a result of his courage, bold initiative and unflinching devotion to duty at great personal risk, Gunnery Sergeant Dennis Williams is authorized to wear the Combat V; and

Whereas, It is fitting and proper to honor the Williams family’s contribution to the nation and its military services made by the sister and three brothers herein named; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate 77 over Garrison Avenue in Kanawha County, the “Tom Williams Family Bridge”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends of the bridge identifying the bridge as the “Tom Williams Family Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators D. Hall, Miller and Plymale offered the following resolution:

**Senate Concurrent Resolution No. 16**—Urging United States Congress to recognize May 4, 2015, as “National FPIES Awareness Day”.

Whereas, Food Protein Induced Enterocolitis Syndrome, also known as FPIES, is a clinically documented medical condition known to occur in infants and young children, with potentially life-threatening consequences if not properly diagnosed and managed; and

Whereas, FPIES has been diagnosed in a small, but statistically significant, portion of infants and, because this condition is frequently misdiagnosed, it is likely to occur in greater numbers than currently known; and

Whereas, FPIES and other gastrointestinal hypersensitivity disorders are easily misdiagnosed because they do not present the same symptoms as more commonly understood allergic reactions

and there are, as yet, no diagnostic tests that are specific for FPIES and similar disorders; and

Whereas, FPIES is a disease that can only be managed, as there is no cure and no treatment for its symptoms; and

Whereas, The management of FPIES and the care of an afflicted patient often requires strict adherence to a diet of chemically modified formula in infants and specially manufactured, elemental foods for older children that may cost thousands of dollars per month; and

Whereas, Knowledge of the nature of FPIES and other gastrointestinal hypersensitivity disorders has been slow to spread and these disorders are little known outside a small community of specialists; and

Whereas, This lack of knowledge and understanding has adversely affected patients in emergency departments and urgent care centers and has resulted in inconsistent and long-delayed responses from many insurance providers; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the United States Congress is hereby urged to recognize May 4, 2015, as “National FPIES Awareness Day”; and, be it

*Further Resolved,* That greater awareness of Food Protein Induced Enterocolitis Syndrome and other gastrointestinal hypersensitivity disorders be fostered through appropriate research, public hearings and public information initiatives; and, be it

*Further Resolved,* That the Legislature encourages our medical community, insurance industry, dietitians, nutritionists, educators and child care workers to learn the symptoms and characteristics of gastrointestinal hypersensitivity disorders and to develop greater understanding of the accommodations needed to care for those with these disorders.

Which, under the rules, lies over one day.

Senators Trump, Plymale and Romano offered the following resolution:

**Senate Concurrent Resolution No. 17**—Requesting the Joint Committee on Government and Finance study the entire process of probate with the goal of making the process less burdensome for our citizens, particularly those who have little or no assets at the time of death or who are married and have jointly held reciprocal wills.

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Joint Committee on Government and Finance study the entire process of probate with the goal of making the process less burdensome for our citizens, particularly those who have little or no assets at the time of death or who are married and have jointly held reciprocal wills; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2016, 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.

Which, under the rules, lies over one day.

Senators Stollings, Prezioso, Palumbo, Laird, M. Hall, Romano, Williams, Kirkendoll, Kessler, Beach, Plymale, D. Hall and Nohe offered the following resolution:

**Senate Resolution No. 21**—Recognizing February 4, 2015, as Social Work Day in celebration and support of the social work profession.

Whereas, Social workers make a positive difference in the lives of millions of Americans and thousands of West Virginians by helping to build, support and empower positive family and community relationships; and

Whereas, Social workers in schools enhance the social, emotional and academic growth of all students; and

Whereas, Social workers in hospitals help patients navigate their paths to recovery and better coordinate care and prevent hospital readmission rate; and

Whereas, Social workers in agencies and organizations help protect vulnerable children and adults from abuse and neglect; and

Whereas, Clinical social workers are authorized to diagnose and treat mental and behavioral health disorders and frequently receive insurance reimbursement for their professional services; and

Whereas, Social workers have worked to strengthen the social safety net through programs such as Medicaid, Medicare and the Affordable Health Care Act and advocated the social justice initiatives such as the Voting Rights Acts and the Community Mental Health Act; and

Whereas, Social workers, more than any other profession, recognize that more must be done to address persistent social problems such as poverty, lack of education and access to health care, and to end discrimination based on gender, race, sexuality or income; and

Whereas, The National Association of Social Workers has selected the theme “Social Work Paves the Way for Change” for 2015 Social

Work Month in an effort to convey that, for over six decades, social work professionals and the NASW have brought about positive changes in society and for individuals; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes February 4, 2015, as Social Work Day in celebration and support of the social work profession; and, be it

*Further Resolved,* That the Senate acknowledges the contributions of social workers to our state and nation and urges all citizens to join with the West Virginia Chapter of the National Association of Social Workers and the State of West Virginia in celebration and support of the social work profession; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Chapter of the National Association of Social Workers.

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

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

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

Senators Takubo, Miller, Laird, D. Hall, Romano, Kessler, Stollings, Beach, Plymale, Boso and Williams offered the following resolution:

**Senate Resolution No. 22**—Recognizing the West Virginia School of Osteopathic Medicine as a national leader in rural primary care medicine, for excellence in medical education and for its many contributions to the State of West Virginia.

Whereas, The West Virginia School of Osteopathic Medicine is located in Lewisburg, West Virginia, and its statewide campus offices are located throughout the Mountain State; and

Whereas, The mission of the West Virginia School of Osteopathic Medicine is to educate students from diverse backgrounds as lifelong learners in osteopathic medicine and complementary health-related programs; to advance scientific knowledge through academic, clinical and basic science research; and to promote patient-centered, evidence-based medicine; and

Whereas, The West Virginia School of Osteopathic Medicine is dedicated to serving, first and foremost, the State of West Virginia and the special health care needs of its residents, emphasizing primary care in rural areas; and

Whereas, The West Virginia School of Osteopathic Medicine is a leader in producing graduates who practice in rural settings and has a nationally recognized faculty and innovative programs; and

Whereas, *U. S. News & World Report* has ranked the West Virginia School of Osteopathic Medicine among the top medical schools in the nation in primary care and family medicine for the past sixteen years, solidifying the school's reputation as a place where scientific study and compassion are joined in one curriculum; and

Whereas, The West Virginia School of Osteopathic Medicine is known nationwide for its efforts in rural, family and primary care medicine and has received many accolades to support its efforts, including: First among all medical schools in the United States in graduating physicians who practice in rural areas (Academic Medicine, 2010 Study); 3rd in the nation for percentage of medical school graduates entering primary care residency specialties (*U. S. News & World Report* 2014); 12th in the nation for family medicine (*U. S. News & World Report* 2014); and 16th in the nation for rural medicine (*U. S. News & World Report*); and



Whereas, Third- and fourth-year students from the West Virginia School of Osteopathic Medicine completed 1,367 rural clinical rotations in West Virginia this past academic year; and

Whereas, The West Virginia School of Osteopathic Medicine has been recognized by *The Chronicle of Higher Education* for four consecutive years as a “Great College to Work For” and is the only institution in West Virginia with this honor; and

Whereas, Graduates of the West Virginia School of Osteopathic Medicine practice medicine in 46 of West Virginia’s 55 counties and in 48 states and the District of Columbia, and are making a significant contribution to the health care needs of the citizens of West Virginia and the nation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia School of Osteopathic Medicine as a national leader in rural primary care medicine, for excellence in medical education and for its many contributions to the State of West Virginia; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia School of Osteopathic Medicine.

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

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

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

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 No. 415** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §51-2-1 of the Code of West Virginia, 1931, as amended, relating to adding circuit judges to certain judicial circuits; providing for currently serving circuit judges to remain in office until December 31, 2016; and providing for the terms of office of circuit judges elected in the year 2016.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Trump, unanimous consent being granted, the bill (S. B. No. 415) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration.

On motion of Senator Trump, the bill was referred to the Committee on Finance.

The Senate proceeded to the eighth order of business.

**Com. Sub. for Senate Bill No. 284**, Relating to chief law-enforcement officer's requirement to certify transfer or making of certain firearms.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 3, 2015, for

amendments to be considered on third reading, was reported by the Clerk.

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

On page four, section sixteen, lines thirty-five through forty-two, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated subsection (d), to read as follows:

(d) An applicant whose request for certification is denied may appeal the chief law-enforcement officer's decision to the circuit court of the applicant's county of residence. If the circuit court finds that the applicant is not prohibited by law from making, transferring, receiving or possessing a firearm and is not the subject of a proceeding that could result in prohibition, the circuit court shall order the chief law-enforcement officer to issue the certification and may award costs and reasonable attorney's fees to the applicant.

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

Engrossed Committee Substitute for Senate Bill No. 284 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Facemire—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. No. 284) 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 No. 312**, Relating to disqualification of general election nominees for failure to file campaign finance statements.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill No. 312 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Facemire—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 312) 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 No. 318**, Relating to payment of wages by employers.

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

Following discussion,

At the request of Senator Unger, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, and with the right for amendments to be considered on that reading.

**Eng. Senate Bill No. 322**, Eliminating mandatory electronic recount of ballots in recounts.

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: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Facemire—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 322) 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 No. 323**, Relating to municipal home rule.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 323 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Beach and Romano—2.

Absent: Facemire—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. No. 323) 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 No. 326**, Eliminating campaign finance reporting by candidates for delegate to national convention.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill No. 326 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Prezioso, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—19.

The nays were: Beach, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—14.

Absent: Facemire—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 326) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Senate Bill No. 389**, Relating to Board of Registration for Professional Engineers license renewals and reinstatements.

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:

**Senate Bill No. 250**, Relating to Conservation Agency financial assistance applications from district supervisors.

**Com. Sub. for Senate Bill No. 261**, Clarifying definition of “owner” of dam.

**Com. Sub. for Senate Bill No. 279**, Clarifying qualifications of Labor Commissioner.

**Com. Sub. for Senate Bill No. 374**, Permitting in absentia parole hearings in certain instances.

And,

**Com. Sub. for Senate Bill No. 375**, Specifying who receives parole hearing notices via regular or certified mail.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Facemire.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 5, 2015, at 11 a.m.

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## THURSDAY, FEBRUARY 5, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Lee Boso, Youth Pastor, Summersville Baptist Church, Summersville, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Gregory L. Boso, a senator from the eleventh district.

Pending the reading of the Journal of Wednesday, February 4, 2015,

On motion of Senator Stollings, 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 Clerk presented a communication from the Department of Health and Human Resources, submitting its annual Breast and Cervical Cancer Screening Program report as required by chapter sixteen, article thirty-three, section six of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill No. 13**, Reinstating open and obvious doctrine for premises liability.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

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

On page two, section twenty-seven, line seven, after the word “dangers” by changing the period to a comma and inserting the following: except when such dangerous condition constituted a violation of an applicable statute or ordinance intended for the protection of public safety and such violation was a direct and proximate cause of such injured person’s injuries.;

And,

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

**Eng. Com. Sub. for Senate Bill No. 13**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to the liability of a possessor of real property for injuries caused by open and obvious hazards; reinstating and codifying open and obvious doctrine of common law as it existed prior to judicial abolition; providing that the open and obvious doctrine of common law does not apply when a dangerous condition is a violation of a public safety statute or ordinance which violation is the proximate cause of injury; clarifying that this section does not create, recognize or ratify a claim or cause of action; and stating legislative intent.

On motion of Senator Carmichael, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. No. 13) and requested the House of Delegates to recede therefrom.

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

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

**Eng. Com. Sub. for House Bill No. 2010**—A Bill to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-4 of said code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c, and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend and reenact §3-10-3 of said code; to amend and reenact §3-12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12, and §3-12-14 of said code; to amend and reenact §6-5-1 of said code; to amend and reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of said code; to amend and reenact §51-2-1 of said code; and to amend and reenact §51-2A-5 of said code, all relating to electoral reforms of the West

Virginia judiciary generally; requiring the election of justices of the Supreme Court of Appeals, circuit court judges, family court judges and magistrates be on a nonpartisan basis; requiring that elections to certain offices be on a division basis when more than one justice of the Supreme Court of Appeals, circuit judge, family court judge, or magistrate is to be elected; providing for the timing and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that elections for justice of the Supreme Court of Appeals, circuit judge, family court judge, or magistrate are to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge, or magistrate; providing occasions for special elections to be held to fill vacancies; providing that unsuccessful non-partisan candidates can be selected to fill ballot vacancies in a general election; providing the timing of commencement of the terms of offices of justices of the Supreme Court of Appeals, circuit judge, family court judge, or magistrate; and providing for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

Referred 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 No. 2114**—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, to take effect from passage, and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2115**—A Bill to amend and reenact §11-24-3 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of the term “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 and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2217**—A Bill to amend and reenact §21-1-2 of the Code of West Virginia, 1931, as amended, relating to the qualifications of the Commissioner of Labor; removing language that the commissioner be identified with the labor interests of the state and requiring that the commissioner be identified with and have knowledge and experience in employee issues and interests including employee-employer relations in this state.

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

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 4, 2015, he had approved **Enr. Committee Substitute for Senate Bill No. 280**.

The Senate proceeded to the fourth order of business.

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 No. 37**, Relating to arbitration.

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

**Com. Sub. for Senate Bill No. 37** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-10-1, §55-10-2, §55-10-3, §55-10-4, §55-10-5, §55-10-6, §55-10-7 and §55-10-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-five new sections, designated §55-10-9, §55-10-10, §55-10-11, §55-10-12, §55-10-13, §55-10-14, §55-10-15, §55-10-16, §55-10-17, §55-10-18, §55-10-19, §55-10-20, §55-10-21, §55-10-22, §55-10-23, §55-10-24, §55-10-25, §55-10-26, §55-10-27, §55-10-28, §55-10-29, §55-10-30, §55-10-31, §55-10-32 and §55-10-33, all relating generally to arbitration; providing for a short title; making legislative findings and declaring public policy; defining terms; defining notice under article; defining when article applies; proscribing effect of agreements to arbitrate and defining nonwaivable provisions; allowing for application for judicial relief under article; making agreement to arbitrate valid unless legal or equitable reason for revocation exists; providing for terms by which arbitration may continue if challenged; providing for process for motions to compel or stay arbitration; providing for provisional remedies to protect effectiveness of arbitration proceedings; providing process for initiation of arbitration; providing for consolidation of separate arbitration proceedings; providing for appointment of arbitrator and default process if not agreed by the parties; requiring neutrality of arbitrators; requiring disclosure by arbitrators of matters affecting impartiality; requiring majority of arbitrators to agree to exercise

powers; providing immunity for arbitrators; requiring competency to testify; providing for attorneys' fees and costs for challenges from which arbitrators are immune; providing general process for arbitration; allowing parties to be represented by a lawyer in arbitrations; outlining procedure for witnesses, subpoenas, depositions and discovery in arbitrations; providing for judicial enforcement of preaward ruling by arbitrator; providing for record of an award and requirements for an award; allowing change of an award by arbitrator upon motion under certain conditions; providing that certain remedies and fees and costs of arbitration may be a part of arbitration award; allowing for confirmation by court of an award upon motion; providing process and grounds for vacating an award by a court; providing process and grounds for modification or correction of an award upon motion; providing that court shall enter a judgment upon confirmation of an award and may add reasonable attorneys' fees and costs; providing for jurisdiction over arbitration agreements by a court of this state; providing venue; providing that appeals may be taken from orders related to arbitration proceedings; requiring uniform construction of act; providing that this act complies with the Electronic Signatures in Global and National Commerce Act; and providing effective date.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Leonhardt, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Bill No. 75**, Legalizing and regulating sale of fireworks; establishing WV Veterans Program Fund.

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

**Com. Sub. for Senate Bill No. 75** (originating in the Committee on Military)—A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to legalizing and regulating the sale and use of fireworks; creating the West Virginia Veterans Program Fund; creating the Fireworks Safety Act; defining terms; establishing registration requirements for a retailer selling sparkling devices, novelties or toy caps; establishing certification requirements for a retailer selling consumer fireworks; establishing permit requirements for presenting public display of fireworks; creating a fireworks safety fee of twenty percent of all sales for the retail sale of consumer fireworks; designating the allocation of the fee; giving the State Fire Marshal rule-making authority; setting out exemptions; stating unlawful acts; and providing criminal penalties.

And,

**Senate Bill No. 316**, Exempting veteran-owned business from certain fees paid to Secretary of State.

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

**Com. Sub. for Senate Bill No. 316** (originating in the Committee on Military)—A Bill to amend and reenact §59-1-2 and §59-1-2a of the Code of West Virginia, 1931, as amended, all relating to veteran-owned businesses; defining terms; exempting new

veteran-owned businesses from certain fees paid to the Secretary of State; and exempting new veteran-owned businesses from paying annual report fees for the first four years after their initial registration.

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

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

On motion of Senator Leonhardt, Committee Substitute for Senate Bill No. 75 contained in the foregoing report from the Committee on Military was referred to the Committee on the Judiciary, and then, under the original double committee reference, to the Committee on Finance.

Committee Substitute for Senate Bill No. 316, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill No. 255**, Eliminating certain boards, councils, committees, panels, task forces and commissions.

**Senate Bill No. 262**, Transferring CHIP and Children's Health Insurance Agency from Department of Administration to DHHR.

**Senate Bill No. 267**, Repealing code relating to Governor's Office of Health Enhancement and Lifestyle Planning.



And,

**Senate Bill No. 295**, Establishing appeal process for DHHR Board of Review and Bureau for Medical Services decisions.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill No. 298**, Clarifying funds within Public Employees Retirement Fund.

**Senate Bill No. 299**, Clarifying start date of State Police duty-related disability payments.

And,

**Senate Bill No. 302**, Relating to state retirement plans.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill No. 301**, Modifying definition of “member” in Municipal Police and Firefighters Retirement System.

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

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

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

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 357**, Creating Coal Jobs and Safety Act of 2015.

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

**Com. Sub. for Senate Bill No. 357** (originating in the Committee on the Judiciary)—A Bill to repeal §22A-2A-302, §22A-2A-303, §22A-2A-304, §22A-2A-305, §22A-2A-306 and

§22A-2A-307 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-13 and §22-3-19 of said code; to amend and reenact §22-11-6 and §22-11-8 of said code; to amend said code by adding thereto a new section, designated §22-11-22a; to amend said code by adding thereto a new section, designated §22A-1-41; to amend and reenact §22A-1A-1 of said code; to amend and reenact §22A-2-6, §22A-2-28 and §22A-2-37 of said code; to amend and reenact §22A-2A-101, §22A-2A-301, §22A-2A-308, §22A-2A-309, §22A-2A-310, §22A-2A-402, §22A-2A-403, §22A-2A-404, §22A-2A-405, §22A-2A-501, §22A-2A-601, §22A-2A-602, §22A-2A-603 and §22A-2A-604 of said code; and to amend said code by adding thereto a new section, designated §22A-2A-204a, all relating to creating the Coal Jobs and Safety Act of 2015; providing methods of assuring that discharges from waste piles do not exceed applicable water quality standards; conforming rules regarding procedures for requesting and obtaining inactive status and rules relating to requirements for contemporaneous reclamation under West Virginia Surface Coal Mining and Reclamation Act to corresponding federal requirements; abolishing West Virginia Diesel Equipment Commission; transferring duties and responsibilities of West Virginia Diesel Equipment Commission to Director of the Office of Miners' Health, Safety and Training; defining terms; providing rule-making authority; providing that rules previously approved by commission continue in full force and effect; developing emergency rules for statewide hardness-based aluminum water quality criteria for protection of aquatic life; prohibiting wholesale incorporation of water quality standards into permits rather than specifically developing terms and conditions on a permit-by-permit basis that are designed to protect water quality standards; modifying the scope of the permit shield as it relates to compliance with water quality standards; establishing an administrative and civil enforcement process for coal mining-related permits that conforms with corresponding federal requirements; making legislative findings; permitting immediate temporary suspension, suspension or revocation of a certificate held by a certified person

who has tested positive for certain drugs or alcohol, refused to submit a sample for screening, possessed or submitted a substituted sample or possessed or submitted an adulterated sample for testing; providing that if a drug test is positive, a certified employee may not rely on the fact that the drug was prescribed if the prescription is more than one year old; setting forth requirements for movement of off-track mining equipment in areas of active workings where energized trolley wires or trolley feeder wires are present; establishing premovement requirements; increasing distance from five hundred feet to one thousand five hundred feet of the nearest working face where transportation of certain personnel in certain instances is done exclusively by rail; requiring certain equipment be readily available when distance from track to face is between five hundred feet and one thousand five hundred feet; increasing distance of track to be maintained when a section is fully developed and being prepared for retreating; permitting use of sideboards on shuttle cars if they are equipped with cameras; requiring shelter holes be provided along haulage entries and be placed not more than one hundred five feet apart; providing exception; removing requirement that locomotives, personnel carriers, barrier tractors and other related equipment be equipped with lifting jacks and handles; and prescribing that no one, other than motorman and brakeman, should ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,

*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 361**, Repealing code sections relating to prevailing hourly wage requirement for construction of public improvements.

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

**Com. Sub. for Senate Bill No. 361** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5A-12, relating to eliminating the requirement of paying prevailing hourly rate of wages for construction of public improvements.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Kessler moved that the report from the Committee on Government Organization for Committee Substitute for Senate Bill No. 361 be rejected.

Following extended discussion,

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

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sybolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

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

Whereupon, the President declared the report from the Committee on Government Organization for Committee Substitute for Senate Bill No. 361 received.

Thereafter, at the request of Senator Laird, and by unanimous consent, the remarks by Senators Kessler, Snyder, Miller, Woelfel, Kirkendoll, Romano and Unger regarding the adoption of Senator Kessler's motion to reject the Committee on Government Organization's report for Committee Substitute for Senate Bill No. 361 were ordered printed in the Appendix to the Journal.

At the request of Senator D. Hall, unanimous consent being granted, the remarks by Senators Blair, Carmichael, Trump and Boso regarding the adoption of Senator Kessler's motion to reject the Committee on Government Organization's report for Committee Substitute for Senate Bill No. 361 were ordered printed in the Appendix to the Journal.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senators D. Hall, M. Hall, Prezioso, Boley, Woelfel, Plymale and Beach:**

**Senate Bill No. 416**—A Bill to repeal §7-18-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-18-1 and §7-18-3 of said code, all relating to eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; redefining certain terms; exempting hotel rooms occupied by federal or state officials on official business and complimentary hotel rooms provided without charge to guests from tax; and retroactive application.

Referred to the Committee on Finance.

**By Senators Snyder and Blair:**

**Senate Bill No. 417**—A Bill to amend and reenact §11-14C-23 of the Code of West Virginia, 1931, as amended, relating to removal of certain tax discounts from motor fuel excise tax.

Referred to the Committee on Finance.

**By Senators Nohe and Gaunch:**

**Senate Bill No. 418**—A Bill to amend and reenact §38-1-7 of the Code of West Virginia, 1931, as amended, relating to providing that a defendant in a civil action to recover a deficiency after a sale under a deed of trust may not assert as a defense that fair market value was not obtained for property sold at foreclosure sale.

Referred to the Committee on the Judiciary.

**By Senators Nohe and Gaunch:**

**Senate Bill No. 419**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §24A-9-1, §24A-9-2, §24A-9-3, §24A-9-4, §24A-9-5, §24A-9-6 and §24A-9-7, all relating to insurance requirements for transportation network companies and drivers operating in West Virginia.

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

**By Senators Boley, Carmichael, Karnes, Kessler, Mullins, Plymale, Sypolt, Unger and Kirkendoll:**

**Senate Bill No. 420**—A Bill to amend and reenact §18-5-18 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-8 and §18A-4-8b of said code, all relating to retirement benefits for persons employed as an aide or early classroom assistant teacher and Braille or sign support specialist in kindergarten programs; creating a class of Early Childhood Classroom Assistant Teacher I, Early Childhood Classroom Assistant Teacher II and Early Childhood Classroom Assistant Teacher III; providing that a person who has held or holds an aide title and becomes employed as an Early Childhood Classroom Assistant Teacher holds a multiclassification status that includes aide and/or paraprofessional titles and is included in the same classification category as aides; and providing that an aide in a kindergarten program that is eligible for full retirement benefits before July 1, 2020, may remain employed as an aide in that position and be granted an Early Childhood



Classroom Assistant Teacher permanent authorization by the state superintendent.

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

**By Senators Trump, Carmichael, Blair and Gaunch:**

**Senate Bill No. 421**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating generally to treatment of punitive damages; providing for limitations on punitive damages; providing for when punitive damages may be awarded; providing for a bifurcated trial, upon request, for civil actions involving punitive damages; providing that one third of all punitive damages awards made in the state be tendered to the State Treasurer; providing that those remittances be deposited into the Revenue Shortfall Reserve Fund; and providing that those funds be administered according to section twenty, article two, chapter eleven-b of this code.

Referred to the Committee on the Judiciary.

**By Senators Plymale, D. Hall, Miller, Unger, Kessler and Stollings:**

**Senate Bill No. 422**—A Bill to amend and reenact §18A-4-2 of the Code of West Virginia, 1931, as amended, relating to increasing salaries for teachers through fiscal year 2020.

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

**By Senators M. Hall, Blair, Carmichael, Facemire, D. Hall, Kirkendoll, Mullins, Plymale, Romano, Trump, Woelfel, Williams and Stollings:**

**Senate Bill No. 423**—A Bill to repeal §22-31-3, §22-31-4, §22-31-5, §22-31-6, §22-31-7, §22-31-8, §22-31-9, §22-31-10, §22-31-11 and §22-31-12 of the Code of West Virginia, 1931, as

amended; to amend and reenact §22-30-2, §22-30-3, §22-30-4, §22-30-5, §22-30-6, §22-30-7, §22-30-8, §22-30-9, §22-30-10, §22-30-11, §22-30-12, §22-30-13, §22-30-14, §22-30-15, §22-30-16, §22-30-17, §22-30-18, §22-30-19, §22-30-21, §22-30-22, §22-30-24 and §22-30-25 of said code; to amend said code by adding thereto two new sections, designated §22-30-26 and §22-30-27; and to amend and reenact §22-31-2 of said code, all relating to protection of water resources and public health generally; amending the Aboveground Storage Tank Act; defining terms; requiring secretary to compile inventory of aboveground storage tanks in the state; requiring registration; authorizing certain fees; requiring secretary to develop regulatory program for tanks; providing factors to be considered in a program; requiring inspection and certification of tanks; requiring evidence of financial responsibility; requiring corrective action and plans; requiring spill prevention response plans; requiring notice of type and quantity of fluids stored in tanks to local water utilities and governments; requiring posting of signs at or near tanks; creating an administrative fund; creating Protect Our Water Fund; authorizing public access to certain information; authorizing inspections, monitoring and testing by secretary; authorizing secretary to issue administrative orders and seek injunctive relief; providing for civil and criminal penalties; allowing appeals to Environmental Quality Board; prohibiting duplicative enforcement; requiring secretary to report to legislative entities; requiring interagency coordination; establishing duties of secretary upon imminent and substantial danger; providing additional duties and powers of secretary generally; providing for waiver of certain requirements; authorizing secretary to require individual NPDES permits; authorizing secretary to inventory potential sources of significant contamination; membership of study commission; scope of study; establishing reporting requirements; requiring the establishment of advance warning, testing and monitoring at certain water utilities; requiring certain information be filed with Public Water Commission; and requiring utility to report back to Legislature if technology is infeasible.

Referred to the Committee on the Judiciary.

**By Senators Ferns and Stollings:**

**Senate Bill No. 424**—A Bill to amend and reenact §16-3D-2 and §16-3D-3 of the Code of West Virginia, 1931, as amended, all relating to compulsory tuberculosis testing; defining terms; removing requirement for compulsory tuberculosis testing for school children transferring from outside this state; removing requirement for recording test results, immediate evaluations by a physician of positive reactors and x-rays upon a positive test; omitting requirement for all school personnel to have one tuberculin test at time of employment; and eliminating requirement that local health officers be responsible for arranging follow-up of school personnel and students who are not able to get a physician evaluation for a positive tuberculin skin test.

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

**By Senators Boley, Gaunch, Leonhardt, Maynard and Nohe:**

**Senate Joint Resolution No. 5**—Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article XII thereof, relating to reforming the West Virginia Board of Education so that its membership is made up of three members elected from each congressional district; providing that members serve six-year terms; providing that the board be a nonpartisan body; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senators Kessler, Leonhardt, Yost, Plymale and Beach offered the following resolution:

**Senate Concurrent Resolution No. 18**—Requesting the Division of Highways name the bridge on Route 20 over Fishing Creek,

South Fork in Wetzel County, locally known as the Pine Grove Bridge, bridge number 52-20-16.04, as the “U. S. Army COL William L. Glover Memorial Bridge”.

Whereas, Colonel Glover was born in Pine Grove, West Virginia, on May 27, 1939, the son of Herdman and Merle Glover, and graduated from Pine Grove High School in 1957; and

Whereas, Colonel Glover attended West Virginia University and was a member of the ROTC program. He graduated in 1961 with a degree in business and entered the United States Army as a Second Lieutenant; and

Whereas, During his distinguished military career, Colonel Glover was stationed in France and Korea before serving a tour of duty in Vietnam, where he was awarded the Bronze Star for his service; and

Whereas, Colonel Glover was commissioned a Colonel in 1982 with the United States Army, retired in 1991 with thirty years of honorable military service to his country and afterward he resided in Massachusetts where he worked as a computer consultant; and

Whereas, After a brief stint in Arizona, Colonel Glover moved back to West Virginia and in 1997 married his beloved wife Nelda E. Kocher, a fellow graduate of Pine Grove High School; and

Whereas, Colonel Glover loved to sing, which lead him to record as a teenager and later in life he was a prominent voice in his church choir and performed in musicals; and

Whereas, Sadly, Colonel Glover passed away on July 20, 2012, leaving behind his wife Nelda, sister Beulah, a daughter, two sons, a step-daughter, six grandchildren, three step-grandchildren and three step-great grandsons, and a legacy of dedicated public and military service to his country and to his family and friends; and

Whereas, As it was his wish, Colonel Glover was buried on January 25, 2013, in his final resting place, Arlington National Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate a native son who so ably served his state and his country by naming the bridge on Route 20 over Fishing Creek, South Fork, in Wetzel County, locally known as the Pine Grove Bridge, bridge number 52-20-16.04, as the “U. S. Army Colonel William L. Glover Memorial Bridge”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on Route 20 over Fishing Creek, South Fork, in Wetzel County, locally known as the Pine Grove Bridge, bridge number 52-20-16.04, as the “U. S. Army COL William L. Glover Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army COL William L. Glover Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and to Colonel Glover’s widow, Nelda E. Glover.

Which, under the rules, lies over one day.

Senators Maynard, Plymale, Kirkendoll and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 19**—Requesting the Division of Highways name that stretch of road beginning at the Town of

Wayne, mile post 16.0, and running to the Lincoln County line in Wayne County, mile post 38.0, the “Darrell W. Sanders Memorial Highway”.

Whereas, Darrell W. Sanders was born in Wayne, West Virginia, on October 6, 1945, where he grew up and was educated in the local schools. He held the rank of SP4 in the United States Army when he was killed in Vietnam on November 17, 1965, at the age of twenty; and

Whereas, His service and ultimate sacrifice to his country, state and county should not go unnoticed; and

Whereas, Naming that stretch of road in Wayne County the “Darrell W. Sanders Memorial Highway” is an appropriate recognition of his service and sacrifice; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name that stretch of road beginning at the Town of Wayne, mile post 16.0, and running to the Lincoln County line in Wayne County, mile post 38.0, the “Darrell W. Sanders Memorial Highway”; and, be it

*Further Resolved,* That the Division of Highways is requested to have made and be placed signs identifying the road as the “Darrell W. Sanders Memorial Highway”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and the surviving family of Darrell W. Sanders.

Which, under the rules, lies over one day.

Senators Maynard, Plymale, D. Hall and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 20**—Requesting the Division of Highways name the ten-mile stretch of Route 83 in McDowell County, beginning at milepost 18.05 and ending at milepost 8.05, between its intersection with Route 16 at Yukon and the Bradshaw city line, as the “U. S. 1SG Army Joe C. Alderman Memorial Road”.

Whereas, First Sergeant Alderman was born in Bartley, McDowell County, on September 11, 1940; and

Whereas, First Sergeant Alderman enlisted in the Army in 1958 following his graduation from Big Creek High School; and

Whereas, First Sergeant Alderman began his career with the Army Special Forces in 1962; and

Whereas, During his time in the Special Forces, First Sergeant Alderman spent seven years on special detachments in Vietnam; and

Whereas, First Sergeant Alderman’s awards and honors include the Silver Star, Legion of Merit, Soldier’s Medal, six Bronze Stars, the Meritorious Service Medal, five Air Medals, the Joint Service Medal, six Army Commendation Medals and three Purple Hearts. Other awards from his time in Vietnam include the Special Service Medal for Heroism, the Cross of Gallantry with a Silver Star, two Bronze Stars and the Armed Forces Honor Medal; and

Whereas, First Sergeant Alderman retired in November 1980, and his career achievements were marked with his 1996 induction into the prestigious U. S. Army Ranger Hall of Fame; and

Whereas, First Sergeant Alderman died on August 19, 1994, was interred at Arlington National Cemetery with full military honors; and

Whereas, It is fitting to honor First Sergeant Alderman’s life and service by naming the stretch of Route 83 after him; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the ten-mile stretch of Route 83 in McDowell County, beginning at milepost 18.05 and ending at milepost 8.05, between its intersection with Route 16 at Yukon and the Bradshaw city line, as the “U. S. Army 1SG Joe C. Alderman 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 1SG Joe C. Alderman Memorial Road”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and U. S. Army First Sergeant Alderman’s surviving relatives.

Which, under the rules, lies over one day.

Senators Karnes, Blair, Boley, Ferns, Gaunch, D. Hall, Boso, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Takubo, Trump, Walters and Woelfel offered the following resolution:

**Senate Concurrent Resolution No. 21**—Urging the United States Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, 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.

Whereas, Article IV, Section 4 of the Constitution of the United States guarantees to every state a republican form of government which gives each state equal standing when calling for an amendments convention. Article V of the Constitution of the United States reserves to the several states the right to call for a convention



for the purpose of amending the United States Constitution when Congress or the courts or both Congress and the courts refuse to address an egregious wrong suffered by the people; and

Whereas, The states alone have the authority to “limit” the agenda and authority of a convention. The states alone can call for a “Single Issue” convention by agreeing among themselves the purpose, terms, conditions, duration and agenda for the convention. Congress does not have the authority to define a “Single Issue” convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a convention as called for and defined by the several states; and

Whereas, The founders of our constitution empowered state legislators to be guardians of liberty against future abuses of power by the federal government which 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, most of which are unfunded to a great extent, and the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, It is the solemn duty of the states to protect the liberty of our people—particularly for the generations to come—by proposing amendments to the Constitution of the United States through a Convention of the States under Article V for the purpose of restraining these and related abuses of power; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, 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 State of West Virginia 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 absolutely no other business will be authorized at this convention; 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; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution and application to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of West Virginia's congressional delegation and to the presiding officers of each of the legislative houses in the several states requesting their cooperation.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 15**, Requesting DOH name bridge in Kanawha County "Tom Williams Family Bridge".

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

**Senate Concurrent Resolution No. 16**, Urging Congress recognize May 4 as National FPIES Awareness Day.

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

**Senate Concurrent Resolution No. 17**, Requesting Joint Committee on Government and Finance study probate process.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill No. 318**, Relating to payment of wages by employers.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, February 4, 2015, for amendments to be considered on third reading, was reported by the Clerk.

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

On page two, section three, line four, after the word “month” by inserting the words “and with no more than nineteen days between settlements”.

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

Engrossed Senate Bill No. 318 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall,

Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 318) 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 No. 389**, Relating to Board of Registration for Professional Engineers license renewals and reinstatements.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 389) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sybolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 389) takes effect from passage.

*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 No. 250**, Relating to Conservation Agency financial assistance applications from district supervisors.

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 No. 261**, Clarifying definition of “owner” of dam.

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 No. 279**, Clarifying qualifications of Labor Commissioner.

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 No. 374**, Permitting in absentia parole hearings in certain instances.

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 No. 375**, Specifying who receives parole hearing notices via regular or certified mail.

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.

**Com. Sub. for Senate Bill No. 187**, Authorizing Department of Revenue promulgate legislative rules.

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

**Com. Sub. for Senate Bill No. 287**, Providing posthumous high school diplomas.

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

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

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

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Kessler, Unger, Karnes, Snyder and Blair.

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

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules and a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 6, 2015, at 11 a.m.

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## FRIDAY, FEBRUARY 6, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Seth Polk, Lead Pastor, Cross Lanes Baptist Church, Cross Lanes, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Corey Palumbo, a senator from the seventeenth district.

Pending the reading of the Journal of Thursday, February 5, 2015,

On motion of Senator Miller, the Journal was approved and the further reading thereof dispensed with.

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill No. 2128**—A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to permitting those individuals who have been issued concealed weapons permits to keep firearms in their motor vehicles on the state Capitol Complex grounds if the vehicles are locked and the weapons are out of normal view.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill No. 2234**—A Bill to amend and reenact §48-5-613 of the Code of West Virginia, 1931, as amended, relating to requiring a court to permit a party in a divorce proceeding to resume using the name he or she used prior to the marriage.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Education has had under consideration



**Senate Bill No. 19**, Specifying minimum early childhood education program instruction days.

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

**Com. Sub. for Senate Bill No. 19** (originating in the Committee on Education)—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to setting forth minimum days per week, number of instructional minutes per week and minimum instructional days per year for early childhood education programs.

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,

Dave Sypolt,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill No. 60** (originating in the Committee on Health and Human Resources), Requiring food handler examinations and cards.

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

**Com. Sub. for Com. Sub. for Senate Bill No. 60** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-6-25, relating to food handler examinations and cards; establishing that cards are valid for three years; allowing for cards to be valid in all counties of the state; requiring food handler card within thirty days of being hired; and requiring Bureau for Public Health establish minimum guidelines for training programs for individuals seeking a food handler permit or card.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill No. 142**, Authorizing Department of Administration promulgate legislative rule relating to Purchasing Division.

And,

**Senate Bill No. 143**, Authorizing Department of Administration promulgate legislative rule relating to operation plan for State Agency for Surplus Property.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mike Hall,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 No. 238**, Exempting county boards of education from liability arising from unorganized recreation.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 242**, Creating criminal penalties for automated telephone calls causing harm during state of emergency or preparedness.

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

**Com. Sub. for Senate Bill No. 242** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-19b, relating to creating new offense of disseminating false, misleading or deceptive information during a declared state of emergency or state of preparedness; establishing elements of the offense; providing each call constitutes a separate offense; and establishing penalties.

With the recommendation that the committee substitute do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 294**, Eliminating certain unnecessary, inactive or redundant councils, committees and boards.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 309**, Authorizing Corrections Commissioner to enter into mutual aid agreements.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 343**, Exempting chiropractors from continuing education requirement on mental health conditions common to veterans.

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

**Com. Sub. for Senate Bill No. 343** (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating

to removing chiropractors from list of medical professionals required to obtain continuing education on mental health conditions common to veterans and family members of veterans.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. No. 343), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 398**, Extending expiration date for health care provider tax on eligible acute care hospitals.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 399**, Relating to hospitals owned or operated by nonprofit corporations or associations or local governmental units.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill No. 2138**, Adding aircraft operations on private airstrips and farms to the definition of recreational purpose.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill No. 2227**, Relating to the National Coal Heritage Area Authority.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senators Plymale, M. Hall, Prezioso, Leonhardt, Walters, Williams, Carmichael, Laird, Kessler, Stollings, Miller and D. Hall:**

**Senate Bill No. 425**—A Bill to amend and reenact §12-1-12d of the Code of West Virginia, 1931, as amended, relating to investments by certain institutions of higher learning.

Referred to the Committee on Education.

**By Senators Plymale, Prezioso, Beach, Carmichael, D. Hall, Kessler, Walters and Williams:**

**Senate Bill No. 426**—A Bill to amend and reenact §18B-4-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-29-8 of said code, all relating to campus police



officers of state institutions of higher learning; allowing governing boards of state institutions of higher learning to apply for grants and other awards available to law-enforcement agencies; authorizing state institutions of higher learning to compensate employees for attending law-enforcement training academies; and providing for agreements to reimburse employers for wages and expenses of employees trained but not continuing employment.

Referred to the Committee on Education.

**By Senators Unger, Yost, Boley, Nohe, Romano, Beach, Kirkendoll, Prezioso, Miller, Facemire, Kessler, Palumbo, D. Hall, Laird, Williams, Carmichael, Snyder, Stollings and Plymale:**

**Senate Bill No. 427**—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to career progression of members of the State Police; increasing the longevity pay for members of the State Police; providing for certain increases in pay if certain educational attainment is met by members of the State Police; and adjusting the timing of certain salary changes.

Referred to the Committee on Finance.

**By Senators Stollings, Takubo and Kessler:**

**Senate Bill No. 428**—A Bill to amend and reenact §30-3E-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-15a of said code; and to amend and reenact §30-8-9 of said code, all relating to permitting oral pharmaceutical certified licensees, advanced practice registered nurses and physician assistants to prescribe hydrocodone combination drugs for a duration of no more than three days.

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

**By Senators Trump, Williams, D. Hall, Stollings, Miller, Palumbo and Kessler:**

**Senate Bill No. 429**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b; and to amend and reenact §60-8-3 of said code, all relating to creating a one-day special license for charitable events to sell nonintoxicating beer and wine.

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

**By Senator Trump:**

**Senate Bill No. 430**—A Bill to amend and reenact §48-27-507 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §51-2A-2a, all relating to exempting mutual orders enjoining certain contact between parties to a domestic relations action from the prohibition against mutual protective orders; and authorizing the family courts of the state to enter mutual orders enjoining certain contact between parties to a domestic relations action upon consent of the parties or upon certain findings of the court.

Referred to the Committee on the Judiciary.

**By Senators Kessler, Unger, Beach, Facemire, Kirkendoll, Laird, Miller, Romano, Snyder, Stollings, Williams, Woelfel, Yost and Palumbo:**

**Senate Bill No. 431**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-1b, relating to increasing pay to teachers over a five-year period.

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

**By Senators Kessler, Beach, Facemire, Kirkendoll, Laird, Miller, Romano, Snyder, Stollings, Unger, Woelfel and Yost:**

**Senate Bill No. 432**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§18A-4-1b, relating to increasing pay to service personnel over five years.

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

**By Senators Kessler, Unger, Beach, Facemire, Kirkendoll, Laird, Miller, Romano, Snyder, Stollings, Woelfel and Yost:**

**Senate Bill No. 433**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-2a, relating to increasing pay to state employees over a three-year period.

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

**By Senators Carmichael, D. Hall, Kirkendoll and Stollings:**

**Senate Bill No. 434**—A Bill to amend and reenact §19-23-12b and §19-23-13b of the Code of West Virginia, 1931, as amended, all relating to approvals of televised racing days and simulcast contracts by Horsemen's Benevolent and Protective Association; reducing racing days; providing additional reason for reduction in live racing dates; notifying mutual clerks and Horsemen's Benevolent and Protective Association of request to reduce racing dates; determining reduction in live racing dates at special commission meeting; and eliminating certain restrictions on moneys placed in purse fund.

Referred to the Committee on Finance.

Senators Stollings and Plymale offered the following resolution:

**Senate Concurrent Resolution No. 22**—Requesting the Division of Highways name a portion of U. S. Route 119 in Boone County, beginning at a point, latitude 38.52773, longitude -81.50927, and ending at a point, latitude 38.54209, longitude -81.501417, the "U. S. Army SGT Mark Andrew Messer Memorial Road".

Whereas, Sergeant Messer was born in Charleston on January 4, 1965, to the Reverend Melvin and Barbara Messer; and

Whereas, After graduating from Scott High School, where he played football, Sergeant Messer enrolled in the Army and was stationed at Fort Leonard Wood in Missouri, Fort Lewis in Washington and Fort Campbell in Kentucky; and

Whereas, Sergeant Messer served in the military for more than ten years, including a life-altering, front-line tour in the Middle East during Desert Storm. He was a member of the 5th Special Forces Group, the 101st Airborne and the Green Berets. He fought in Honduras, Iraq, Iran, Kuwait and Saudi Arabia and trained with the Egyptian Special Forces; and

Whereas, Sergeant Messer received the Army Service Ribbon, Army Lapel Button, Sharpshooter Qualification Badge (M16 Rifle), Driver's Badge, Army Good Conduct Medal, Army Achievement Medal, NCO Professional Development Ribbon, National Defense Service Medal, Driver Mechanic Badge, Mechanic Badge, Southwest Asia Service Medal and Saudi Arabia/Kuwait Liberation Medal; and

Whereas, Sergeant Messer returned home to Boone County after he received a medical discharge because of injuries sustained during Desert Storm, including post-traumatic stress disorder. He was a VFW member; and

Whereas, Sergeant Messer passed away in his home on March 18, 2012, survived by his parents; his sons, Elijah Messer, Justin Green, Gage Messer and Dane Messer; and his brothers, David Messer and Jacob Messer; and

Whereas, It is fitting and proper that U. S. Army Sergeant Mark Andrew Messer be remembered and acknowledged for his dedicated service to his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of U. S. Route 119 in Boone County, beginning at a point, latitude 38.52773, longitude -81.50927, and ending at a point, latitude 38.54209, longitude -81.501417, the “U. S. Army SGT Mark Andrew Messer Memorial Road”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the “U. S. Army SGT Mark Andrew Messer Memorial Road”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the family of U. S. Army Sergeant Mark Andrew Messer.

Which, under the rules, lies over one day.

Senators Leonhardt, Beach, D. Hall, Miller and Plymale offered the following resolution:

**Senate Resolution No. 23**—Recognizing the West Virginia Wing of the Civil Air Patrol for its dedicated service to our state and nation.

Whereas, On December 1, 1941, one week prior to the Japanese attack on Pearl Harbor, the Civil Air Patrol was established to supplement the U. S. Military during World War II; and

Whereas, Thousands of volunteer members answered America’s call to national service and sacrifice by accepting and performing critical wartime missions; and

Whereas, Assigned to the War Department under the jurisdiction of the Army Air Corps, the Civil Air Patrol logged more than

500,000 flying hours, sank two enemy submarines and saved hundreds of crash victims during World War II; and

Whereas, On May 26, 1948, Congress passed Public Law 557 permanently establishing Civil Air Patrol as the auxiliary of the U. S. Air Force to perform three primary missions - Emergency Services, Cadet Programs and Aerospace Education; and

Whereas, Since the Civil Air Patrol's beginning, the all-volunteer organization has set itself apart during our Nation's most tumultuous times by, among many other things, locating and sinking enemy submarines during World War II; assisting rescuers and state agencies immediately following the September 11, 2001, terrorist attacks; supporting hurricane disaster relief efforts in 2005 and 2008; and more recently flying hundreds of missions in response to the BP oil spill; as well as aiding communities during other natural disasters; and

Whereas, The Civil Air Patrol further provides vital homeland security missions that help ensure the protection of our National Capitol and the Nation as a whole by assisting Air Force pilots with target-intercept training and by assisting our Military with acquiring distant targets; and

Whereas, The West Virginia Wing annually flies photographic and other homeland security-related missions and missions in support of the West Virginia Division of Homeland Security and Emergency Management and other state and local emergency and law-enforcement agencies; and

Whereas, The West Virginia Wing works very closely with our state's emergency services and homeland security agencies and personnel in training for response to natural disasters, terrorist attacks as well as air and ground search and rescue operations; and

Whereas, The West Virginia Wing, with its small, single-engine aircraft, vehicles and all-volunteer force, is constantly prepared for immediate dispatch on search, rescue and recovery missions here in

West Virginia, and has performed notable search and rescue missions, most recently the search for a crashed U. S. Navy MH-60S Knighthawk helicopter near Cass, West Virginia, where the Civil Air Patrol volunteer rescuers, after locating the downed helicopter, struggled through a raging snowstorm to reach the crash site on the side of a wooded mountain which rose at a steep 60-degree angle, then had to carry the helicopter's most severely injured crew members and passengers by stretcher through 500 to 600 yards of snow, waist-deep or higher, to a Sno-Cat provided by Snowshoe Mountain Resort, an endeavor to get the victims to medical triage that lasted 12 hours in the heavy snow and ice conditions; and

Whereas, The Civil Air Patrol provides exceptional educational and growth opportunities for youth through its nearly 26,000-member strong cadet program, which annually provides access to top national summer flight academies to learn to fly powered and glider aircraft, as well as to approximately 30 national programs emphasizing leadership and careers in aviation; and

Whereas, The West Virginia Wing has 16 units throughout the state with a total of 589 volunteer cadet and senior members; and

Whereas, The Civil Air Patrol was awarded the Congressional Gold Medal in 2014 for its service during World War II; and

Whereas, The West Virginia Wing has six members, two of whom are still living today, confirmed as Congressional Gold Medal recipients; and

Whereas, The Senate encourages all citizens to observe February 6, 2015, as Civil Air Patrol Day in West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia Wing of the Civil Air Patrol for its dedicated service to our state and nation; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Wing of the Civil Air Patrol.

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

On motion of Senator Carmichael, 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 No. 18**, Requesting DOH name bridge in Wetzel County “U. S. Army COL William L. Glover Memorial Bridge”.

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

**Senate Concurrent Resolution No. 19**, Requesting DOH name stretch of road in Wayne County “Darrell W. Sanders Memorial Highway”.

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

**Senate Concurrent Resolution No. 20**, Requesting DOH name stretch of road in McDowell County “U. S. 1SG Army Joe C. Alderman Memorial Road”.

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



**Senate Concurrent Resolution No. 21**, Urging Congress call convention for proposal of constitutional amendments imposing fiscal restraints, limiting jurisdiction and setting term limits.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Interstate Cooperation; and then to the Committee on the Judiciary.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill No. 250**, Relating to Conservation Agency financial assistance applications from district supervisors.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Leonhardt, Prezioso and Snyder—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 250) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Stollings, Sypolt, Takubo, Trump,

Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Leonhardt, Prezioso and Snyder—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 250) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill No. 261**, Clarifying definition of “owner” of dam.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Leonhardt, Prezioso and Snyder—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 261) 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 No. 279**, Clarifying qualifications of Labor Commissioner.

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

On motion of Senator Carmichael, the bill was recommitted to the Committee on the Judiciary.

**Eng. Com. Sub. for Senate Bill No. 374**, Permitting in absentia parole hearings in certain instances.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Leonhardt, Prezioso and Snyder—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 374) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Stollings, Sypolt, Takubo, Trump,

Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Leonhardt, Prezioso and Snyder—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 374) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill No. 375**, Specifying who receives parole hearing notices via regular or certified mail.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Leonhardt, Prezioso and Snyder—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 375) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Leonhardt, Prezioso and Snyder—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 375) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 187**, Authorizing Department of Revenue promulgate legislative rules.

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 No. 287**, Providing posthumous high school diplomas.

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

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

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

At the request of Senator Romano, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill No. 2217**, Relating to qualifications of the Commissioner of Labor.

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

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

On page two, section two, lines six through twelve, by striking out the following: The Commissioner of Labor in office on the effective date of this section shall, unless sooner removed, continue to serve until his or her term expires and his or her successor has been appointed and has qualified. On or before April 1, 1941, and on or before April 1 of each fourth year thereafter, the Governor shall appoint a Commissioner of Labor to serve for a term of four years, commencing on April 1.

The bill (Eng. Com. Sub. for H. B. No. 2217), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill No. 37**, Creating Revised Uniform Arbitration Act.

**Com. Sub. for Senate Bill No. 255**, Eliminating certain boards, councils, committees, panels, task forces and commissions.

**Senate Bill No. 262**, Transferring CHIP and Children's Health Insurance Agency from Department of Administration to DHHR.

**Senate Bill No. 267**, Repealing code relating to Governor's Office of Health Enhancement and Lifestyle Planning.

**Senate Bill No. 295**, Establishing appeal process for DHHR Board of Review and Bureau for Medical Services decisions.

**Com. Sub. for Senate Bill No. 357**, Creating Coal Jobs and Safety Act of 2015.

**Com. Sub. for Senate Bill No. 361**, Eliminating prevailing hourly wage requirement for construction of public improvements.

And,

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Walters.

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

The Senate proceeded to the thirteenth order of business.

Senator Cole (Mr. President) announced the replacement of Senator D. Hall on the Committee on Finance with Senator Mullins; and the replacement of Senator Mullins on the Committee on the Judiciary with Senator D. Hall.

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Prezioso and Snyder.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 9, 2015, at 11 a.m.

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## MONDAY, FEBRUARY 9, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Jim Walther, Jr., St. Andrew Presbyterian Church, Pinch, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Herb Snyder, a senator from the sixteenth district.

Pending the reading of the Journal of Friday, February 6, 2015,

On motion of Senator Walters, 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 No. 2004**—A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended,



relating to the development of a state plan under Section 111(d) of the Clean Air Act; setting forth legislative findings; prohibiting submission of a state plan without authority; requiring the Department of Environmental Protection to study the feasibility of a state plan; requiring the Department of Environmental Protection to submit a report to the Legislature determining whether a state plan is feasible; allowing for the development of a proposed state plan; allowing for legislative review and consideration prior to submission of a state plan to the Environmental Protection Agency; and creating exceptions to the legal effect of the state plan.

Referred 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. Com. Sub. for House Bill No. 2008**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-6a, relating to an independent audit of the Division of Highways; establishing criteria for selection of the auditor; establishing terms of the audit; and providing for costs associated with the audit.

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. Com. Sub. for House Bill No. 2151**—A Bill to amend and reenact §18-2-1 of the Code of West Virginia, 1931, as amended, relating to making the West Virginia State Teacher of the Year an ex officio, nonvoting member of the West Virginia Board of Education; and providing reasonable and necessary expenses therefor.

Referred to the Committee on Education.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill No. 243** (originating in the Committee on Education), Relating to school nutrition standards during state of emergency or preparedness.

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

**Com. Sub. for Com. Sub. for Senate Bill No. 243** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-6a, relating to school nutrition standards during a state of emergency or state of preparedness; authorizing Governor or Legislature to temporarily suspend legislative rules establishing nutrition standards for foods and beverages served to students in public schools during a state of emergency or state of preparedness; providing limitations thereon; and requiring reporting to the Joint Committee on Government and Finance.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 370**, Reorganizing Governor's Committee on Crime, Delinquency and Correction and its subcommittees.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on the Judiciary pending.

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 No. 430**, Permitting mutual orders enjoining certain contact between parties to domestic relations actions.

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

**Com. Sub. for Senate Bill No. 430** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §48-27-507 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §51-2A-2a, all relating to exempting mutual orders enjoining certain contact between parties to a domestic relations action from the prohibition against mutual protective orders;

authorizing family courts of the state to enter mutual orders enjoining certain contact between parties to a domestic relations action; providing for certain terms and effective length of such orders; authorizing family court to enforce its order through an order of contempt; and expressing intent of the Legislature.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senators Blair, D. Hall, Boso, Carmichael, Kirkendoll, Laird, Stollings, Trump, Williams, Prezioso, Plymale, Gaunch and Walters:**

**Senate Bill No. 435**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-26-1, §7-26-2, §7-26-3, §7-26-4, §7-26-5, §7-26-6 and §7-26-7, all relating to creating West Virginia Sheriffs' Bureau of Professional Standards.

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

**By Senator Nohe:**

**Senate Bill No. 436**—A Bill to repeal §29-5A-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-5A-1, §29-5A-2, §29-5A-3, §29-5A-3a, §29-5A-5, §29-5A-6, §29-5A-8, §29-5A-17, §29-5A-19, §29-5A-20 and §29-5A-24 of said code, all relating generally to the State Athletic Commission;

changing composition of commission; providing that office of the commission be located in office of Lottery Commission; proposing rules; requiring commission to follow the unified rules of boxing adopted by the Association of Boxing Commissions and requirements; expenses of commission; increasing payments to referees, judges and timekeepers; weight of boxers; and increasing certain licensing fees.

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

**By Senators Prezioso, Beach, Carmichael, D. Hall, Kessler, Walters, Williams and Plymale:**

**Senate Bill No. 437**—A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to membership of Public Employees Insurance Agency finance board.

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

**By Senators Palumbo, Gaunch, Kessler, Miller, Sypolt, Plymale, Laird, Prezioso, Walters and Stollings:**

**Senate Bill No. 438**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-4-24, relating to implementing a surcharge on licensed exotic entertainment facilities and adult bookstores to provide funding for rape information and prevention services and rape crisis centers; findings; reporting requirements; creating Sexual Assault Fund to End Rape; providing for dispersal of grants for rape information and prevention services and rape crisis centers; providing for rulemaking; defining a term; and providing for a civil penalty.

Referred to the Committee on Finance.

**By Senators Prezioso, Carmichael, Gaunch, D. Hall, Kessler, Leonhardt, Walters, Williams, Plymale and Beach:**

**Senate Bill No. 439**—A Bill to repeal §18B-7-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-2A-3 and §18B-2A-4 of said code; to amend and reenact §18B-4-2a of

said code; to amend and reenact §18B-7-1, §18B-7-2, §18B-7-8, §18B-7-9 and §18B-7-11 of said code; to amend and reenact §18B-9-1 and §18B-9-2 of said code; to amend and reenact §18B-9A-1, §18B-9A-2, §18B-9A-3, §18B-9A-4, §18B-9A-5, §18B-9A-6 and §18B-9A-7 of said code; and to amend said code by adding thereto a new article, designated §18B-9B-1, all relating to public education higher education personnel generally; clarifying roles of Higher Education Policy Commission, Council for Community and Technical College Education and state organizations of higher education; eliminating outdated and redundant reporting requirements; clarifying duties of vice chancellor for human resources of the Higher Education Policy Commission; mandating periodic human resource reviews by state organizations of higher education; providing legislative purposes and intent for higher education personnel; defining terms; providing for evaluation and reviews of organizations for certain human resource deficiencies, best practices and compliance with state higher education personnel laws; providing limitations relating to percentages of employees designated as “nonclassified” with certain exceptions; establishing formulas for calculating percentage of nonclassified employees; clarifying that certain provisions are only applicable to classified employees; clarifying powers and duties of the Compensation Planning and Review Committee; providing that the Higher Education Policy Commission shall develop a model minimum salary schedule using West Virginia Workforce data that organizations shall follow except in certain instances; eliminating requirement that salary schedules fall within relative market equity; providing that the Higher Education Policy Commission in developing salary schedules for classified employees shall consider equity and the amount necessary to earn a living wage; providing for organizational accountability in human resources and a mechanism by which state organizations of higher education may dispute deficiency findings; providing state organizations of higher education with the ability to propose and implement approved legislative rules relating to classification and compensation with certain exceptions; requiring state organizations of higher education proposing legislative rules create classification and compensation committees; and requiring any rule proposed by a state organization of higher education incorporate best human resources practices,

address areas of accountability, employee classification and compensation and performance evaluation.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 440–A** Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Commerce, WorkForce West Virginia - WorkForce Investment Act, fund 8749, fiscal year 2015, organization 0323, and to the Department of Commerce, Office of the Secretary - Office of Economic Opportunity - Community Services, fund 8781, fiscal year 2015, organization 0327, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 441–A** Bill supplementing, amending, decreasing and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2015, organization 0803, for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senator Carmichael:**

**Senate Bill No. 442–A** Bill to amend and reenact §56-6-31 of the Code of West Virginia, 1931, as amended, relating to interest on judgments or decrees; specifying interest is simple interest, not compounding; and modifying rates.

Referred to the Committee on the Judiciary.

Senators Unger, Snyder, Plymale, Beach, Kessler, Stollings and Prezioso offered the following resolution:

**Senate Resolution No. 24**—Recognizing Leadership Jefferson for its service, dedication and commitment to Jefferson County.

Whereas, The objective of Leadership Jefferson is to promote knowledge and awareness of the problems, opportunities and issues facing Jefferson County; and

Whereas, Leadership Jefferson is designed to provide a series of educational and participatory experiences, as well as an opportunity for dialogue and the development of a correlation among participants in order to encourage local participation in the growth of Jefferson County; and

Whereas, The membership of Leadership Jefferson includes individuals from nearly every facet of Jefferson County's business, professional, religious, governmental, educational, civic, the arts, organized labor and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2015 membership of Leadership Jefferson consists of Elaine Bartoldson, Eastern Panhandle Transit Authority; Kevin Boyce, Jefferson County Sheriff's Dept.; Melissa Boyce, Harpers Ferry National Park; Donald Breon, Jefferson Medical Center; Danesia Chicchirichi, Jefferson County Chamber; Anthony Delligatti, Skinner Law Firm; Michele Goldman, Charles Town Health Right, Inc.; Vicky Hadee, Hollywood Casino; Michelle Hammer, Harpers Ferry National Park; Mary Harrington, Hollywood Casino; Catherine Kerns, City National Bank; Melissa Kerr, Jefferson Medical Center; Geoffrey Koch, APUS; Rachel Potts, Teacher of the Year; Cathy Reifer, Panhandle Home Health; Breanne Rugh, United Way; Brett Sullivan, Inn at Charles Town;



Raymond Visconti, Harpers Ferry Medicine; Aaron Watson, Independent Fire Company; Michael Whalton, Eastern WV Community Foundation; and Todd Wilt, City of Charles Town; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Leadership Jefferson for its service, dedication and commitment to Jefferson County; and, be it

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

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.

On motion of Senator Carmichael, 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 No. 22**, Requesting DOH name portion of U. S. Rt. 119 in Boone County “U. S. Army SGT Mark Andrew Messer Memorial Road”.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 187**, Authorizing Department of Revenue promulgate legislative rules.

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

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. No. 187) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. No. 187) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill No. 287**, Providing posthumous high school diplomas.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—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. No. 287) passed with its title.

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

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on Friday, February 6, 2015, for further amendments to be received on third reading, was reported by the Clerk.

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

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

That §55-7-13 and §55-7-24 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto four new sections, designated §55-7-13a, §55-7-13b, §55-7-13c and §55-7-13d, all to read as follows:

**ARTICLE 7. ACTIONS FOR INJURIES.**

**§55-7-13a. Modified comparative fault standard established.**

(a) For purposes of this article, “comparative fault” means the degree to which the fault of a person was a proximate cause of an alleged personal injury or death or damage to property, expressed as a percentage. Fault shall be determined according to section thirteen-c of this article.

(b) In any action based on tort or any other legal theory seeking damages for personal injury, property damage, or wrongful death, recovery shall be predicated upon principles of comparative fault and the liability of each person, including plaintiffs, defendants and nonparties who proximately caused the damages, shall be allocated to each applicable person in direct proportion to that person’s percentage of fault.

(c) The total of the percentages of comparative fault allocated by the trier of fact with respect to a particular incident or injury must equal either zero percent or one hundred percent.

**§55-7-13b. Definitions.**

As used in this article:

“Compensatory damages” means damages awarded to compensate a plaintiff for economic and noneconomic loss.

“Defendant” means, for purposes of determining an obligation to pay damages to another under this chapter, any person against whom a claim is asserted including a counter-claim defendant, cross-claim defendant or third-party defendant.

“Fault” means an act or omission of a person, which is a proximate cause of injury or death to another person or persons, damage to property, or economic injury, including, but not limited to, negligence, malpractice, strict product liability, absolute liability, liability under section two, article four, chapter twenty-three of this code or assumption of the risk.

“Plaintiff” means, for purposes of determining a right to recover under this chapter, any person asserting a claim.

**§55-7-13c. Liability to be several; amount of judgment; allocation of fault.**

(a) In any action for damages, the liability of each defendant for compensatory damages shall be several only and may not be joint. Each defendant shall be liable only for the amount of compensatory damages allocated to that defendant in direct proportion to that defendant’s percentage of fault, and a separate judgment shall be rendered against each defendant for his or her share of that amount. However, joint liability may be imposed on two or more defendants who consciously conspire and deliberately pursue a common plan or design to commit a tortious act or omission. Any person held jointly liable under this section shall have a right of contribution from other defendants that acted in concert.

(b) To determine the amount of judgment to be entered against each defendant, the court, with regard to each defendant, shall multiply the total amount of compensatory damages recoverable by the plaintiff by the percentage of each defendant’s fault and, subject to subsection (d) of this section, that amount shall be the maximum recoverable against that defendant.

(c) Any fault chargeable to the plaintiff shall not bar recovery by the plaintiff unless the plaintiff’s fault is equal to or greater than the combined fault of all other persons responsible for the total amount of damages, if any, to be awarded. If the plaintiff’s fault is less than the combined fault of all other persons, the plaintiff’s recovery shall be reduced in proportion to the plaintiff’s degree of fault.

(d) Notwithstanding subsection (b) of this section, if a plaintiff through good faith efforts is unable to collect from a liable defendant, the plaintiff may, not later than one year after judgment becomes final through lapse of time for appeal or through exhaustion of appeal, whichever occurs later, move for reallocation of any uncollectible amount among the other parties found to be liable.

(1) Upon the filing of the motion, the court shall determine whether all or part of a defendant's proportionate share of the verdict is uncollectible from that defendant and shall reallocate the uncollectible amount among the other parties found to be liable, including a plaintiff at fault, according to their percentages at fault: *Provided*, That the court may not reallocate to any defendant an uncollectible amount greater than that defendant's percentage of fault multiplied by the uncollectible amount: *Provided, however*, That there shall be no reallocation against a defendant whose percentage of fault is equal to or less than the plaintiff's percentage of fault.

(2) If the motion is filed, the parties may conduct discovery on the issue of collectibility prior to a hearing on the motion.

(e) A party whose liability is reallocated under subsection (d) of this section is nonetheless subject to contribution and to any continuing liability to the plaintiff on the judgment.

(f) This section does not affect, impair or abrogate any right of indemnity or contribution arising out of any contract or agreement or any right of indemnity otherwise provided by law.

(g) The fault allocated under this section to an immune defendant or a defendant whose liability is limited by law may not be allocated to any other defendant.

(h) Notwithstanding any other provision of this section to the contrary, a defendant that commits one or more of the following acts or omissions shall be jointly and severally liable:

(1) A defendant whose conduct constitutes driving a vehicle under the influence of alcohol, a controlled substance, or any other drug or any combination thereof, as described in section two, article five, chapter seventeen-c of this code, which is a proximate cause of the damages suffered by the plaintiff;

(2) A defendant whose acts or omissions constitute criminal conduct which is a proximate cause of the damages suffered by the plaintiff; or

(3) A defendant whose conduct constitutes an illegal disposal of hazardous waste, as described in section three, article eighteen, chapter twenty-two of this code, which conduct is a proximate cause of the damages suffered by the plaintiff.

(i) This section does not apply to the following statutes:

(1) Article twelve-a, chapter twenty-nine of this code;

(2) Chapter forty-six of this code; and

(3) Article seven-b, chapter fifty-five of this code.

**§55-7-13d. Determination of fault; imputed fault; plaintiff's involvement in felony criminal act; burden of proof; limitations; applicability; severability.**

(a) *Determination of fault of parties and nonparties.*

(1) In assessing percentages of fault, the trier of fact shall consider the fault of all persons who contributed to the alleged damages regardless of whether the person was or could have been named as a party to the suit

(2) Fault of a nonparty shall be considered if the plaintiff entered into a settlement agreement with the nonparty or if a defending party gives notice no later than one hundred eight days after service of

process upon said defendant that a nonparty was wholly or partially at fault. Notice shall be filed with the court and served upon all parties to the action designating the nonparty and setting forth the nonparty's name and last-known address, or the best identification of the nonparty which is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault;

(3) In all instances where a nonparty is assessed a percentage of fault, any recovery by a plaintiff shall be reduced in proportion to the percentage of fault chargeable to such nonparty. Where a plaintiff has settled with a party or nonparty before verdict, that plaintiff's recovery will be reduced in proportion to the percentage of fault assigned to the settling party or nonparty;

(4) Nothing in this section is meant to eliminate or diminish any defenses or immunities, which exist as of the effective date of this section, except as expressly noted herein;

(5) Assessments of percentages of fault for nonparties are used only as a vehicle for accurately determining the fault of named parties. Where fault is assessed against nonparties, findings of such fault do not subject any nonparty to liability in that or any other action, or may not be introduced as evidence of liability or for any other purpose in any other action; and

(6) In all actions involving fault of more than one person, unless otherwise agreed by all parties to the action, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating the percentage of the total fault that is allocated to each party and nonparty pursuant to this article. For this purpose, the court may determine that two or more persons are to be treated as a single person.

(b) *Imputed fault.* – Nothing in this section may be construed as precluding a person from being held liable for the portion of



comparative fault assessed against another person who was acting as an agent or servant of such person, or if the fault of the other person is otherwise imputed or attributed to such person by statute or common law. In any action where any party seeks to impute fault to another, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, on the issue of imputed fault.

(c) *Plaintiff's involvement in felony criminal act.* – In any civil action, a defendant is not liable for damages that the plaintiff suffers as a result of the negligence or gross negligence of a defendant if such damages arise out of the plaintiff's commission, attempt to commit or fleeing from the commission of a felony criminal act.

(d) *Burden of proof.* – The burden of alleging and proving comparative fault shall be upon the person who seeks to establish such fault.

(e) *Limitations.* – Nothing in this section creates a cause of action. Nothing in this section alters, in any way, the immunity of any person as established by statute or common law.

(f) *Applicability.* – This section applies to all causes of action arising or accruing on or after the effective date of its enactment.

(g) *Severability.* – The provisions of this section are severable from one another, so that if any provision of this section is held void, the remaining provisions of this section shall remain valid.

On motion of Senator Romano, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. No. 2002) were next reported by the Clerk and considered simultaneously:

On page four, section thirteen-d, subsection (a), subdivision (1), after the word “suit” by changing the period to a colon and inserting

the following proviso: *Provided*, That any party or nonparty who enters into a settlement agreement for all claims against it prior to the entering of a verdict or the request for special interrogatories in subdivision (6) of this subsection may not be included on the verdict form or in the special interrogatories required by subdivision (6) of this subsection.;

On page four, section thirteen-d, subsection (a), subdivision (2), by striking out the words “if the plaintiff entered into a settlement agreement with the nonparty or”;

On page five, section thirteen-d, subsection (a), subdivision (2), after the words “partially at fault” by inserting the words “and if the plaintiff has not entered into a settlement agreement with the nonparty”;

On page five, section thirteen-d, subsection (a), subdivision (3), by striking out the words “in proportion to the percentage of fault assigned to the settling party or nonparty” and inserting in lieu thereof the words “by the amount of the nonparty or party’s settlement”;

On page five, section thirteen-d, subsection (a), subdivision (6), after the word “article” by changing the period to a colon and inserting the following proviso: *Provided*, That any party or nonparty who enters into a settlement agreement for all claims against it prior to the entering of a verdict or the request for special interrogatories may not be included on the verdict form or in the special interrogatories required by this subdivision.;

And,

On page six, section thirteen-d, subsection (b), after the words “imputed fault” by changing the period to a colon and inserting the following proviso: *Provided*, That any party or nonparty who enters into a settlement agreement for all claims against it prior to any findings or special interrogatories required by this subsection may not be included in the findings or special interrogatories.

Following discussion,

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

The question now being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. No. 2002), as just amended by the Committee on the Judiciary, was then read a third time and put upon its passage.

Following discussion,

The question being "Shall Engrossed Committee Substitute for House Bill No. 2002 pass?"

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—24.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Snyder and Woelfel—9.

Absent: Yost—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. No. 2002) 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 No. 2002**—A Bill to repeal §55-7-13 and §55-7-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §55-7-13a, §55-7-13b, §55-7-13c and §55-7-13d, all relating to predicated actions for damages upon principles of comparative fault; establishing the comparative fault standard; abolishing joint liability and implementing several liability; codifying the existing modified comparative fault standard related to a plaintiff's level of fault and ability to recover; establishing a reallocation process for any uncollectible judgments; establishing how to consider the fault of nonparties; establishing how to consider the fault of, and the amounts paid by, settling parties; addressing liability of defendants when a plaintiff is injured related to commission of a felony criminal act; providing for the use of special interrogatories; clarifying fault may be imputed to another person who was acting as an agent or servant of another; providing for the burden of proof and limitations; excepting certain statutory sections related to liability from this bill's application; and defining terms.

*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 No. 2217**, Relating to qualifications of the Commissioner of Labor.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—30.

The nays were: Kessler, Romano and Snyder—3.

Absent: Yost-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. No. 2217) passed.

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

**Eng. Com. Sub. for House Bill No. 2217**—A Bill to amend and reenact §21-1-2 of the Code of West Virginia, 1931, as amended, relating to the qualifications of the Commissioner of Labor; removing language that the commissioner be identified with the labor interests of the state and requiring that the commissioner be identified with and have knowledge and experience in employee issues and interests including employee-employer relations in this state; and removing language generally related to appointment and term of the Commissioner of Labor.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 37**, Creating Revised Uniform Arbitration Act.

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

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

On page eleven, section eight, line eleven, after the word “enforceable” by changing the period to a colon and inserting the following proviso: *Provided*, That the decision as to whether the

arbitration agreement is enforceable shall be made by a court of competent jurisdiction, if requested by any party to the arbitration or agreement, pursuant to section nine of this article.

On motion of Senator Facemire, the following amendment to the bill (Com. Sub. for S. B. No. 37) was next reported by the Clerk:

On page thirty-seven, section thirty, line two, by striking out the words "An order" and inserting in lieu thereof the words "A final order granting or".

Following discussion,

The question being on the adoption of Senator Facemire's amendment to the bill, and on this question, Senator Facemire demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Romano, Snyder, Stollings, Unger, Walters and Woelfel—14.

The nays were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Prezioso, Sypolt, Takubo, Trump, Williams and Cole (Mr. President)—19.

Absent: Yost—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Facemire's amendment to the bill rejected.

The bill (Com. Sub. for S. B. No. 37), as amended by Senator Palumbo, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill No. 255**, Eliminating certain boards, councils, committees, panels, task forces and commissions.

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

**Senate Bill No. 262**, Transferring CHIP and Children's Health Insurance Agency from Department of Administration to DHHR.

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

**Senate Bill No. 267**, Repealing code relating to Governor's Office of Health Enhancement and Lifestyle Planning.

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

**Senate Bill No. 295**, Establishing appeal process for DHHR Board of Review and Bureau for Medical Services decisions.

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 No. 357**, Creating Coal Jobs and Safety Act of 2015.

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

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

**Com. Sub. for Senate Bill No. 361**, Eliminating prevailing hourly wage requirement for construction of public improvements.

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

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

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-8-29, to read as follows:

**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.**

**§61-8-29. Criminal loitering by persons on supervised release.**

(a) Any person serving a period of supervised release of ten years or more pursuant to the provision of section twenty-six, article twelve, chapter sixty-two of this code who loiters within one thousand feet of the property line of the residence or workplace of a victim of a sexually violent offense for which the person was convicted shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than thirty days.

(b) Any person serving a period of supervised release of ten years or more pursuant to the provisions of section twenty-six, article twelve, chapter sixty-two of this code for an offense where the



victim was a minor who loiters within one thousand feet of the property line of a facility or business the principal purpose of which is the education, entertainment or care of minor children, playground, athletic facility or school bus stop shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not more than thirty days.

(c) A person does not violate the provisions of subsection (a) or (b) of this section unless he or she has previously been asked to leave the proscribed location by an authorized person and thereafter refuses to leave or leaves and thereafter returns to the proscribed location.

(d) As used in this section:

(1) “Authorized person” means:

(A) A law-enforcement officer acting in his or her official capacity;

(B) A security officer employed by a business or facility to protect persons or property acting in his or her employment capacity;

(C) An owner, manager or employee of a facility or business having a principal purpose the caring for, education or entertainment of minors;

(D) A victim or parent, guardian or lawful temporary or permanent custodian thereof;

(E) An employee of a county board of education acting in his or her employment capacity.

(2) “Facility or business, the principal purpose of which is the education, entertainment or care of minor children” means:

(A) A preschool, primary, intermediate, middle or high school, either public or private;

(B) A childcare facility;

(C) A park;

(D) An athletic facility used by minors;

(E) A school bus stop.

(3) “Loitering” means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose.

(e) Nothing in this section shall be construed to prohibit or limit a person’s presence within one thousand feet of a location or facility referenced in this section if the person is there present for the purposes of supervision, counseling or other activity in which the person is directed to participate as a condition of supervision or where the person has the express permission of his supervising officer to be present.

The bill (Eng. Com. Sub. for H. B. No. 2025), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill No. 19**, Specifying minimum early childhood education program instruction days.

**Com. Sub. for Com. Sub. for Senate Bill No. 60**, Requiring food handler examinations and cards.

**Senate Bill No. 238**, Exempting county boards of education from liability arising from unorganized recreation.

**Com. Sub. for Senate Bill No. 242**, Creating criminal penalties for certain automated telephone calls during state of emergency or preparedness.

**Eng. House Bill No. 2138**, Adding aircraft operations on private airstrips and farms to the definition of recreational purpose.

And,

**Eng. Com. Sub. for House Bill No. 2227**, Relating to the National Coal Heritage Area Authority.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Snyder, unanimous consent being granted, it was ordered that the Journal show had Senator Snyder been present in the chamber on Friday, February 6, 2015, he would have voted “yea” on the passage of Engrossed Senate Bill No. 250, Engrossed Committee Substitute for Senate Bill No. 261, Engrossed Committee Substitute for Senate Bill No. 374 and Engrossed Committee Substitute for Senate Bill No. 375.

On motion of Senator Carmichael, a leave of absence for the day was granted Senator Yost.

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

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 10, 2015, at 11 a.m.

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## TUESDAY, FEBRUARY 10, 2015

The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Christopher Jones, Mount Olive Correctional Complex, Mount Olive, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William R. Laird IV, a senator from the tenth district.

Pending the reading of the Journal of Monday, February 9, 2015,

On motion of Senator Maynard, 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 that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for Senate Bill No. 13**, Reinstating open and obvious doctrine for premises liability.

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

Delegates Shott, Hanshaw and Rowe.

On motion of Senator Carmichael, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Carmichael and Palumbo.

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

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 9, 2015, he had approved **Enr. Senate Bill No. 3**.

The Senate proceeded to the fourth order of business.

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 30**, Permitting sale of raw milk.

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

**Com. Sub. for Senate Bill No. 30** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-7, relating to shared animal ownership agreements to consume raw milk; acquiring a percentage ownership interest in a milk-producing animal and its raw milk; requiring a written document acknowledging the inherent dangers of consuming

raw milk; agreeing not to distribute raw milk; and requiring the herd seller to meet animal health and testing requirements established by the state veterinarian.

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

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bill (Com. Sub. for S. B. No. 30), under the original double committee reference, was then referred to the Committee on Health and Human Resources.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 298**, Clarifying funds within Public Employees Retirement Fund.

And,

**Senate Bill No. 302**, Relating to state retirement plans.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 299**, Clarifying start date of State Police duty-related disability payments.

And has amended same.

**Eng. House Bill No. 2200**, Revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare.

And has amended same.

And,

**Eng. House Bill No. 2201**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Nohe, 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 No. 313**, Relating to delinquency proceedings of insurers.

And,

**Senate Bill No. 373**, Allowing wireless communication image serve as proof of motor vehicle insurance.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

David Nohe,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

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 No. 315**, Relating to civil actions filed under Consumer Protection Act.

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

**Com. Sub. for Senate Bill No. 315** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-6-101, §46A-6-102, §46A-6-105 and §46A-6-106 of the Code of West Virginia, 1931, as amended, all relating to civil actions filed under the Consumer Protection Act; providing statement of legislative intent that courts be guided by federal court and agency interpretations of similar federal statutes; clarifying who may bring



private cause of action; establishing requirement of out-of-pocket loss proximately caused by alleged violation in actions for damages; and providing right to demand a jury trial.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Nohe, 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 No. 365**, Relating to issuance of travel insurance entity producer limited licenses.

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

**Com. Sub. for Senate Bill No. 365** (originating in the Committee on Banking and Insurance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12-32b, relating to travel insurance limited lines producers; defining terms; authorizing Commissioner of Insurance to issue travel insurance entity producer license; establishing fees, fines and penalties; requiring licensee to maintain register of travel retailers offering insurance on its behalf and designate a responsible individual producer; authorizing travel retailer to offer travel insurance and receive compensation under certain conditions; requiring training of travel retailer employees offering travel insurance; exempting travel insurance entity producers and travel retailers and employees from examination and continuing education requirements; requiring travel retailer employees offering travel

insurance to provide certain information; providing for enforcement; and permitting Commissioner of Insurance to propose rules for legislative approval.

And,

**Senate Bill No. 368**, Relating to risk-based capital reporting for health organizations.

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

**Com. Sub. for Senate Bill No. 368** (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §33-24-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-25-6 of said code; to amend and reenact §33-25A-24 of said code; to amend and reenact §33-25D-26 of said code; to amend and reenact §33-40-1, §33-40-2, §33-40-3, §33-40-6 and §33-40-7 of said code; and to amend said code by adding thereto a new article, designated §33-40A-1, §33-40A-2, §33-40A-3, §33-40A-4, §33-40A-5, §33-40A-6, §33-40A-7, §33-40A-8, §33-40A-9, §33-40A-10, §33-40A-11 and §33-40A-12, all relating to risk-based capital reporting for health organizations; making health organizations subject to statutory provisions concerning risk-based capital reporting; defining terms associated with risk-based capital reporting for health organizations; requiring domestic health organization to file risk-based capital report with Insurance Commissioner; requiring health organization to perform certain actions if risk-based capital report indicates a negative financial trend or hazardous financial condition; requiring Insurance Commissioner to conduct certain actions if risk-based capital report of a health organization indicates negative financial trend or hazardous financial condition; providing health organization right to confidential hearing; making risk-based capital reports and plans confidential and privileged; declaring that publishing or dissemination of a statement with regard to the risk-based capital levels would be misleading and is therefore prohibited; prohibiting

use of risk-based capital reports in ratemaking of health organization; permitting Insurance Commissioner to share and receive certain information and materials and enter into sharing and use agreements; granting Insurance Commissioner authority to propose rules for legislative approval; requiring foreign health organization to file risk-based capital report with Insurance Commissioner; permitting Insurance Commissioner to exempt certain domestic health organizations from the application of the new article; and providing immunity to Insurance Commissioner or his or her employees or agents for actions taken with respect to their powers and duties.

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

Respectfully submitted,

David Nohe,  
*Chair.*

The bills (Com. Sub. for S. B. Nos. 365 and 368), under the original double committee references, were then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

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

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 443–A** Bill making a supplementary appropriation from the State Fund, State Excess Lottery Revenue Fund, to the Division of Human Services, fund 5365, fiscal year 2015, organization 0511, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Karnes, Boley, Gaunch and Leonhardt:**

**Senate Bill No. 444**—A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating generally to home schooling; clarifying that a student who is home schooled may not be classified as habitually absent; requiring parent of a child who is to be home schooled to notify a county superintendent of intent to home school, not the person providing the home schooling, along with an assurance that certain subjects will be taught; removing requirement that the person providing the home schooling instruction have a high school diploma; removing requirement that the person providing the home schooling instruction have an outline of a plan for the home schooling instruction for the ensuing year; permitting a parent to administer the required nationally normed standardized test; providing that a student has made acceptable academic progress if it is within or above the national average range or, if below that average, then the student must show improvement from the previous year; removing requirement that a certified teacher and the parent of a home-schooled child must mutually agree on an alternative academic assessment of proficiency; requiring home-schooled students who fail to make acceptable academic progress for two consecutive years be evaluated for learning disabilities; and requiring academic assessments be kept for three years.

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

**By Senators M. Hall, Stollings, Boley, Boso, Snyder, Facemire and Plymale:**

**Senate Bill No. 445**—A Bill to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating to the use and investment of Regional Jail and Correctional Facility Authority funds.

Referred to the Committee on Finance.

**By Senators Kessler, Beach and Stollings:**

**Senate Bill No. 446**—A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended, relating to increasing number of limited video lottery terminals allowed at a retail location.

Referred to the Committee on the Judiciary.

**By Senators Karnes, Boley, Gaunch and Leonhardt:**

**Senate Bill No. 447**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-8-12, relating to allowing a person who administers a program of secondary education at a public, private or home school to issue a diploma or other appropriate credential to a person who has completed the program of secondary education.

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

**By Senators Karnes, Boley, Gaunch, Leonhardt, Nohe and Boso:**

**Senate Bill No. 448**—A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to making home-schooled students eligible for a PROMISE scholarship without taking the GED test; replacing grade point average with entrance examination score as an eligibility criterium for receiving the scholarship; and increasing amount of unpaid community service hours preferred for prospective candidates.

Referred to the Committee on Education.

**By Senators Laird, Kirkendoll, Beach, Stollings, Yost, Romano, Williams, Miller, Kessler, Facemire and Snyder:**

**Senate Bill No. 449**—A Bill to amend and reenact §25-1-11d of the Code of West Virginia, 1931, as amended; to amend and reenact §31-20-27 of said code; and to amend and reenact §49-5E-5a of said code, all relating to salaries for Division of Corrections, Regional

Jail Authority and Division of Juvenile Services employees; providing increase in annual salary of employees of Division of Corrections, Regional Jail Authority and Division of Juvenile Services; providing increase in starting salary of employees of Division of Corrections, Regional Jail Authority and Division of Juvenile Services; and providing for longevity pay increases for employees of Division of Corrections, Regional Jail Authority and Division of Juvenile Services.

Referred to the Committee on Finance.

**By Senators Stollings, Facemire and Snyder:**

**Senate Bill No. 450**—A Bill to amend and reenact §61-8B-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8B-6, all relating to modifying essential elements of offense of sexual assault in third degree; creating offense of sexual assault in fourth degree; and establishing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Carmichael, Leonhardt, Kessler, Nohe, Blair, Romano, Boso and Karnes:**

**Senate Bill No. 451**—A Bill to amend and reenact §15-1B-26 of the Code of West Virginia, 1931, as amended, relating to retaining current West Virginia National Guard firefighters; and allowing certain National Guard firefighters to become civilian firefighters with West Virginia Air National Guard.

Referred to the Committee on Military; and then to the Committee on Finance. July 30, 2015

**By Senators M. Hall, Stollings and Boley:**

**Senate Bill No. 452**—A Bill to amend and reenact §31-20-27 of the Code of West Virginia, 1931, as amended, relating to exempting all Regional Jail and Correctional Facility Authority employees from classified service; authorizing authority to set salaries; and

authorizing employment of new employees who have successfully completed certain required examinations.

Referred to the Committee on the Judiciary.

**By Senators Woelfel, Blair, Ferns, Gaunch, M. Hall, Leonhardt, Mullins, Nohe, Plymale, Prezioso, Snyder, Takubo, Trump, Walters, Williams and Karnes:**

**Senate Bill No. 453**—A Bill to amend and reenact §17A-6A-1, §17A-6A-3, §17A-6A-4, §17A-6A-5, §17A-6A-6, §17A-6A-7, §17A-6A-8, §17A-6A-8a, §17A-6A-9, §17A-6A-10, §17A-6A-11, §17A-6A-12, §17A-6A-13, §17A-6A-15, §17A-6A-16, §17A-6A-17 and §17A-6A-18 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto six new sections, designated §17A-6A-12a, §17A-6A-12b, §17A-6A-14a, §17A-6A-19, §17A-6A-20 and §17A-6A-21, all relating to motor vehicle dealers, distributors, wholesalers and manufacturers.

Referred to the Committee on the Judiciary.

Senators Maynard, Plymale and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 23**—Requesting the Division of Highways name bridge number 24-16-13.39 (3961) (37.30512, -81.67535), locally known as Big Creek Owl Bridge, carrying WV Route 16 over Dry Fork in McDowell County, West Virginia, the “U. S. Army SFC Anthony Barton Memorial Bridge”.

Whereas, Anthony Barton was born in Bluefield, West Virginia, on April 25, 1980; and

Whereas, Anthony Barton graduated from Big Creek High School in War, West Virginia, where he was co-valedictorian of the class of 1998 and excelled in football and wrestling. He subsequently received an organizational leadership degree from Mountain State University; and

Whereas, SFC Anthony Barton served in the West Virginia Army National Guard from December 2001 until his death in 2012; and

Whereas, SFC Anthony Barton served fourteen months in Iraq with the West Virginia Army National Guard as a military police officer during Operation Iraqi Freedom; and

Whereas, SFC Anthony Barton was a highly decorated soldier who received numerous awards and medals for his service, including the Meritorious Service Medal (Posthumous), Army Commendation Medal with Oak Leaf Cluster, Army Achievement Medal, Army Reserve Component Achievement Medal, Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Armed Forces Reserve Medal with M Device, NCO Professional Development Ribbon with Numeral 2, Army Service Ribbon, Combat Action Badge, Meritorious Unit Citation, Joint Meritorious Unit Award, West Virginia Emergency Service Ribbon with 2 Oak Leaf Clusters, West Virginia State Service Ribbon with 2 Oak Leaf Clusters, West Virginia Service Ribbon and Shoulder Sleeve Insignia for Wartime Service – 101st Airborne and 15th MP Brigade; and

Whereas, SFC Anthony Barton also served the state's citizenry on many occasions as a member of the West Virginia National Guard when he assisted during severe flooding, major snowstorms and other state emergencies; and

Whereas, SFC Anthony Barton was a certified police officer who graduated from the West Virginia State Police Academy and he served as a McDowell County deputy sheriff and as a police officer with the Town of War while serving in the West Virginia National Guard; and

Whereas, SFC Anthony Barton also enjoyed riding his Harley and playing guitar, and he was actively involved in the New Testament Christian Church, where he played guitar; and



Whereas, SFC Anthony Barton suffered from post traumatic stress disorder (PTSD) resulting from the highly stressful conditions of his deployment in Iraq; and

Whereas, Sadly, SFC Anthony Barton lost his battle with PTSD on December 26, 2012; and

Whereas, SFC Anthony Barton is survived by his spouse, Jessica Barton; children, James Tanner Beckett and Jared Ray Barton; parents, Donald and Mary Barton; sister, Tara Adkins and her husband, Matthew; grandparents, Clinton and Delores Tyree; four nephews, Michael Anthony and Andrew Reid Adkins, Declan Patrick O'Neil and Bodhi Jasper Hines; and numerous aunts and uncles and other family and friends; and

Whereas, It is only fitting that we honor the life of SFC Anthony Barton by naming this bridge in his memory as a lasting tribute to his dedicated service and sacrifice on behalf of 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 bridge number 24-16-13.39 (3961) (37.30512, -81.67535), locally known as Big Creek Owl Bridge, carrying WV Route 16 over Dry Fork in McDowell County, West Virginia, the "U. S. Army SFC Anthony Barton Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs at both ends of the bridge identifying the bridge as the "U. S. Army SFC Anthony Barton Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of SFC Anthony Barton.

Which, under the rules, lies over one day.

Senators Maynard, Plymale, Stollings and Leonhardt offered the following resolution:

**Senate Concurrent Resolution No. 24**—Requesting the Division of Highways name a portion of Route 16, beginning at milepost 28.03 and ending at milepost 16.06, in McDowell County the “U. S. Marine Corps LtCol Dennis Ray Blankenship Memorial Road”.

Whereas, Dennis Blankenship was born on January 8, 1938, in Bartley, West Virginia, to Everett Blankenship and Oma Blankenship; and

Whereas, Dennis Blankenship graduated from Big Creek High School in 1956; and

Whereas, Dennis Blankenship first joined the U. S. Marine Corps on September 4, 1957, and was honorably released on September 3, 1960, as a Corporal. He rejoined the corps on August 29, 1961, and honorably retired on August 1, 1988, as a Lieutenant Colonel; and

Whereas, LtCol Blankenship was highly decorated during his years of service, including the Silver Star Medal; the Bronze Star Medals with Combat “V”; the Purple Heart Medal; the Defense Meritorious Service Medal with one Gold Star; the Meritorious Service Medal with one Gold Star; the Joint Service Commendation Medal with one Gold Star; the Navy Commendation Medal with one Combat “V” and one Star; the Army Commendation Medal; the Combat Action Ribbon with two Gold Stars; the Presidential Unit Citation; the Joint Meritorious Unit Award; the Navy Unit Commendation with two Stars; the Marine Corps Good Conduct Medal with one Star; the Marine Corps Expeditionary Medal; the National Defense Service Medal; the Armed Forces Expeditionary Medal; the Vietnam Service Medal with eight Stars; the Humanitarian Service Medal; the Service Deployment Ribbon with one Star; the RVN Mac Gallantry Cross Color with Palm and Frame;

the RVN MUC Civil Actions Color with Palm and Frame; the RVN Cross of Gallantry with Bronze Star; the RVN Staff Honor Medal 1st Class; the RVN Campaign Medal with Device (60-); the Expert Rifle Qualification Badge 2nd Award; and the Expert Pistol Qualification Badge 5th Award; and

Whereas, LtCol Blankenship's Silver Star Citation reads: "Dennis Ray Blankenship/Home of record: Coalwood, West Virginia/Silver Star: Awarded for actions during the Vietnam War: The President of the United States of America takes pleasure in presenting the Silver Star to SSgt Dennis Ray Blankenship (MCSN: 1690600), United States Marine Corps, for conspicuous gallantry and intrepidity in action while serving with First, Force Reconnaissance Company in the Republic of Vietnam, on May 20, 1966. During the insertion of SSgt Blankenship's reconnaissance platoon deep into enemy Viet Cong territory, they were immediately attacked as they debarked from the helicopter by an estimated ten to twenty Viet Cong, throwing hand grenades and firing automatic weapons. Although painfully wounded by the first grenade explosion, SSgt Blankenship reacted instantly, ordering his troops to return fire and directing their movements into a defensive perimeter, courageously exposing himself to ensure that all his men were accounted for and tactically deployed. Exhibiting daring and selfless disregard for his own safety, SSgt Blankenship marked the enemy positions with white phosphorous grenades and then directed the air strike by supporting aircraft. Displaying professional skill and heroic actions, SSgt Blankenship tightened his defensive perimeter, called for transport helicopters and marked his position. Still defending the landing zone, SSgt Blankenship supervised the loading of his entire platoon on the helicopters, himself being the last to load, and only after his platoon had safely departed the landing zone, did he allow his wounds to be treated. By his daring actions and loyal devotion to duty in the face of personal risk, SSgt Blankenship upheld the finest traditions of the United States Naval Services.

Action Date: May 20, 1986/Service: Marine Corps/Rank: Staff Sergeant/Company: 1st Force Reconnaissance Company"; and

Whereas, LtCol Blankenship passed away on July 16, 2013, surrounded by his children and grandchildren; and

Whereas, It is fitting and proper that U. S. Marine Corps LtCol Dennis Ray Blankenship be remembered and acknowledged for his courageous action and dedicated service to his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of Route 16, beginning at milepost 28.03 and ending at milepost 16.06, in McDowell County the “U. S. Marine Corps LtCol Dennis Ray Blankenship Memorial Road”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs on both ends of the road identifying the road as the “U. S. Marine Corps LtCol Dennis Ray Blankenship Memorial Road”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the family of U. S. Marine Corps LtCol Dennis Ray Blankenship.

Which, under the rules, lies over one day.

Senators Trump, Laird, Plymale, Blair, Yost, Williams, Miller, Beach, Prezioso, Stollings, Kessler and Unger offered the following resolution:

**Senate Resolution No. 25**—Designating February 10, 2015, as “Corrections Day”.

Whereas, The West Virginia Division of Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services are committed to enhancing public safety by

providing safe, secure and humane facilities, operating an effective system of offender re-entry and community supervision, reducing offender recidivism and assisting victims of crime; and

Whereas, The Division of Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services are further committed to providing effective beneficial services that promote positive development and accountability while preserving community safety and sustaining a work environment predicated upon principles of professionalism, with dignity and respect for all; and

Whereas, It is the vision of the Division of Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services to be recognized as innovative leaders in providing quality correctional services; and

Whereas, The adult and juvenile correctional population continues to expand and it is important for agency representatives and policymakers to appreciate the nature and magnitude of the growth; and

Whereas, Previous information provided to this body should assist public officials and agency representatives in planning for the future and developing policies for the management of the West Virginia correctional population, both adult and juvenile, as well as providing adequate pay, benefits and a safe secure workplace for the employees in the correctional system; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 10, 2015, as “Corrections Day”; and, be it

*Further Resolved,* That the Senate recognizes the exceptional service and commitment of the employees of the Division of Corrections, the Regional Jail and Correctional Facility Authority and the Division of Juvenile Services; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Corrections, the Director of the Regional Jail and Correctional Facility Authority and the Director of the Division of Juvenile Services.

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

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

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

Senators Trump, Carmichael, Laird, Kessler, Palumbo, Plymale, Stollings, Walters, Yost, Prezioso, Williams, Miller and Unger offered the following resolution:

**Senate Resolution No. 26**—Designating February 10, 2015, as “Drug Court Day”.

Whereas, The Legislature recognizes the considerable contributions of drug courts to the State of West Virginia; and

Whereas, The first adult drug court was established in the Northern Panhandle in 2005 under the leadership of First Judicial Circuit Judge Martin Gaughan and then-First Circuit Chief Probation Officer Jim Lee. The late Second Judicial Circuit Judge John Madden served as drug court judge in Marshall County. Magistrates David Buzzard of Marshall County, Charles Murphy of Ohio County, William Hicks of Hancock County and the late Deborah Lunsford of Brooke County acted as drug court magistrates; and

Whereas, The first Juvenile Drug Court was established in 1999 in Cabell County, ran for six years and was reestablished in 2007

under the leadership of Sixth Circuit Family Court Judge Patricia A. Keller; and

Whereas, Supreme Court Justice Brent D. Benjamin has shown vision and leadership as he has promoted the statewide development of drug courts since his election in 2004 and especially during his years as Chief Justice in 2009 and 2013, attending graduation ceremonies at every drug court in West Virginia; and

Whereas, Governor Earl Ray Tomblin's consistent, influential support of the expansion of drug courts throughout the state, first as Senate President and, subsequently, as Governor, has been a strategic part of the program's success; and

Whereas, Rigorous evaluation and research has demonstrated that where adult drug courts are implemented consistent with models and procedures developed based on objective studies, they significantly reduce recidivism and substance abuse among high-risk substance abusing offenders; and

Whereas, Adult drug courts that are properly implemented increase the likelihood of successful rehabilitation while simultaneously reducing the cost to the public below the historic costs of addressing these problems in the criminal justice system; and

Whereas, The goal of juvenile drug courts is to intervene early in the life of a young person to prevent future involvement of that young person in the court system; and

Whereas, In 2009, the West Virginia Legislature passed the West Virginia Drug Offender Accountability and Treatment Act (W.Va. Code §62-15-1, *et. seq.*), which codified adult drug courts in West Virginia and which left the administration, control and responsibility for drug courts, mental health courts and other problem-solving courts within the purview of the Supreme Court of Appeals; and

Whereas, In 2011, the West Virginia Legislature passed the West Virginia Juvenile Drug Court Statute (W.Va. Code §49-5-2b), which codified juvenile drug courts in West Virginia and which left the establishment of procedures and forms and the appointment of juvenile drug court judges within the purview of the Supreme Court of Appeals; and

Whereas, In 2013, the West Virginia Legislature passed the Justice Reinvestment Act (W.Va. Code §62-15-4(a)), which requires all judicial circuits to participate in an adult drug court or regional adult drug court program by July 1, 2016; and

Whereas, There are currently 24 adult drug court programs serving 40 counties and 16 juvenile drug court programs serving 20 counties; and

Whereas, There are expected to be 1,000 drug court graduates by the end of 2015; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 10, 2015, as “Drug Court Day”; and, be it

*Further Resolved,* That adult and juvenile drug courts save lives, restore families and are a prudent use of state resources; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Governor, the Chief Justice of the Supreme Court of Appeals and the Administrative Director of the Courts of West Virginia.

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

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senator Kessler regarding the



adoption of Senate Resolution No. 26 were ordered printed in the Appendix to the Journal.

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

Upon expiration of the recess, the Senate reconvened and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 37**, Creating Revised Uniform Arbitration Act.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 37) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2015.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 37) takes effect July 1, 2015.

*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 No. 255**, Eliminating certain boards, councils, committees, panels, task forces and commissions.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 255) 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 No. 262**, Transferring CHIP and Children's Health Insurance Agency from Department of Administration to DHHR.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 262) 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 No. 267**, Repealing code relating to Governor's Office of Health Enhancement and Lifestyle Planning.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 267) 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 No. 295**, Establishing appeal process for DHHR Board of Review and Bureau for Medical Services decisions.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 295) passed with its title.

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

**Com. Sub. for Senate Bill No. 357**, Creating Coal Jobs and Safety Act of 2015.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 9, 2015, for amendments to be received on third reading, was reported by the Clerk.

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

On pages sixty-eight through seventy-two, section six, by striking out all of section six.

Following discussion,

The question being on the adoption of Senator Beach's amendment to the bill (Com. Sub. for S. B. No. 357), the same was put.

The result of the voice vote being inconclusive, Senator Kessler demanded a division of the vote.

A standing vote being taken, there were fifteen "yeas" and nineteen "nays".

Whereupon, Senator Cole (Mr. President) declared Senator Beach's amendment to the bill rejected.

Thereafter, at the request of Senator Miller, and by unanimous consent, the remarks by Senator Beach regarding the adoption of Senator Beach's amendment to Committee Substitute for Senate Bill No. 357 were ordered printed in the Appendix to the Journal.

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

On page fifty, section twenty-two-a, line seventy-one, after the word "board" by striking out the comma and the words "with the written approval of the Attorney General,".

On motions of Senators Trump and Romano, the following amendment to the bill (Com. Sub. for S. B. No. 357) was next reported by the Clerk and adopted:

On page seventy-four, section thirty-seven, line sixteen, after the word “vehicle” by inserting the words “capable of transporting an injured worker”.

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

Engrossed Committee Substitute for Senate Bill No. 357 was then read a third time and put upon its passage.

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 357 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—26.

The nays were: Beach, Facemire, Kessler, Prezioso, Romano, Snyder, Unger and Yost—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 357) passed with its title.

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

Thereafter, at the request of Senator Walters, and by unanimous consent, the remarks by Senators Gaunch and D. Hall regarding the passage of Engrossed Committee Substitute for Senate Bill No. 357 were ordered printed in the Appendix to the Journal.

At the request of Senator Nohe, unanimous consent being granted, the remarks by Senators Kirkendoll and Trump regarding the passage of Engrossed Committee Substitute for Senate Bill No. 357 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2025) 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 No. 2025**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-29, relating to creating the offense of criminal loitering by persons on supervised release; prohibiting loitering by such persons within one thousand feet of a victim's home, schools and facilities providing care and entertainment for children; defining terms; and establishing penalties.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 19**, Specifying minimum early childhood education program instruction days.

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

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

**Com. Sub. for Com. Sub. for Senate Bill No. 60**, Requiring food handler examinations and cards.

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

**Senate Bill No. 238**, Exempting county boards of education from liability arising from unorganized recreation.

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 No. 242**, Creating criminal penalties for certain automated telephone calls during state of emergency or preparedness.

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 No. 361**, Eliminating prevailing hourly wage requirement for construction of public improvements.



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

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

**Eng. House Bill No. 2138**, Adding aircraft operations on private airstrips and farms to the definition of recreational purpose.

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

**Eng. Com. Sub. for House Bill No. 2227**, Relating to the National Coal Heritage Area Authority.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Com. Sub. for Senate Bill No. 243**, Relating to school nutrition standards during state of emergency or preparedness.

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

**Com. Sub. for Senate Bill No. 430**, Permitting mutual orders enjoining certain contact between parties to domestic relations actions.

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

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

The Senate then proceeded to the twelfth order of business.

Remarks were made Senators Walters, Laird, Snyder, Kessler and Blair.

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

At the request of Senator Snyder, unanimous consent being granted, the remarks by Senator Laird were ordered printed in the Appendix to the Journal.

At the request of Senator Unger, and by unanimous consent, the remarks by Senator Kessler were ordered printed in the Appendix to the Journal.

At the request of Senator Kessler, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of Garry Rose, a McMechen volunteer firefighter.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 11, 2015, at 11 a.m.

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## WEDNESDAY, FEBRUARY 11, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jeffrey V. Kessler, a senator from the second district.

Pending the reading of the Journal of Tuesday, February 10, 2015,

On motion of Senator Nohe, 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 that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

On motion of Senator Carmichael, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Carmichael and Palumbo.

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

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2015, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2005**—A Bill to amend and reenact §18A-3-1, §18A-3-1a, §18A-3-1b and §18A-3-2a of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto seven new sections, designated §18A-3-1c, §18A-3-1d, §18A-3-1e, §18A-3-1f, §18A-3-1g, §18A-3-1h and §18A-3-1i, all relating to revising, reorganizing and clarifying provisions regarding teacher certifications, including standard certifications, alternative certifications and certifications for out-of-state teachers; expanding criteria upon which a teacher's certificate may be awarded to a teacher from another state; defining terms relating to alternative programs for the education of teachers; authorizing certain partnerships to provide alternative certification programs; modifying entities eligible to deliver alternative programs; specifying permissible partners; requiring partnership agreements and specifying necessary contents; requiring posting of vacancies; limiting circumstance where partnership may enroll alternative program candidate; requiring or authorizing approval by state board of education under certain circumstances; modifying and specifying criteria and components required for alternative certification program delivery; specifying certain required components of alternative certification program; specifying eligibility criteria for alternative certification program teacher candidate; providing for professional support team to participate in alternative program delivery and specifying responsibilities; modifying the charges which may be imposed for alternative program participation or delivery; specifying required and prohibited acts by certain entities; requiring continued contract renewal of participating program teacher and continued delivery of alternative certification program under certain circumstances and providing exception; providing for evaluation of and recommendation regarding award of professional teaching certificate for alternative program teacher; authorizing appeal of recommendation under certain circumstances; expanding program fields and conditions in which an alternative program teacher may be employed; removing preference among certain applicants when considering applicants for alternative teacher programs; modifying provisions for alternative program teacher to attain professional teaching certificate;

expanding institutions from which professional teaching certificate candidates may have graduated; providing guidelines for alternative programs for certain highly qualified special education teachers; providing for certification under certain circumstances of teachers educated or certified in other states; expanding criteria upon which a teacher's certificate may be awarded to teachers; removing references to internship programs; and requiring legislative rule promulgation by state board.

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

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

**Eng. Com. Sub. for House Bill No. 2011**—A Bill to amend and reenact §23-4-2 of the Code of West Virginia, 1931, as amended, generally relating to a workplace employee injury caused by the deliberate intention of the employer required for the employer to lose immunity from a lawsuit; defining actual knowledge; providing that actual knowledge must be specifically proven by direct evidence and cannot be established by inference, constructive knowledge or proof of what should have been known; establishing that proof of actual knowledge of prior accidents, near misses, safety complaints or citations must be proven by direct evidence and cannot be established by inference or circumstantial evidence; providing that proof of failure to inspect for safety violations must be specifically related the cause of the worker's injury or death; defining a commonly accepted and well-known safety standard within the industry or business of the employer; requiring that if the unsafe working condition relates to a violation of a state or federal safety provision that safety provision must address the specific work, working conditions and hazards involved; defining serious compensable injury; and, providing for consideration of bifurcation of discovery in certain circumstances.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill No. 2217**, Relating to qualifications of the Commissioner of Labor.

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

**Eng. Com. Sub. for House Bill No. 2223**—A Bill to amend and reenact §31-17-1 and §31-17-8 of the Code of West Virginia, 1931, as amended, all relating to mortgage loans subject to the West Virginia Residential Mortgage Lender, Broker and Servicer Act; including certain consumer credit sales in the definitions of “primary mortgage loan” and “subordinate mortgage loan”; defining “consumer credit sale”; and providing an exception to certain provisions of the Act for certain loan modifications or refinancing loans.

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

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

**Eng. House Bill No. 2224**—A Bill to amend and reenact §15-1F-7 of the Code of West Virginia, 1931, as amended, relating to unlawful military organizations; and providing that historical reenactors are not violating the provision prohibiting unlawful military organizations.

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

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

**Eng. House Bill No. 2576**—A Bill to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twelve new sections, designated §5F-2-1a, §5F-2-1b, §5F-2-1c, §5F-2-1d, §5F-2-1e, §5F-2-1f, §5F-2-1g, §5F-2-1h, §5F-2-1i, §5F-2-1j, §5F-2-1k and §5F-2-1l, all relating to the reorganization of certain code provisions that organize the executive branch of state government.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 123**, Exempting motor fuel sales from unfair trade practices.

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

**Com. Sub. for Senate Bill No. 123** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §47-11A-8 of the Code of West Virginia, 1931, as amended, relating to unfair trade practices; and adding gasoline, diesel fuel and blended fuel to the list of products exempted from unfair trade practices.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. No. 123), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 Nos. 141, 142, 143, 144, 145, 183 and 229,** Authorizing Department of Administration promulgate legislative rule relating to Purchasing Division.

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

**Com. Sub. for Senate Bill No. 142** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to promulgation of administrative rules by Department of Administration; legislative mandate or authorization for promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing Department of



Administration to promulgate a legislative rule relating to Purchasing Division; authorizing Department of Administration to promulgate a legislative rule relating to state-owned vehicles; authorizing Department of Administration to promulgate a legislative rule relating to the state plan for the operation of the West Virginia State Agency for Surplus Property; authorizing Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and employer error interest factors; authorizing Consolidated Public Retirement Board to promulgate a legislative rule relating to Deputy Sheriffs Retirement System; authorizing Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick and annual leave; and authorizing Office of Technology to promulgate a legislative rule relating to the procedures for sanitization, retirement and disposition of information technology equipment.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill No. 147**, Authorizing DNR promulgate legislative rule relating to hunting, trapping and fishing license and stamp fees.

With an amendment from the Committee on Natural Resources pending;

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

Respectfully submitted,

Mike Hall,  
*Chair.*

The bill, under the original triple committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on Natural Resources pending.

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

Your Committee on Finance has had under consideration

**Senate Bill No. 219**, Authorizing Agriculture Commissioner promulgate legislative rule relating to Rural Rehabilitation Loan Program.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

The bill, under the original triple committee reference, was then referred to the Committee on the Judiciary.

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

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

**Senate Bill No. 339**, Reducing additional severance tax on coal.

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

**Com. Sub. for Senate Bill No. 339** (originating in the Committee on Energy, Industry and Mining)—A Bill to repeal §11-13V-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §23-2D-5 of said code; and to amend and reenact §29-22A-10 and §29-22A-10b of said code, all relating to sources of funding for Workers' Compensation Debt Reduction Fund.

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,

Jeff Mullins,  
*Chair.*

The bill (Com. Sub. for S. B. No. 339), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 348**, Creating pilot program for drug screening of cash assistance applicants.

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

**Com. Sub. for Senate Bill No. 348** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West

Virginia, 1931, as amended, by adding thereto a new section, designated §9-3-6, relating to creation of a pilot program by Secretary of Department of Health and Human Resources to provide drug screening of applicants for cash assistance for whom they have a reasonable suspicion of drug abuse.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. No. 348), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 378**, Relicensing electricians without retesting under certain circumstances.

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

**Com. Sub. for Senate Bill No. 378** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-3B-6, relating to permitting licensing of any electrician who did not renew his or her electrician's license issued earlier by State Fire Marshal; and renewing license without retesting

if earlier license was not revoked and renewal fee is paid for each year lapsed.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 379**, Creating State Infrastructure Bank Program.

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

**Com. Sub. for Senate Bill No. 379** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all relating to authorizing West Virginia Division of Highways to enter into cooperative agreements with United States Secretary of Transportation to establish infrastructure revolving funds; creating State Infrastructure Fund Program; creating State Infrastructure Fund; and permitting Commissioner of the Division of Highways to propose rules for legislative approval.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. No. 379), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 386**, Excluding mobile x-ray services from health care provider tax.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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

The Senate proceeded to the sixth order of business.

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

**By Senators Prezioso, Beach, D. Hall, Kessler, Leonhardt, Plymale, Walters, Woelfel, Facemire and Stollings:**

**Senate Bill No. 454**—A Bill to amend and reenact §47-2-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §47-2-14a, §47-2-14b, §47-2-14c and §47-2-14d, all relating to trademark counterfeiting and forfeiture; creating crime of trademark counterfeiting; and providing penalties.

Referred to the Committee on the Judiciary.

**By Senators Prezioso, Carmichael, D. Hall, Kessler, Leonhardt, Plymale, Walters, Williams, Palumbo and Stollings:**

**Senate Bill No. 455**—A Bill to amend and reenact §12-3A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-5-4, §18B-5-6 and §18B-5-7 of said code; and to amend said code by adding thereto a new section, designated §18B-5-4a, all relating to public higher education procurement and payment generally; receipting of electronic commerce purchases; purchase or acquisition of materials, supplies, equipment, services and printing at institutions of higher education; construction projects at Marshall University and West Virginia University; design-build procurement at institutions of higher education; and disposition of obsolete and unusable equipment, surplus supplies and other needed materials at institutions of higher education.

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

**By Senators Takubo, Gaunch and Stollings:**

**Senate Bill No. 456**—A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; allowing admissibility of letters of merit in actions against health care providers; and allowing testimony of a health care provider at trial or during a deposition upon issuing a letter of merit.

Referred to the Committee on the Judiciary.

**By Senators Plymale, Walters and Nohe:**

**Senate Bill No. 457**—A Bill to amend and reenact §18A-3-2a of the Code of West Virginia, 1931, as amended, relating to selection of athletic coaches or other extracurricular activities coaches in West Virginia public schools.

Referred to the Committee on Education.

**By Senators Stollings and Kessler:**

**Senate Bill No. 458**—A Bill to amend and reenact §60A-2-210 and §60A-2-212 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60A-10-2, §60A-10-4 and §60A-10-7 of said code, all relating to controlling methamphetamine; requiring prescription to dispense drug products that contain active ingredient ephedrine, pseudoephedrine, phenylpropanolamine and other precursors of methamphetamine; moving certain drug products from Schedule V to Schedule IV; providing exception for drug products that cannot be feasibly converted into methamphetamine; defining terms; prohibiting pharmacies from selling certain drugs that can be used in production of methamphetamine without a prescription; creating criminal offense for possession of certain substances without a prescription with intent to transfer to another to make methamphetamine; removing outdated language; providing criminal penalties; and providing rule-making authority.

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

Senators Prezioso, D. Hall, Plymale, Williams and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 25**—Requesting the Division of Highways name bridge number 17-79-117.174, (17A257, 17A258), latitude 39.25769, longitude -80.28684, on Interstate 79, in Anmoore, Harrison County, heading south the “U. S. Army PFC



Nick A. Cavallaro Memorial Bridge” and heading north the “U. S. Army SSG Benjamin T. Portaro Memorial Bridge”.

Whereas, Nick Cavallaro was born in Caulonia, Reggio Calabria, Italy, October 28, 1920, and came to the United States in August, 1922, with his brother Celestino (Charley) and mother Maria Rosa Strangio Cavallaro and settled in Anmoore, West Virginia; and

Whereas, Benjamin Portaro (Nick Cavallaro’s cousin) was born in Caulonia, Reggio Calabria, Italy, March 8, 1921, and immigrated to Anmoore, West Virginia, with his family; and

Whereas, When World War II broke out, Nick Cavallaro and Benjamin Portaro both enlisted in the United States Army; and

Whereas, Nick Cavallaro participated in battles in North Africa and Sicily, Italy, and was one of the thousands of paratroopers dropped behind German lines the night before the invasion of Normandy, France; and

Whereas, Nick Cavallaro was scheduled to come home on leave when the Battle of the Bulge occurred and his leave was canceled; and

Whereas, Sadly, Nick Cavallaro lost his life in the battle at Fosse, Belgium, on January 3, 1945, leaving behind his mother, brother, sister Louise and a host of other family and friends; and

Whereas, Nick Cavallaro was awarded two Purple Heart Medals, the Bronze Star Medal and the Combat Infantryman Badge, as well as various medals by the French and Belgian governments; and

Whereas, Benjamin Portaro was a staff sergeant when he was discharged, having fought in two battles in France before fighting at the Battle of the Bulge in Belgium, where he was captured by German forces and eventually escaped; and

Whereas, Benjamin Portaro was awarded the Bronze Star Medal, Purple Heart Medal, POW Medal, Good Conduct Medal, American Campaign Medal, European-African-Middle Eastern Campaign Medal with two bronze service stars, World War II Victory Medal, Combat Infantryman Badge 1st Award, Honorable Service Lapel Button WWII and the Marksman Badge with Rifle Bar; and

Whereas, Nick Cavallaro and Benjamin Portaro were Italian immigrants, cousins and citizens of Anmoore, West Virginia, and fought for their adopted country, the United States of America; and

Whereas, It is fitting to recognize the service and sacrifice of cousins Nick Cavallaro and Benjamin Portaro by naming this bridge in their honor as an everlasting tribute to their memory; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-79-117.174, (17A257, 17A258), latitude 39.25769, longitude -80.28684, on Interstate 79, in Anmoore, Harrison County, heading south the "U. S. Army PFC Nick A. Cavallaro Memorial Bridge" and heading north the "U. S. Army SSG Benjamin T. Portaro Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge heading south as the "U. S. Army PFC Nick A. Cavallaro Memorial Bridge" and heading north the "U. S. Army SSG Benjamin T. Portaro Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senator Stollings offered the following resolution:

**Senate Concurrent Resolution No. 26**—Requesting the Division of Highways name bridge number 3-17-8.80, (3A087) (+38.05862, -81.82542) locally known as the Low Gap Bridge, crossing the Spruce Fork of the Little Coal River on Route 17 in Low Gap, Boone County, the “USMC PFC Marshall Lee King Memorial Bridge”.

Whereas, PFC King was born on July 5, 1924, in Coalwood, McDowell County, and grew up in Low Gap, Boone County. He served in the U. S. Marine Corps and was killed in action on May 19, 1945, on the Ryukyu Islands of Okinawa. He was awarded the Purple Heart, the Asiatic-Pacific Campaign Medal and World War II Victory Medal; and

Whereas, It is fitting and proper that PFC King be remembered and acknowledged for his courageous action and dedicated service to his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 3-17-8.80, (3A087) (+38.05862, -81.82542) locally known as the Low Gap Bridge, crossing the Spruce Fork of the Little Coal River on Route 17 in Low Gap, Boone County, the “USMC PFC Marshall Lee King Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends of the bridge identifying it as the “USMC PFC Marshall Lee King Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the surviving family of PFC Marshall Lee King.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 23**, Requesting DOH name bridge in McDowell County “U. S. Army SFC Anthony Barton Memorial Bridge”.

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

**Senate Concurrent Resolution No. 24**, Requesting DOH name portion of Rt. 16 in McDowell County “U. S. Marine Corps LtCol Dennis Ray Blankenship Memorial Road”.

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Com. Sub. for Senate Bill No. 60**, Requiring food handler examinations and cards.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 60) 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 No. 238**, Exempting county boards of education from liability arising from unorganized recreation.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 238) passed.

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

**Eng. Senate Bill No. 238**—A Bill to amend and reenact §18-5-19 and §18-5-19d of the Code of West Virginia, 1931, as amended, all relating to limiting the liability of county boards of education for loss or injury from the use of school property made available for unorganized recreation.

*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 No. 242**, Creating criminal penalties for certain automated telephone calls during state of emergency or preparedness.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 242) passed with its title.

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

**Eng. House Bill No. 2138**, Adding aircraft operations on private airstrips and farms to the definition of recreational purpose.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2138) passed with its title.

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

**Eng. Com. Sub. for House Bill No. 2227**, Relating to the National Coal Heritage Area Authority.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2227) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 19**, Specifying minimum early childhood education program instruction days.

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

On motion of Senator Sypolt, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page five, section forty-four, line sixty-six, by striking out the word “five” and inserting in lieu thereof the word “two”;

On page six, section forty-four, line seventy-eight, by striking out the word “five” and inserting in lieu thereof the word “two”;

And,

On page six, section forty-four, line seventy-nine, by striking out the word “forty-eight” and inserting in lieu thereof the word “forty-six”.

The bill (Com. Sub. for S. B. No. 19), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill No. 243**, Relating to school nutrition standards during state of emergency or preparedness.

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 No. 361**, Eliminating prevailing hourly wage requirement for construction of public improvements.



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

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

**Com. Sub. for Senate Bill No. 430**, Permitting mutual orders enjoining certain contact between parties to domestic relations actions.

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

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

On page four, section two-a, line fourteen, after the word “section” by inserting a comma and the words “which shall be supported by a finding by the court that neither party to the action is currently engaging in behavior constituting domestic violence,”.

The bill (Com. Sub. for S. B. No. 430), as amended, was then 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:

**Senate Bill No. 298**, Clarifying funds within Public Employees Retirement Fund.

**Senate Bill No. 299**, Clarifying start date of State Police duty-related disability payments.

**Senate Bill No. 302**, Relating to state retirement plans.

**Com. Sub. for Senate Bill No. 315**, Relating to civil actions filed under Consumer Protection Act.

**Eng. House Bill No. 2200**, Revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare.

And,

**Eng. House Bill No. 2201**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Woelfel and Laird.

Thereafter, at the request of Senator Miller, and by unanimous consent, the remarks by Senators Woelfel and Laird were ordered printed in the Appendix to the Journal.

At the request of Senator Woelfel, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of Kayla Mueller, a United States aid worker killed while being held captive by ISIS.

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

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 12, 2015, at 11 a.m.

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## THURSDAY, FEBRUARY 12, 2015

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Deborah Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable John R. Unger II, a senator from the sixteenth district.

Pending the reading of the Journal of Wednesday, February 11, 2015,

On motion of Senator Leonhardt, 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 amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2015, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill No. 7**, Requiring CPR and care for conscious choking instruction in public schools.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

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

On page two, by striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-9. Required courses of instruction.**

(a) In all public, private, parochial and denominational schools located within this state, there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the State of West Virginia. The schools shall require regular courses of instruction by the completion of the twelfth grade in the history of the United States, in civics, in the Constitution of the United States and in the government of the State of West Virginia for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of political and economic democracy in America and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia. The state board shall, with the advice of the state superintendent, prescribe the courses of study covering these subjects for the public schools. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe courses of study for the schools under their control and supervision similar to those required for the public schools. To further such study, every high school student eligible by age for voter registration shall be afforded the opportunity to register to vote pursuant to section twenty-two, article two, chapter three of this code.

(b) The state board shall cause to be taught in all of the public schools of this state the subject of health education, including instruction in any of the grades six through twelve as considered appropriate by the county board, on: (1) The prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases; (2) substance abuse,

including the nature of alcoholic drinks and narcotics, tobacco products and other potentially harmful drugs, with special instruction as to their effect upon the human system and upon society in general; (3) the importance of healthy eating and physical activity to maintaining healthy weight; and (4) education concerning CPR cardiopulmonary resuscitation and first aid, including instruction in the care for conscious choking, and recognition of symptoms of drug or alcohol overdose. The course curriculum requirements and materials for the instruction shall be adopted by the state board by rule in consultation with the Department of Health and Human Resources. The state board shall prescribe a standardized health education assessment to be administered within health education classes to measure student health knowledge and program effectiveness.

(c) An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in the instruction. The parent or guardian may exempt the child from participation in the instruction by giving notice to that effect in writing to the school principal.

~~(c) Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding \$10 for each violation, and each week during which there is a violation shall constitute a separate offense. If the person so convicted occupies a position in connection with the public schools, that person shall automatically be removed from that position and shall be ineligible for reappointment to that or a similar position for the period of one year.~~

(d) After July 1, 2015, the required instruction in cardiopulmonary resuscitation in subsection (b) of this section shall include at least thirty minutes of instruction for each student prior to graduation on the proper administration of cardiopulmonary resuscitation (CPR) and the psychomotor skills necessary to perform cardiopulmonary

resuscitation. The term “psychomotor skills” means the use of hands-on practicing to support cognitive learning. Cognitive-only training does not qualify as “psychomotor skills”. The CPR instruction must be based on an instructional program established by the American Heart Association or the American Red Cross or another program which is nationally recognized and uses the most current national evidence-based Emergency Cardiovascular Care guidelines and incorporates psychomotor skills development into the instruction. A licensed teacher is not required to be a certified trainer of cardiopulmonary resuscitation to facilitate, provide or oversee such instruction. The instruction may be given by community members, such as emergency medical technicians, paramedics, police officers, firefighters, licensed nurses and representatives of the American Heart Association or the American Red Cross. These community members are encouraged to provide necessary training and instructional resources such as cardiopulmonary resuscitation kits and other material at no cost to the schools. The requirements of this subsection are minimum requirements. A local school district may offer CPR instruction for longer periods of time and may enhance the curriculum and training components, including, but not limited to, incorporating into the instruction the use of an automated external defibrillator (AED): *Provided*, That any instruction that results in a certification being earned must be taught by an authorized CPR/AED instructor.;

And,

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

**Eng. Com. Sub. for Senate Bill No. 7**—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to required instruction in cardiopulmonary resuscitation (CPR) and first aid in public school health education subjects; adding care for conscious choking first aid instruction; adding requirement for recognition of symptoms of drug and alcohol overdose in health curriculum; eliminating misdemeanor crime and penalties for violation of section; requiring minimum thirty minutes

instruction prior to graduation in cardiopulmonary resuscitation and psychomotor skills necessary to perform after certain date; defining “psychomotor skills”; requiring CPR instruction be based on program established by American Heart Association or American Red Cross or other recognized guidelines; authorizing various persons and community members by whom instruction may be given; encouraging such community members to provide training and instructional resources; authorizing school districts to exceed minimum requirements; and requiring authorized CPR/automated external defibrillator instructor for instruction that results in certification being earned.

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

Engrossed Committee Substitute for Senate Bill No. 7, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 7) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect July 1, 2015.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 7) takes effect July 1, 2015.

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

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

**Eng. Com. Sub. for Senate Bill No. 335**, Creating Access to Opioid Antagonists Act.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

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

On page seven, section three, line thirty-one, after the word “treatment” by inserting the words “at a medical facility”;

On page nine, section five, line nine, by striking out the word “four” and inserting in lieu thereof the word “three”;



On page twelve, section six, line fifty-five, by striking out the word “may” and inserting in lieu thereof the word “shall”;

And,

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

**Eng. Com. Sub. for Senate Bill No. 335**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5 and §16-46-6; and to amend and reenact §30-1-7a of said code, all relating generally to accessing and administering opioid antagonists in overdose situations; defining terms; establishing objectives and purpose; allowing licensed health care providers to prescribe opioid antagonist to initial responders and certain individuals; allowing initial responders to possess and administer opioid antagonists; providing for limited liability for initial responders; providing for limited liability for licensed health care providers who prescribe opioid antagonist in accordance with this article; providing for limited liability for anyone who possesses and administers an opioid antagonist; establishing responsibility of licensed health care providers to provide educational materials on overdose prevention and administration of opioid antagonist; providing for data collection and reporting; providing for training requirements; and providing for rule-making authority.

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

Engrossed Committee Substitute for Senate Bill No. 335, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder,

Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 335) passed with its House of Delegates amended title.

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

A message from The Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

On motion of Senator Carmichael, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Nohe, Gaunch and Williams.

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

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

**Eng. Com. Sub. for House Bill No. 2266**—A Bill to repeal §44-2-2 and §44-2-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §44-1-14a of said code, relating to the publication requirements of the administration of estates.

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

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

**Eng. House Bill No. 2370**—A Bill to amend and reenact §18-2-26 of the Code of West Virginia, 1931, as amended, relating to increasing the powers of regional councils for governance of regional education service agencies; providing for revision of state board rule; requiring selection of executive director from nominations with certain limitations; requiring consultation with councils on development of job description, qualifications and procedures; requiring provisions for annual performance evaluations with portion of rating determined by council; expanding role of council; stating ability of agencies to cooperate, share or combine services with each other; updating references to computer programs and systems and removing outdated provisions; removing prescriptive provisions for computer installation, maintenance and repair; and removing provisions relating to repealed section on professional development.

Referred to the Committee on Education.

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

**Eng. House Bill No. 2444**—A Bill to amend and reenact the §5B-2-5 of the Code of West Virginia, 1931, as amended, relating to providing assistance to small businesses; requiring the West Virginia Development Office to assign economic development office representatives to serve as Small Business Allies; identifying duties and services to be provided to small businesses and individuals desiring to establish and operate small businesses; requiring that the director of the West Virginia Development Office report biennially and offer recommendations for reducing the burdens imposed on small businesses; and further identifying the report's contents.

Referred to the Committee on Economic Development.

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

**Eng. Com. Sub. for House Bill No. 2568**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2M-1, §16-2M-2, §16-2M-3, §16-2M-4, §16-2M-5, §16-2M-6 and §16-2M-7, all relating to prohibiting certain abortions; stating legislative findings; defining terms; requiring a calculation of gestational age before an abortion is performed or attempted, except in certain cases; prohibiting abortions when the gestational age of the fetus reaches pain capable gestational age; creating certain exceptions to that prohibition; requiring a physician performing an abortion of a fetus that has reached pain capable gestational age to use the process most likely to allow the fetus to survive, with certain exceptions; requiring reporting of all completed abortions and that the reports contain certain information regarding the abortion; requiring an annual public report that provides statistics of the abortions while keeping the identities of the persons involved confidential; deeming violations by physicians and other licensed medical practitioners to be a breach of the standard of care and outside the scope of practice that is permitted by law; allowing for loss of license to practice for violation; constituting violations for nonphysician and nonlicensed medical practitioners as unauthorized

practice of medicine and subject to criminal penalties; preserving existing legal remedies for violations; and clarifying that no penalty may be assessed against a patient; and making provisions severable.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

Senator Boley, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Bill No. 85**, Increasing tax exemption for military, National Guard and reserve retirement income.

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

**Com. Sub. for Senate Bill No. 85** (originating in the Committee on Military)—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to personal income tax; increasing adjustment to gross income for military retirement income of state residents; and deleting outdated 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,

Donna J. Boley,  
*Vice Chair.*

The bill (Com. Sub. for S. B. No. 85), under the original double committee reference, was then referred to the Committee on Finance.

Senator Leonhardt, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Bill No. 109**, Exempting certain veterans' organizations and active duty military organizations from indoor smoking rules.

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

**Com. Sub. for Senate Bill No. 109** (originating in the Committee on Military)—A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-2-16, all relating to local indoor smoking prohibition; exempting certain veterans' organizations and active duty United States military organizations from local indoor smoking prohibition; and establishing a procedure for exempting certain establishments from local indoor smoking prohibition.

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,

Kent Leonhardt,  
*Chair.*

The bill (Com. Sub. for S. B. No. 109), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Leonhardt, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Bill No. 122**, Adopting federal definition for disabled veterans' preference in civil service hiring and state contract vendor bidding.

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

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

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

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

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 165**, Authorizing DEP promulgate legislative rule relating to waste management.

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

Respectfully submitted,

Robert Karnes,  
*Chair.*

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

Senator Takubo, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

**Senate Bill No. 273**, Relating to brewer, resident brewer and brewpub licensing and operations.

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

**Com. Sub. for Senate Bill No. 273** (originating in the Committee on Economic Development)—A Bill to amend and reenact §11-16-3, §11-16-6, §11-16-9 and §11-16-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §11-16-6a and §11-16-6b, all relating to brewer, resident brewer and brewpub licensing and operations; clarifying definitions; providing legislative findings; authorizing licensed brewers and resident brewers to offer complimentary nonintoxicating beer and nonintoxicating craft beer samples; authorizing licensed brewers and resident brewers to sell growlers with limitations; authorizing licensed brewpubs, Class A retail dealers, Class B retail dealers, private clubs, Class A retail licensees and Class B retail licensees to sell growlers with limitations; clarifying licensing and operational requirements for brewers, resident brewers and brewpubs; changing the license fee schedule for certain brewers and resident brewers; decreasing the license fee for brewpubs; requiring brewers and resident brewers to submit annual reports of production; and removing brewpub bonding requirements.

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



Respectfully submitted,

Tom Takubo,  
*Chair.*

The bill (Com. Sub. for S. B. No. 273), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 No. 274**, Relating to TANF program.

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

**Com. Sub. for Senate Bill No. 274** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §9-9-11 of the Code of West Virginia, 1931, as amended, relating to Temporary Assistance for Needy Families program; directing Secretary of Department of Health and Human Resources promulgate emergency and legislative rules setting forth schedule of sanctions; identifying certain factors and goals that secretary is to consider when setting schedule of sanctions; directing secretary promulgate legislative rules governing what constitutes de minimis violations and those violations subject to sanctions and maximum penalties; setting forth reporting requirement to Legislative Oversight Commission on Health and Human Resources Accountability regarding sanctions; and providing copies of reports be provided to President of the Senate and Speaker of the House.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill No. 382**, Declaring claims against state.

**Eng. House Bill No. 2114**, Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act.

And,

**Eng. House Bill No. 2115**, Updating the meaning of the term “federal taxable income” and certain other terms used in the West Virginia Corporation Net Income Tax Act.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 385**, Relating to regulation of transportation network companies.

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

**Com. Sub. for Senate Bill No. 385** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17 and §17-29-18, all relating to regulation of transportation network companies; defining terms; establishing a permit and permit fee; establishing requirements relating to insurance, disclosures, transportation network companies and its drivers, safety and records; limiting controlling authority; and permitting Commissioner of the Division of Motor Vehicles to propose rules for legislative approval.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. No. 385), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 412**, Relating to Real Estate Commission complaint filings.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

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

Your Committee on Government Organization has had under consideration

**Senate Bill No. 429**, Relating to one-day special charitable event license to sell nonintoxicating beer.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

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 Concurrent Resolution No. 10**, Designating September each year as US Constitution Month.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senators Walters, Kessler, Nohe, Williams, Palumbo, Boso and Stollings:**

**Senate Bill No. 459**—A Bill to amend and reenact §31-15A-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto sixteen new sections, designated §31-15A-9a, §31-15A-9b, §31-15A-10a, §31-15A-11a, §31-15A-12a, §31-15A-13a, §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a, all relating generally to development of broadband middle mile infrastructure in the state; defining new terms; creating a separate infrastructure fund for broadband middle mile infrastructure projects; providing for deposits and expenditures; setting forth additional powers to West Virginia Network for Educational Telecomputing and Water Development Authority; creating Infrastructure Fund for Broadband Middle Mile Development; providing for disposition of funds on termination or dissolution of authority; providing that broadband middle mile projects funded by authority are public improvements; authorizing issuance of broadband

middle mile revenue bonds; creating Broadband Middle Mile Infrastructure Debt Service Fund; providing for funding of debt service fund; specifying requirements for issuance of bonds; providing for contents of trust agreement and trustee for bonds; specifying remedies available to bondholders, noteholders and trustee; making broadband middle mile infrastructure revenue bonds lawful investments; providing for purchase, cancellation and refunding of bonds; and declaring that bonds are not state debts and are exempt from taxation.

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

**By Senators Ferns, D. Hall and Stollings:**

**Senate Bill No. 460**—A Bill to amend and reenact §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West Virginia, 1931, as amended, all relating to modifying requirements that allow a child witness to testify by closed circuit television.

Referred to the Committee on the Judiciary.

**By Senators Walters, D. Hall and Plymale:**

**Senate Bill No. 461**—A Bill to amend and reenact §11-14-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-14C-2 of said code, all relating to definitions of motor carrier and various types of fuel; and exempting fuel used to propel railroad locomotives from Gasoline and Special Fuel Excise Tax and Motor Fuel Excise Tax.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 462**—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2015, in the amount of \$1,000,000 from the Auditor's Office - Purchasing Card Administration Fund, fund 1234, fiscal year 2015, organization 1200.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 463**—A Bill making a supplementary appropriation from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Health and Human Resources, Division of Human Services - Health Care Provider Tax - Medicaid State Share Fund, fund 5090, fiscal year 2015, organization 0511, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 464**—A Bill making a supplementary appropriation from the State Fund, State Excess Lottery Revenue Fund, to the Division of Human Services, fund 5365, fiscal year 2015, organization 0511, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 465**—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2015, in the amount of \$1,500,000 from the Department of Military Affairs and Public Safety, Division of Corrections - Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 59200, and in the amount of \$400,103.30 from the Department of Transportation, Division of Public Transit, fund 0510, fiscal year 2013, organization 0805, appropriation 25800, and in the amount of \$1,329.28 from the Department of Health and Human Resources, Division of Health, Uniform Health Professional Data Collection Systems Fund, fund

5109, fiscal year 2015, organization 0506, and in the amount of \$478.81 from the Department of Health and Human Resources, Division of Health, Commonly Based Fetal and Infant Mortality Review Fund, fund 5131, fiscal year 2015, organization 0506, and in the amount of \$18,609.27 from the Department of Health and Human Resources, Division of Health, Claude Worthington Benedum Foundation Fund, fund 5132, fiscal year 2015, organization 0506, and in the amount of \$2,500 from the Department of Health and Human Resources, Division of Health, Behavioral Health Clearing Fund, fund 5151, fiscal year 2015, organization 0506, and in the amount of \$13,193.90 from the Department of Health and Human Resources, Division of Health, Special Education Title I Fund, fund 5161, fiscal year 2015, organization 0506, and in the amount of \$45 from the Department of Health and Human Resources, Division of Health, Rural Health Networking Project Fund, fund 5184, fiscal year 2015, organization 0506, and in the amount of \$1,400,000 from the Department of Health and Human Resources, Division of Health, Vital Statistics Improvement Fund, fund 5225, fiscal year 2015, organization 0506, and in the amount of \$6,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - Health Care Cost Review Fund, fund 5375, fiscal year 2015, organization 0507, and in the amount of \$4,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Information Network Account, fund 5380, fiscal year 2015, organization 0507, and in the amount of \$4,976.37 from the Department of Health and Human Resources, Division of Human Services, Special County General Relief Fund, fund 5054, fiscal year 2015, organization 0511, and in the amount of \$18,118.01 from the Department of Health and Human Resources, Division of Human Services, Individual and Family Grant Program, fund 5055, fiscal year 2015, organization 0511, and in the amount of \$4,000,000 from the Department of Health and Human Resources, Division of Human Services, Medicaid Fraud Control Fund, fund 5141, fiscal year 2015, organization 0511, and in the amount of \$223,310.69 from the Department of Health and Human Resources, Division of Human Services - Marriage Education Fund, fund 5490, fiscal year 2015, organization 0511, and in the amount of



\$12,500,000 from the Department of Revenue, Insurance Commissioner, fund 7152, fiscal year 2015, organization 0704.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 466**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Commerce, Workforce West Virginia - Workforce Investment Act, fund 8749, fiscal year 2015, organization 0323, and to the Department of Commerce, Office of the Secretary - Office of Economic Opportunity - Community Services, fund 8781, fiscal year 2015, organization 0327, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 467**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Agriculture, State Conservation Committee, fund 8783, fiscal year 2015, organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 468**—A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2015, in the amount of \$5,650,000 from the Joint Expenses,

fund 0175, fiscal year 2008, organization 2300, appropriation 64200, and in the amount of \$15,000,000 from the Joint Expenses, fund 0175, fiscal year 2009, organization 2300, appropriation 64200, and in the amount of \$251,657.05 from the Department of Health and Human Resources, Division of Human Services, TRIP Fund, fund 5070, fiscal year 2015, organization 0511.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 469**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Environmental Protection, Division of Environmental Protection, fund 8708, fiscal year 2015, organization 0313, by supplementing and amending the appropriations for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 470**—A Bill making a supplementary appropriation of Lottery Net Profits from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the State Department of Education - School Building Authority - Debt Service Fund, fund 3963, fiscal year 2015, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 471**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year

ending June 30, 2015, to the Department of Health and Human Resources, Human Rights Commission, fund 8725, fiscal year 2015, organization 0510, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2015, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 472–A** Bill making a supplementary appropriation from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Transportation, Division of Motor Vehicles - Motor Vehicle Fees Fund, fund 8223, fiscal year 2015, organization 0802, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 473–A** Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Military Affairs and Public Safety, West Virginia State Police, fund 8741, fiscal year 2015, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 474–A** Bill making a supplementary appropriation of Lottery Net Profits from the balance of moneys remaining as an

unappropriated balance in Lottery Net Profits to the Bureau of Senior Services - Lottery Senior Citizens Fund, fund 5405, fiscal year 2015, organization 0508, by supplementing and amending the appropriations for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 475**—A Bill making a supplementary appropriation from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Military Affairs and Public Safety, West Virginia Division of Corrections - Parolee Supervision Fees, fund 6362, fiscal year 2015, organization 0608, and to the Department of Military Affairs and Public Safety, West Virginia State Police - Motor Vehicle Inspection Fund, fund 6501, fiscal year 2015, organization 0612, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 476**—A Bill making a supplementary appropriation from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2015, to the Department of Administration, Division of Purchasing - Purchasing Improvement Fund, fund 2264, fiscal year 2015, organization 0213, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 477**—A Bill supplementing, amending, decreasing and increasing items of the existing appropriations from the State

Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2015, organization 0803, for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

**By Senators Plymale, Stollings, Snyder, Romano, Williams and Kessler:**

**Senate Bill No. 478**—A Bill to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3 and §11-15-18b of said code; to amend said code by adding thereto a new section, designated §11-15-27; to amend and reenact §17-3-1 of said code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding thereto a new section, designated §17A-10-17; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-8 and §17B-2-11 of said code; to amend and reenact §17D-2-2 of said code; and to amend said code by adding thereto a new article, designated §31-15D-1, §31-15D-2, §31-15D-3, §31-15D-4, §31-15D-5, §31-15D-6, §31-15D-7, §31-15D-8, §31-15D-9 and §31-15D-10, all relating to generating and maintaining revenue for maintenance of roads and infrastructure through increases in certain taxes, changes in motor vehicle and license fees and the formation of a state infrastructure bank; changing methods for calculating taxes on motor fuels; raising rate of tax on diesel fuel; raising consumer's sales tax and dedicating increased revenue to State Road Fund; dedicating taxes from motor vehicle repairs, parts and service to State Road Fund; increasing registration fees for certain motor vehicles; increasing fees for issuance and duplication of various documents by the division, including titles, registrations, plates and decals; increasing fee for recording liens and releases; increasing vehicle transfer fees; establishing an additional fee for registration of alternative fuel vehicles; increasing fees for issuance, duplication and renewal of driver's licenses; creating West Virginia Transportation

Infrastructure Bank; creating a governing board of the bank; providing for appointment, terms, qualifications, compensation and expenses of board members; setting powers and duties of the bank; creating West Virginia Transportation Infrastructure Bank Fund; defining deposits and parameters of capitalization; outlining requirements for applications for, and administration of, loans and other financial assistance and for approval of qualified projects; requiring annual reports to Governor and Legislature; requiring annual audits; and removing outdated language.

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

Senators Maynard, Kirkendoll and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 27**—Requesting the Division of Highways name portion of WV Route 152 in Wayne County from its intersection with U. S. Route 52 near Crum to the Cabell County line the “Wayne County Veterans Memorial Highway”.

Whereas, A large number of Wayne County men and women have served in the nation’s armed forces; and

Whereas, Wayne County veterans have been wounded or lost their lives in military service; and

Whereas, The citizens of Wayne County wish to honor the memory and sacrifices of its many veterans with a fitting memorial; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name portion of WV Route 152 in Wayne County from its intersection with U. S. Route 52 near Crum to the Cabell County line the “Wayne County Veterans Memorial Highway”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs at both ends of the highway identifying it as the “Wayne County Veterans Memorial Highway”; and, be it

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

Which, under the rules, lies over one day.

Senators Sypolt, Stollings, D. Hall, Prezioso and Williams offered the following resolution:

**Senate Resolution No. 27**—Recognizing the Youth Leadership Association for helping West Virginia youth reach their full potential in developing their leadership and citizenship skills for a lifelong commitment to public service.

Whereas, The Youth Leadership Association, formerly known as HI-Y, has partnered with the State of West Virginia for more than one hundred years; and

Whereas, This partnership engages youth in local Youth Leadership Association civic leadership groups, the teen Entrepreneurship and Leadership Summits, as well as the Governor’s Youth Opportunity Camps for low income children at Camp Horseshoe, Youth Leadership Association Model United Nations, and 8th Grade Youth and Government Seminars at the Capitol; and

Whereas, High school student senators, delegates, justices, lobbyists, press, pages and officers will take part in the 58th Youth Leadership Association Youth in Government Student Legislature and Supreme Court at the Capitol in Charleston, West Virginia, on April 24 - 26, 2015; and

Whereas, The Youth Leadership Association's youth development process produces new civic leadership for our schools, communities and state, as well as business and institutional leadership, educational achievement, entrepreneurship, and leadership to government at every level; and

Whereas, The student officers of the Youth Leadership Association Youth in Government program represent hundreds of young West Virginians preparing for life-long citizenship and taking volunteer actions today to build better futures for all across the Mountain State; and

Whereas, The Youth Leadership Association Youth in Government program, created in 1958 by the late Governor Cecil Underwood, is a program that still has broad based support, including support from Governor Earl Ray Tomblin, Senate President William P. Cole III, House Speaker Tim Armstead, Youth in Government Chairman Senator Roman W. Prezioso, Jr., and members of both the Senate and House of Delegates; and

Whereas, The Senate recognizes and expresses its appreciation to the Youth Leadership Association and all the hundreds of adult volunteers, schools and community organizations that make it possible for West Virginia youth and the State of West Virginia to benefit from the Youth Leadership Association's youth leadership development; and

Whereas, The West Virginia Senate recognizes the 2015 Youth Leadership Association Youth in Government officers, Governor Tyler Jenkins, President of the Senate Chi Chan, Speaker of the House Michael Winters, and Chief Justice Corrin Lewis for their dedication and commitment to the program; and

Whereas, The Senate expresses its sincere appreciation and thanks to Tyler Jenkins, Chi Chan, Michael Winters, Corrin Lewis and the hundreds of West Virginia Youth Leadership Association youth they represent for taking strides to build a better West Virginia today and for the future; therefore, be it



*Resolved by the Senate:*

That the Senate hereby recognizes the Youth Leadership Association for helping West Virginia youth reach their full potential in developing their leadership and citizenship skills for a lifelong commitment to public service; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of the Youth Leadership Association.

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

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

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

Senators Sypolt, Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Stollings, Takubo, Unger, Walters, Williams, Woelfel and Yost offered the following resolution:

**Senate Resolution No. 28**—Designating February 12, 2015, as “West Virginia Home School Day” at the Capitol.

Whereas, The State of West Virginia is committed to excellence in education; and

Whereas, The State of West Virginia recognizes that parental involvement and individualized attention to educational success are unique and basic components of home schooling; and

Whereas, Home-schooled students exhibit self-confidence and good citizenship and are prepared academically to meet the challenges of today's society; and

Whereas, Contemporary studies continue to confirm that children who are educated at home score exceptionally well on national achievement tests; and

Whereas, Home-schooled students have been shown to be competitive with publicly and privately schooled students at the college level; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 12, 2015, as "West Virginia Home School Day" at the Capitol; and, be it

*Further Resolved,* That the Senate recognizes students, teachers and families involved with home schooling in West Virginia for their dedication to excellence in education; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Home Educators Association and the Christian Home Educators of West Virginia.

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

At the request of Senator Carmichael, and by unanimous consent, the Senate returned to the fourth order of business.

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 No. 479** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §51-2A-3 of the Code of West Virginia, 1931, as amended, relating to adding family court judges to certain family court circuits of the state; providing for terms of office; and providing for election of new family court judges at the regular elections held in the year 2016.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Trump, unanimous consent being granted, the bill (S. B. No. 479) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration.

On motion of Senator Trump, the bill was referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 25**, Requesting DOH name bridge in Harrison County “U. S. Army PFC Nick A. Cavallaro Memorial Bridge” and “U. S. Army SSG Benjamin T. Portaro Memorial Bridge”.

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

**Senate Concurrent Resolution No. 26**, Requesting DOH name bridge in Boone County “USMC PFC Marshall Lee King 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.

**Eng. Com. Sub. for Senate Bill No. 19**, Specifying minimum early childhood education program instruction days.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 19) passed with its title.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill No. 243**, Relating to school nutrition standards during state of emergency or preparedness.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 243) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 243) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 361**, Eliminating prevailing hourly wage requirement for construction of public improvements.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, February 11, 2015, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Blair, Carmichael, Plymale, Palumbo, Williams, Gaunch, Takubo, Stollings, Prezioso, Kessler, M. Hall and Ferns, the following amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

That §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-8, §21-5A-10 and §21-5A-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §21-5A-12, all to read as follows:

**ARTICLE 5A. WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.**

**§21-5A-1. Definitions.**

(1) The term “public authority”, as used in this article, shall mean any officer, board or commission or other agency of the State of West Virginia, or any political subdivision thereof, authorized by law to enter into a contract for the construction of a public improvement, including any institution supported, in whole or in part, by public funds of the State of West Virginia or its political subdivisions, and this article shall apply to expenditures of such institutions made, in whole or in part, from such public funds.

(2) The term “construction”, as used in this article, shall mean any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract. The term “construction” shall not be construed to include temporary or emergency repairs.

~~(3) The term “locality” means the county where the construction is to be performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workmen and mechanics to perform such construction efficiently and properly, and may include one or more counties in this state adjacent to the one in which the construction is to be performed and from which such skilled laborers, workmen and mechanics may be obtained in sufficient numbers to perform the construction. With respect to construction of public improvements with the state road commission, “locality” may be construed to include one or more counties in this state adjacent to the one in which the construction or public improvement is to be performed and from which skilled laborers, workmen and mechanics may be accessible for work on such construction on public improvements.~~

(3) The term “regions of this state”, as used in this article, means the break up of regions within the state as determined by Workforce West Virginia for the purposes of developing a methodology pursuant to the sections of this article.

(4) The term “public improvement”, as used in this article, shall include all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures upon which construction may be let to contract by the State of West Virginia or any political subdivision thereof.

(5) The term “construction industry”, as used in this article, shall mean that industry which is composed of employees and employers engaged in construction of buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures or works, whether private or public, on which construction work as defined in subsection (2) of this section is performed.

(6) The term “board” shall mean the minimum wage board as constituted in this article.

(7) The term “employee”, for the purposes of this article, shall not be construed to include such persons as are employed or hired by the public authority on a regular or temporary basis or engaged in making temporary or emergency repairs.

**§21-5A-2. Policy declared.**

It is hereby declared to be the policy of the State of West Virginia that a wage of no less than the prevailing hourly rate of wages for work of a similar character in the ~~locality in~~ regions of this state in which the construction is performed shall be paid to all ~~workmen~~ workers employed by or on behalf of any public authority engaged in the construction of public improvements.

**§21-5A-3. Fair minimum rate of wages; determination; filing; schedule of wages part of specifications.**

Any public authority authorized to let to contract the construction of a public improvement shall, before advertising for bids for the construction thereof, ascertain from ~~the state commissioner of labor~~ Workforce West Virginia, the fair minimum rate of wages, ~~including fair minimum overtime and holiday pay~~, to be paid by the successful bidder to the laborers, ~~workmen~~ workers or mechanics in the various branches or classes of the construction to be performed; and such schedule of wages shall be made a part of the specifications for the construction and shall be published in an electronic or other medium and incorporated in the bidding blanks by reference when approved by ~~the commissioner of labor~~ Workforce West Virginia where the construction is to be performed by contract. The fair minimum rate of wages, for the intents and purposes of this article, shall be the prevailing rate of wages compensation paid in the ~~locality in~~ regions of this state as hereinbefore defined to the ~~majority of workmen~~ workers, laborers or mechanics in the same trade or occupation in the construction industry. ~~The commissioner of labor or a member of his or her department designated by him or her~~ Workforce West Virginia shall assemble the data as to the fair minimum wage rates and shall file wage rates. Rates shall be established and filed as hereinafter provided on January 1, of each year, unless otherwise



specified within this article. These rates shall prevail as the minimum wage rate ~~on~~ for all public improvements in excess of \$500,000 in cost on which bids are asked during the year beginning with the date when such new rates are filed and, until the new rates are filed, the rates for the preceding year shall remain in effect: *Provided*, That such rates shall not remain in effect for a period longer than fifteen months from the date they are published, but this provision shall not affect construction of a public improvement then underway.

**§21-5A-5. Prevailing wages established at specified intervals; how determined; filing; legislative review.**

(1) The department of labor, from time to time; Workforce West Virginia, in coordination with the West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University in furtherance of section four, article three, chapter eighteen-b of this code, shall investigate and determine the prevailing hourly rate of wages in the localities in regions of this state. Determinations thereof shall be made annually on January 1 of each year, unless otherwise specified within this article, and shall remain in effect during the successive year: *Provided*, That such rates shall not remain in effect for a period longer than fifteen months from the date they are published. A copy of the determination so made, certified by Workforce West Virginia, shall be filed immediately with the Secretary of State.

~~In determining such prevailing rates, the department of labor may ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, and such rates as are paid generally within the locality in this state where the construction of the public improvement is to be performed.~~

~~(2) A copy of the determination so made, certified by the secretary of the board, shall be filed immediately with the Secretary of State and with the department of labor. Copies shall be supplied to all persons requesting same within ten days after such filing.~~

~~(3) At any time within fifteen days after the certified copies of the determination have been filed with the Secretary of State and the department of labor, any person who may be affected thereby may object in writing to the determination or such part thereof as he or she deems objectionable by filing a written notice with the department of labor stating the specific grounds of the objection.~~

~~(4) Within ten days of the receipt of the objection, the department of labor shall set a date for a hearing on the objection. The date for the hearing shall be within thirty days after the receipt of the objection. Written notice of the time and place of the hearing shall be given to the objectors at least ten days prior to the date set for the hearing and at a time so as to enable the objectors to be present.~~

~~(5) The department of labor at its discretion may hear such written objection separately or consolidate for hearing any two or more written objections. At the hearing the department of labor shall introduce into evidence the results of the investigation it instituted and such other facts which were considered at the time of the original determination of the fair minimum prevailing hourly rate including the sources which formed the basis for its determination. The department of labor or any objectors thereafter may introduce such further evidence as may be material to the issues.~~

~~(6) Within ten days of the conclusion of the hearing, the department must rule on the written objections and make such final determination as shall be established by a preponderance of the evidence. Immediately upon such final determination, the department of labor shall file a certified copy of its final determination with the Secretary of State and with the department of labor and shall serve a copy of the final determination on all parties to the proceedings by personal service or by registered mail.~~

~~(7) Any person affected by the final determination of the department of labor, whether or not such person participated in the proceedings resulting in such final determination, may appeal to the board from the final determination of the department of labor within~~

ten days from the filing of the copy of the final determination with the Secretary of State. The board shall hear the appeal within twenty days from the receipt of notice of appeal. The hearing by the board shall be held in Charleston. The hearing by the board shall be upon the record compiled in the hearing before the department of labor and the board shall have the authority to affirm, reverse, amend, or remand for further evidence, the final determination of the department of labor. The board shall render its decision within ten days after the conclusion of its hearing.

(8) Any party to the proceeding before the board or any person affected thereby may within thirty days after receipt of the notice of its decision, appeal the board's decision to the circuit court of the county wherever the construction of a public improvement is to be performed, which shall consider the case on the record made before the commissioner of labor and before the board. The decision of such circuit court may be appealed to the Supreme Court of Appeals of West Virginia by any party to the proceedings or by any person affected thereby in the manner provided by law for appeals in civil actions.

(9) Pending the decision on appeal, the rates for the preceding year shall remain in effect.

(2) On or before June 1, 2015, Workforce West Virginia, in coordination with the West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University, shall determine the methodology for annually calculating the prevailing hourly rate of wages as evidenced by all appropriate economic data, including, but not limited to, the average rate of wages published by the U. S. Bureau of Labor Statistics and the actual rate of wages paid in the regions of this state to the workers, laborers or mechanics in the same trade or occupation in the construction industry, regardless of the wages listed in collective bargaining agreements, to ascertain the prevailing rate of wages paid in the regions of the state in which the construction of the public improvement is to be performed.

Workforce West Virginia shall present such methodology for the determination of the prevailing hourly rate of wages to the Joint Committee on Government and Finance, which shall review the methodology being used to determine annually the prevailing hourly rate of wages and recommend to the Legislature any statutory changes needed to clarify the method for determining prevailing wages.

(3) On or before July 1, 2015, Workforce West Virginia, in coordination with the West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University, shall determine the prevailing hourly rate of wages for the remainder of 2015 in accordance with the approved methodology set forth in subsection (2) of this section.

(4) On or before September 30 of every year, Workforce West Virginia, in coordination with the West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University, shall determine the prevailing hourly rate of wages for the following year in accordance with the approved methodology set forth in subsection (2) of this section.

(5) On or before September 30, 2018, and in every third year thereafter, Workforce West Virginia shall review the methodology for determining the prevailing hourly rate of wages, as set forth in subsection (2) of this section, with the West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University, and present such review and make any recommendations regarding such methodology to the Joint Committee on Government and Finance. The Joint Committee on Government and Finance shall review the methodology being used to determine the prevailing hourly rate of wages and recommend to the Legislature any statutory changes needed to clarify the method for determining prevailing wages.

(6) Any confidential, individual proprietor-level data submitted to Workforce West Virginia, the West Virginia University Bureau of Business and Economic Research or the Marshall University Center for Business and Economic Research for the purpose of determining the prevailing rates may not be used for any purpose other than the calculation of the prevailing wage rates: *Provided*, That any such data may be available for purposes of the appeals process referenced in section eleven of this article.

**§21-5A-6. Contracts to contain provisions relative to minimum wages to be paid; exceptions.**

In all cases where any public authority has ascertained a fair minimum rate or rates of wages as herein provided, and construction of a public improvement is let to contract, the contract executed between the public authority and the successful bidder shall contain a provision requiring the successful bidder and all his or her subcontractors to pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages as provided by this article: *Provided*, That the provisions of this article only apply to public improvements in excess of \$500,000 in cost.

**§21-5A-8. Wage records to be kept by contractor, subcontractor, etc.; contents; open to inspection.**

The contractor and each subcontractor or the officer of the public authority in charge of the construction of a public improvement shall keep an accurate record showing the names and occupation of all such skilled laborers, ~~workmen~~ workers and mechanics employed by them, in connection with the construction on the public improvement and showing also the actual wages paid to each of the skilled laborers, ~~workmen~~ workers and mechanics, which record shall be open at all reasonable hours to the inspection of ~~the department of labor~~ Workforce West Virginia and the public authority which let the contract, its officers and agents. It shall not be necessary to preserve such record for a period longer than three years after the termination of the contract.

**§21-5A-10. Existing contracts.**

This article shall apply only to contracts for construction on public improvements let after the effective date of this article, and to construction on public improvements for which there has been determined, pursuant to section five of this article, the fair minimum wage rates ~~as provided in this article, and such determination has not been appealed from as may be provided by this article.~~

**§21-5A-11. Rulemaking.**

(a) The Executive Director of Workforce West Virginia shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article.

(b) Rules promulgated under this section shall, at a minimum:

(1) Establish an appeals process for hearing any objections regarding Workforce West Virginia's annual determination of the prevailing hourly rate of wages;

(2) Implement any necessary provisions to implement the provisions of this article.

(c) Any legislative rule filed prior to the effective date of this article implementing the provisions of this article is hereby repealed as of July 1, 2015.

**§21-5A-12. Provisions of article severable.**

Each section of this article, and every part thereof, is hereby declared to be an independent section or part of a section and if any section, subsection, sentence, clause or phrase of this article shall for any reason be held unconstitutional, the validity of the remaining phrases, clauses, sentences, subsections and sections of this article shall not be affected thereby.

Following discussion,

Senator Unger moved that the bill (Com. Sub. for S. B. No. 361) lie over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect and the amendment offered by Senators Blair, Carmichael, Plymale, Palumbo, Williams, Gaunch, Takubo, Stollings, Prezioso, Kessler, M. Hall and Ferns pending.

Following discussion,

The question being on the adoption of Senator Unger's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Unger's aforestated motion had not prevailed.

Thereafter, at the request of Senator Carmichael, unanimous consent being granted, further consideration of the bill and the pending amendment offered by Senators Blair, Carmichael, Plymale, Palumbo, Williams, Gaunch, Takubo, Stollings, Prezioso, Kessler, M. Hall and Ferns was deferred until the conclusion of bills on today's first reading calendar.

**Eng. Com. Sub. for Senate Bill No. 430**, Permitting mutual orders enjoining certain contact between parties to domestic relations actions.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 430 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 430) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 430) takes effect from passage.



*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 No. 298**, Clarifying funds within Public Employees Retirement Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 299**, Clarifying start date of State Police duty-related disability payments.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on the Judiciary, were reported by the Clerk, considered simultaneously, and adopted:

On page five, section nine, line sixty-six, after the word “employment” by adding the words “or as ordered by a court of competent jurisdiction”;

And,

On page eight, section ten, line thirty-one, after the word “employment” by adding the words “or as ordered by a court of competent jurisdiction”.

The bill (S. B. No. 299), as amended, was then ordered to engrossment and third reading.

**Senate Bill No. 302**, Relating to state retirement plans.

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 No. 315**, Relating to civil actions filed under Consumer Protection Act.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. House Bill No. 2200**, Revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page thirty-nine, section two hundred eight, line twelve, by striking out the words “Department of Public Safety” and inserting in lieu thereof the words “State Police”.

On motion of Senator Trump, the following amendment to the bill (Eng. H. B. No. 2200) was next reported by the Clerk and adopted:

On page three, section one hundred three, line three, by striking out the words “on September 1, 2015” and inserting in lieu thereof the words “ninety days from passage”.

The bill (Eng. H. B. No. 2200), as amended, was then ordered to third reading.

**Eng. House Bill No. 2201**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 2F. NET METERING OF CUSTOMER-GENERATORS.**

**§24-2F-8. Net metering and interconnection standards.**

(a) “Net metering” means measuring the difference between electricity supplied by an electric utility and electricity generated from a facility owned or leased and operated by a customer generator when any portion of the electricity generated from the facility is used to offset part or all of the electric retail customer’s requirements for electricity.

(b) “Customer-generator” means an electric retail customer who owns or leases and operates a customer-sited generation projected utilizing an alternative or renewable energy resource or a net metering system in this state.

(c) “Cross-subsidization”, for purposes of this section, means the practice of charging costs directly incurred by the electric utility in accommodating a net metering system to electric retail customers to electric retails customers who are not customer generators.

(d) “Commission” means the Public Service Commission of West Virginia as constituted pursuant to section three, article one of this chapter.

(e) The commission shall adopt a rule requiring that all electric utilities provide a rebate or discount at fair value, to be determined by the commission, to customer-generators for any electricity generation that is delivered to the utility under a net metering arrangement. The commission shall assure that any net metering tariff does not create a cross-subsidization between customers within one class of service.

(b) (f) The commission shall also consider adopting, by rule, a requirement that all sellers of electricity to retail customers in the state, including rural electric cooperatives, municipally owned electric facilities or utilities serving less than thirty thousand residential electric customers in this state, offer net metering rebates or discounts to customer-generators.

(c) (g) The commission shall institute a general investigation for the purpose of adopting rules pertaining to net metering and the interconnection of eligible electric generating facilities intended to operate in parallel with an electric utility's system. As part of its investigation, the commission shall take into consideration rules of other states within the applicable region of the regional transmission organization, as that term is defined in 18 C.F.R. §35.34, that manages a utility's transmission system in any part of this state. Furthermore, the commission shall consider increasing the allowed kilowatt capacity for commercial customer-generators to an amount not to exceed five hundred kilowatts and for industrial customer-generators to an amount not to exceed two megawatts. The commission shall further consider interconnection standards for combined heat and power.

~~(d) The commission shall promulgate these rules within twelve months of the effective date of this article.~~

(h) An electric utility shall offer net metering to a customer-generator that generates electricity on the customer-generator side of the meter using alternative or renewable energy sources, on a first-come, first-served basis, based on the date of application for interconnection as provided in the rules promulgated by the commission and pursuant to a standard tariff. An electric utility may offer net metering to customer-generators, on a first-come, first-served basis, so long as the total generation capacity installed by all customer-generators is no greater than three percent (3%) of the electric utility aggregate customer peak demand in the state during the previous year, of which no less than one-half percent (0.5%) is reserved for residential customer-generators.

(i) The commission shall adopt a rule requiring compliance with the Institute of the Electrical and Electronics Engineers (IEEE), and as the same shall be amended, standards at all times, including having a disconnect readily accessible to the utility between the facilities of the customer-generator and the electric utility.

The bill (Eng. H. B. No. 2201), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill No. 142**, Authorizing Department of Administration promulgate legislative rules.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Senate Bill No. 378**, Relicensing electricians without retesting under certain circumstances.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

At the request of Senator Carmichael, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate recessed until 5 p.m. today.

Upon expiration of the recess, the Senate reconvened and again proceeded to the tenth order of business.

The end of today's first reading calendar having been reached, the Senate returned to the consideration of

**Com. Sub. for Senate Bill No. 361**, Eliminating prevailing hourly wage requirement for construction of public improvements.

On third reading, coming up in deferred order, with the amendment offered by Senators Blair, Carmichael, Plymale, Palumbo, Williams, Gaunch, Takubo, Stollings, Prezioso, Kessler, M. Hall and Ferns to the bill pending (*shown in the Senate Journal of today, pages 606 to 614, inclusive*), was again reported by the Clerk.

The question being on the adoption of the amendment to the bill.

On motion of Senator Romano, the following amendments to the amendment to the bill were reported by the Clerk and considered simultaneously:

On page three, section three, by striking out the words “all public” and inserting in lieu thereof the words “renovation, maintenance and repair contracts in excess of \$150,000 in cost and all other public”;

And,

On page seven, section six, after the words “only apply to” by inserting the words “renovation, maintenance and repair contracts in excess of \$150,000 in cost and other”.

The question being on the adoption of Senator Romano’s amendments to the amendment to the bill (Com. Sub. for S. B. No. 361), the same was put and did not prevail.

The question now being on the adoption of the amendment to the bill.

Following discussion,

The question being on the adoption of the amendment offered by Senators Blair, Carmichael, Plymale, Palumbo, Williams, Gaunch, Takubo, Stollings, Prezioso, Kessler, M. Hall and Ferns to the bill, the same was put and prevailed.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senators Plymale and Kessler regarding the adoption of the amendment offered by Senators Blair, Carmichael, Plymale, Palumbo, Williams, Gaunch, Takubo, Stollings, Prezioso, Kessler, M. Hall and Ferns to Committee Substitute for Senate Bill No. 361 were ordered printed in the Appendix to the Journal.

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill No. 361 was then read a third time and put upon its passage.

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 361 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters, Williams and Cole (Mr. President)—23.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Snyder, Unger, Woelfel and Yost—11.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 361) passed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for Senate Bill No. 361**—A Bill to amend and reenact §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §21-5A-8, §21-5A-10 and §21-5A-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §21-5A-12, all relating to the fair minimum rate of wages; defining terms; determination and methodology of determining the prevailing hourly wages by Workforce West Virginia; application of fair minimum rate of wages based on monetary threshold; prevailing wages established at specific intervals; required contract provisions and exceptions; keeping of wage records; providing for review of such determinations and methodology; addressing data used in determining prevailing wage rates; requiring Workforce West Virginia to propose legislative rules; and providing that provisions of article are severable.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters, Williams and Cole (Mr. President)—23.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Snyder, Unger, Woelfel and Yost—11.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 361) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.



Thereafter, at the request of Senator Yost, and by unanimous consent, the remarks by Senator Facemire regarding the passage of Engrossed Committee Substitute for Senate Bill No. 361 were ordered printed in the Appendix to the Journal.

At the request of Senator Karnes, unanimous consent being granted, the remarks by Senator Nohe regarding the passage of Engrossed Committee Substitute for Senate Bill No. 361 were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 13, 2015, at 11 a.m.

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## FRIDAY, FEBRUARY 13, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Dr. William McCoy, First Presbyterian Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Roman W. Prezioso, Jr., a senator from the thirteenth district.

Pending the reading of the Journal of Thursday, February 12, 2015,

On motion of Senator Boley, 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 amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill No. 237**, Creating Captive Cervid Farming Act.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page six, section three, after line twenty-three, by adding the following:

(7) Regulate the movement of captive cervids and require the documentation of the origin and destination of all shipments of captive cervids; and

(8) Prohibit captive cervid facilities in this state from receiving live captive cervids or any byproduct thereof, or captive cervid genetic materials from a captive cervid facility that has had a confirmed chronic wasting disease or tuberculosis positive cervid in the last sixty months.;

On page eight, section four, line twenty-one, by striking out the word “biennial” and inserting in lieu thereof the word “annual”;

On page eight, section four, line twenty-five, by striking out “\$750” and inserting in lieu thereof “\$375”;

On page eight, section four, line twenty-nine, by striking out “\$1500” and inserting in lieu thereof “\$750”;

And,

On page eleven, section six, line thirteen, by striking out the word “two” and inserting in lieu thereof the word “one”.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill No. 237, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Yost and Cole (Mr. President)–29.

The nays were: Prezioso and Unger–2.

Absent: Boso, Nohe and Woelfel–3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 237) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Yost and Cole (Mr. President)–29.

The nays were: Prezioso and Unger–2.

Absent: Boso, Nohe and Woelfel—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 237) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Shott, McCuskey and Lynch.

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 No. 2274**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1-5a, relating to authorizing the Commissioner of Corrections to enter into mutual aid agreements.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 256**, Increasing number of student unexcused absences before taking action against parent.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 256** (originating in the Committee on Education)—A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to defining excused and unexcused absences; providing notice of student's three unexcused absences be given to parent, guardian or custodian; providing parent, guardian or custodian have mandatory conference with principal or other designated school representative when student has six unexcused absences; and increasing number of unexcused absences by student before complaint must be made against parent, guardian or custodian of student.

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,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. No. 256), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 266**, Eliminating sales tax exemption on certain highway construction and maintenance materials.

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

**Com. Sub. for Senate Bill No. 277** (originating in the Committee on Health and Human Resources), Requiring issuance of certificate of birth resulting in stillbirth.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 277** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5-21a, relating to creating “Noah’s Law”; defining terms; providing for a certificate of birth for a stillborn child; allowing only mother to request a certificate in certain circumstances; allowing State Registrar to charge a fee for a certificate; specifying the contents of a certificate; and effect of the certificate.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,

*Chair.*

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 286**, Relating to compulsory immunizations of students; exemptions.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 286** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-3-4 and §16-3-5 of the Code of West Virginia, 1931, as amended, all relating generally to mandatory immunizations; setting forth immunization dosage levels; adding required immunizations; providing medical and religious exemptions from mandatory immunizations for school children; requiring parents and guardians to assert their beliefs in affidavit; providing that affidavit be provided before exemption applies; allowing removal of students who are not immunized from school in times of emergency or epidemic; granting legislative rule-making authority to the Secretary of the Department of Health and Human Resources to add or delete diseases for which vaccines are required for school attendance, to develop necessary forms and to create process for reviewing any verification of affidavits for completeness; nullifying an interpretive rule and any action taken pursuant to the interpretive rule; modifying the Immunization Advisory Committee; and establishing a chair of the committee.

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,

Ryan J. Ferns,  
*Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Health and Human Resources.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 421**, Relating to punitive damages in civil actions.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 421** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating generally to treatment of punitive damages; providing for limitations on punitive damages; providing for when punitive damages may be awarded; providing for a bifurcated trial, upon request, for civil actions involving punitive damages; providing that one third of all punitive damages awards in excess of \$500,000 made in the state be tendered to the State Treasurer; providing that those remittances, less a percentage to the circuit clerk for processing, be deposited into the Revenue Shortfall Reserve Fund; and providing that those funds be administered according to section twenty, article two, chapter eleven-b of this code.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*



Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill No. 2004**, Providing a procedure for the development of a state plan under section 111(d) of the Clean Air Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Gaunch, D. Hall, Karnes, Maynard, Plymale, Sypolt, Walters, Woelfel and Snyder:**

**Senate Bill No. 480**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting from personal income tax \$20,000 received by retired state employees from Public Employees Retirement System and by retired teachers from Teachers Retirement System.

Referred to the Committee on Finance.

**By Senators Gaunch, D. Hall, Karnes, Maynard, Plymale, Sypolt and Woelfel:**

**Senate Bill No. 481**—A Bill to amend and reenact §8-22-22 and §8-22-22a of the Code of West Virginia, 1931, as amended, all relating to delegating investment authority and diversification of investments of municipal policemen's and firemen's pension and relief funds.

Referred to the Committee on Pensions; and then to the Committee on Finance.

**By Senators Carmichael, Blair, D. Hall and Kirkendoll:**

**Senate Bill No. 482**—A Bill to amend and reenact §22-5-11 of the Code of West Virginia, 1931, as amended, relating to setting time periods for permit completion determinations and permit issuance; establishing method of setting permit limits for certain oil and gas operations; requiring the Secretary of the Department of Environmental Protection to propose rules relating to the calculation of potential to emit; and issuance of general permits.

Referred to the Committee on the Judiciary.

**By Senators Gaunch, D. Hall, Karnes, Maynard, Plymale, Sypolt and Woelfel:**

**Senate Bill No. 483**—A Bill to amend and reenact §8-22-18 of the Code of West Virginia, 1931, as amended, relating to boards of trustees of certain municipal policemen's pension and relief funds and certain municipal firemen's pension and relief funds.

Referred to the Committee on Pensions.

**By Senator Carmichael:**

**Senate Bill No. 484**—A Bill to amend and reenact §6-6-7 of the Code of West Virginia, 1931, as amended, relating to altering ways to remove public officials.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Carmichael and Boso:**

**Senate Bill No. 485**—A Bill to amend and reenact §7-7-4 of the Code of West Virginia, 1931, as amended, relating to providing county commissioners an ongoing mechanism to consider compensation increases for elected officials every two years.

Referred to the Committee on Government Organization.

**By Senators Leonhardt, Boso, D. Hall, Karnes, Maynard, Mullins, Nohe, Romano and Walters:**

**Senate Bill No. 486**—A Bill to amend and reenact §17A-3-23 of the Code of West Virginia, 1931, as amended, relating to removing requirement for vehicles operated by West Virginia Wing of the Civil Air Patrol to display front license plates with white lettering on a green background bearing the words “West Virginia” on one line and the words “State Car” on another line.

Referred to the Committee on Transportation and Infrastructure.

**By Senators D. Hall, Blair, Boley, Boso, Carmichael, Gaunch, M. Hall, Karnes, Kirkendoll, Leonhardt, Mullins, Nohe, Prezioso, Sypolt, Takubo and Trump:**

**Senate Bill No. 487**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4, §5-11C-5, §5-11C-6 and §5-11C-7, all relating to establishing the West Virginia Freedom of Conscience Protection Act; ensuring that, in all cases where state action burdens the exercise of religion, strict scrutiny is applied; providing a claim or defense to a person or persons whose exercise of religion is burdened by state action; short title; definitions; applicability; construction; remedies; effective date; and severability.

Referred to the Committee on the Judiciary.

**By Senators Williams, Prezioso and Stollings:**

**Senate Bill No. 488**—A Bill to repeal §31-15C-11 and §31-15C-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15C-2, §31-15C-3, §31-15C-4, §31-15C-5

and §31-15C-9 of said code, all relating to modifying Broadband Deployment Council.

Referred to the Committee on Government Organization.

**By Senator Carmichael:**

**Senate Bill No. 489**—A Bill to amend and reenact §55-2-6a of the Code of West Virginia, 1931, as amended, relating to imposing a statute of limitations for bringing a civil action derived from actual surveying of real property more than ten years after performance or furnishing of services.

Referred to the Committee on the Judiciary.

**By Senators Mullins, Gaunch, D. Hall, M. Hall, Kessler, Kirkendoll, Leonhardt, Prezioso, Stollings, Williams and Plymale:**

**Senate Bill No. 490**—A Bill to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating to prohibiting damage to property of railroads, public utilities and certain production storage and distribution facilities; adding waste management facilities, storage facilities and timber operations to protected parties; prohibiting destruction, damage or removal of property resulting in impairment to normal, safe operation of those facilities; and providing criminal penalties.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

Senator Carmichael offered the following resolution:

**Senate Concurrent Resolution No. 28**—Requesting the Joint Committee on Government and Finance study the magistrate court cost collection process and make recommendations to improve same.

Whereas, Various state agencies and counties rely on the receipt of funds generated by magistrate court costs; and

Whereas, The failure to collect magistrate court costs and fees has a negative effect, particularly on the bond repayment for the Regional Jail and Correctional Facility Authority; and

Whereas, Methods of enforcing collection of delinquent costs owed to the magistrate court funds have improved; and

Whereas, It would be beneficial to West Virginia, the Regional Jail and Correctional Facility Authority and the various county governments if the collection of delinquent magistrate court costs was improved; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the magistrate court cost collection process and make recommendations to improve same; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2016, on its findings, conclusions and recommendations, together with drafts of any rules or legislation necessary to effectuate its recommendations, including drafts of naming criteria; 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.

Which, under the rules, lies over one day.

Senators Williams, Prezioso, Beach, Sypolt, Kessler, Leonhardt, Plymale, D. Hall, Unger, Nohe, Stollings, Snyder, Yost and Laird offered the following resolution:

**Senate Resolution No. 29**—Designating February 13, 2015, as West Virginia University and West Virginia University Extension

Service Day and recognizing the contributions that West Virginia University, West Virginia University Extension Service and its 4-H Youth Development program make to the State of West Virginia.

Whereas, West Virginia University is the state's first and largest land-grant university, which is dedicated to serving the citizens of West Virginia; and

Whereas, In 1915, the world's first 4-H camp, "Camp Good Luck", was held in Randolph County and later evolved to include county, state, national and international camping opportunities for youth across the globe; and

Whereas, West Virginia University Extension Service's 4-H Youth Development program, the state's largest youth organization, now gives more than eighty thousand West Virginia youth the opportunity to expand their horizons through hands-on educational activities and allows them to acquire new skills through innovative technology; and

Whereas, The West Virginia University Extension Service, the primary outreach arm of West Virginia University, is the "front porch" of West Virginia University with an office in each of the state's 55 counties and has been providing trusted traditions and progressive solutions for the State of West Virginia for more than one hundred years; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 13, 2015, as West Virginia University and West Virginia University Extension Service Day and recognizes the contributions that West Virginia University, West Virginia University Extension Service and its 4-H Youth Development program make to the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the President of West Virginia University,

E. Gordon Gee, and to the West Virginia University Extension Service.

At the request of Senator Williams, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, 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 No. 10**, Designating September each year as US Constitution Month.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Concurrent Resolution No. 27**, Requesting DOH name portion of WV Rt. 152 in Wayne County “Wayne County Veterans Memorial Highway”.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill No. 298**, Clarifying funds within Public Employees Retirement Fund.

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: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Nohe and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 298) 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 No. 299**, Clarifying start date of State Police duty-related disability payments.

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: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Nohe and Woelfel—3.



So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 299) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Senate Bill No. 299**—A Bill to amend and reenact §15-2A-9 and §15-2A-10 of the Code of West Virginia, 1931, as amended, all relating to duty-related and nonduty-related disability retirement in the West Virginia State Police Retirement System; and specifying that disability disbursements begin the first day of the month following approval by the Consolidated Public Retirement Board and the member's termination of employment or as ordered by a court of competent jurisdiction.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 302**, Relating to state retirement plans.

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: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Nohe and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 302) 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 No. 315**, Relating to civil actions filed under Consumer Protection Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 315 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Sypolt, Takubo, Trump, Walters, Williams and Cole (Mr. President)—20.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Snyder, Stollings, Unger and Yost—11.

Absent: Boso, Nohe and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 315) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill No. 2200**, Revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare.

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: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Nohe and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2200) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill No. 2200**—A Bill to amend and reenact chapter forty-nine of the Code of West Virginia, 1931, as amended, all relating to child welfare generally; revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare; and removing outdated language and modifying the code to comply with court decisions concerning child welfare.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Boso, Nohe and Woelfel—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2200) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill No. 2201**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Palumbo moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motion prevailed.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—30.

The nays were: None.

Absent: Boso, Nohe and Woelfel—3.

Excused from voting: Palumbo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2201) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill No. 2201**—A Bill to amend and reenact §24-2F-8 of the Code of West Virginia, 1931, as amended, relating to net metering; defining net metering; defining customer-generator; defining cross-subsidization; requiring the Public Service Commission to prohibit cross-subsidization; requiring the Public Service Commission adopt certain net metering and interconnection rules and standards; striking deadlines for rulemaking by the Public Service Commission; and capping the amount of generating capacity subject to net metering.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—30.

The nays were: None.

Absent: Boso, Nohe and Woelfel—3.

Excused from voting: Palumbo—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2201) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 142**, Authorizing Department of Administration promulgate legislative rules.

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 No. 378**, Relicensing electricians without retesting under certain circumstances.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for Senate Bill No. 274**, Relating to TANF program sanctions.

**Senate Bill No. 382**, Declaring claims against state.

**Senate Bill No. 429**, Relating to one-day special charitable event license to sell nonintoxicating beer.

**Eng. House Bill No. 2114**, Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act.

And,

**Eng. House Bill No. 2115**, Updating the meaning of the term “federal taxable income” and certain other terms used in the West Virginia Corporation Net Income Tax Act.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Leonhardt.

Thereafter, at the request of Senator D. Hall, and by unanimous consent, the remarks by Senator Leonhardt were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Boso, Nohe and Woelfel.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 16, 2015, at 11 a.m.

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## MONDAY, FEBRUARY 16, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by the Honorable Ronald F. Miller, a senator from the tenth district, and Pastor, West Point Baptist Church, Asbury, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Art Kirkendoll, a senator from the seventh district.

Pending the reading of the Journal of Friday, February 13, 2015,

On motion of Senator Takubo, 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 Clerk presented a communication from the Office of Tax Appeals, submitting its annual report as required by chapter eleven, article ten-a, section seven of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate then proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Weld, Lane and Lynch.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 13th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for H. B. No. 2217)**, Relating to qualifications of the Commissioner of Labor.



Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 42**, Permitting sale of alcoholic beverages on Sundays prior to 1 p.m.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 42** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-11 and §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing restaurants, private clubs and wineries to sell alcohol at 10:00 a.m. on Sundays; sale of alcohol by licensed manufacturers; authorizing licensed wineries, farm wineries, distilleries and mini-distilleries to make retail sales of wine and alcoholic liquors manufactured by the winery, farm-winery, distillery or mini-distillery for consumption off the premises on Sundays beginning at 10:00 a.m.; authorizing licensed wineries, farm wineries, distilleries and mini-distilleries to offer complimentary samples for consumption on the premises on Sundays beginning at 10:00 a.m.; authorizing distilleries and mini-distilleries which manufacture less than fifty thousand gallons of alcoholic liquor per year to seek and hold a separate license to operate a private club on the premises of the distillery or mini-distillery; and allowing for the sale of products manufactured on the premises of the distillery or mini-distillery, other than in

sealed packages, for consumption on the premises of any such private club.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 294**, Eliminating certain unnecessary, inactive or redundant councils, committees and boards.

And,

**Senate Bill No. 412**, Relating to Real Estate Commission complaint filings.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 11:15 a.m. today:

**Eng. Com. Sub. for Senate Bill No. 13**, Reinstating open and obvious doctrine for premises liability.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Kessler, Ferns, D. Hall, Kirkendoll, Leonhardt, Mullins and Prezioso:**

**Senate Bill No. 491**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22B-1108a, relating to creating a preference for certain limited video lottery current permit holders in bid process.

Referred to the Committee on Finance.

**By Senators Beach, Williams, D. Hall, Miller, Stollings and Walters:**

**Senate Bill No. 492**—A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3A-18 of said code; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing restaurants, private clubs, mini-distilleries and wineries to sell alcohol at 10:00 a.m. on Sundays.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senators Carmichael, Ferns, Stollings, Takubo and Trump:**

**Senate Bill No. 493**—A Bill to amend and reenact §16-30-6 of the Code of West Virginia, 1931, as amended, relating to allowing a medical power of attorney representative or surrogate to waive incapacitated person's right to a trial by jury and bind them to arbitration.

Referred to the Committee on the Judiciary.

**By Senators Takubo, Carmichael, Ferns, M. Hall, Maynard, Mullins, Nohe, Plymale, Prezioso, Stollings, Trump, Williams and Gaunch:**

**Senate Bill No. 494**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-20, relating to allowing a health care practitioner to prescribe epinephrine auto-injectors in the name of an entity authorized by the Department of Health and Human Resources; requiring training; and limiting liability.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Leonhardt and Kessler:**

**Senate Bill No. 495**—A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-eight new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50, §7-20-51 and §7-20-52, all relating generally to County Local Powers Act; fees, taxes and expenditures for county development; restating short title; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; amending authorization for county commissions to impose impact fees, services fees and other taxes; providing that certain fees and taxes collected may be deposited in special fund and used to pay debt service on revenue bonds issued to finance capital improvements or to finance them on a pay-as-you-go basis; making technical corrections; allowing county commissions and Commissioner of Highways to enter into intergovernmental

agreements for construction and modernization of state roads, bridges and related infrastructure and financing in their respective counties; providing procedures for creation and finalization or project plans and amendments of plans; requiring notice to certain locally elected public officials and general public on proposed road, bridge and related infrastructure construction projects and project amendments with opportunity for public comment; providing means to finance cost of proposed road, bridge and related infrastructure construction projects and project amendments; allowing reallocation of ad valorem property taxes after ratification of constitutional amendment of certain property tax collections to finance, in whole or in part, capital improvements to infrastructure; providing for applications for a construction project and the contents of applications; creating special fund; requiring approval of boards of education for reallocation of regular property tax levies; providing for termination of reallocation of levies; authorizing Commissioner of Highways to issue revenue bonds and refunding bonds to finance road, bridge and related infrastructure projects financed, in whole or in part, by county commissions; providing that all bonds are exempt from tax, are negotiable and are lawful investments; providing procedures for issuance of bonds; allowing projects to also be constructed on pay-as-you-go basis; providing that these powers are supplemental powers of county commissions and Commissioner of Highways; requiring reports; exempting public officials from personal liability; providing a severability clause; and effective dates.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators D. Hall, Boso, Ferns, Gaunch, Karnes, Leonhardt, Maynard, Mullins, Nohe, Takubo, Walters, Williams and Stollings:**

**Senate Bill No. 496**—A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-8 of said code; and to amend said code by adding thereto a new article, designed §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-

14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9 and §15-14-10, all relating to creating statewide Interoperable Radio Network; establishing short title; defining terms; establishing objectives and purpose; creating position of statewide Interoperable Coordinator; prescribing duties for statewide Interoperability Coordinator; creating statewide Interoperability Executive Committee; prescribing duties for statewide Interoperability Executive committee; creating Regional Interoperability Committee; providing for disposition of assets and staffing of statewide Interoperable Radio Network; establishing special revenue account for statewide Interoperable Radio Network; exempting statewide Interoperable Radio Network from certain Purchasing Division requirements; and authorizing emergency and legislative rulemaking.

Referred to the Committee on Finance.

**By Senators Stollings, Prezioso, Williams, Facemire, Gaunch, D. Hall, Laird and Snyder:**

**Senate Bill No. 497**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-46-7, relating to permitting school nurses to possess and administer opioid antagonists on or near school premises.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Sypolt, Boso, Carmichael, Kessler, Snyder, Prezioso and Facemire:**

**Senate Bill No. 498**—A Bill to amend and reenact §11-1C-2, §11-1C-4 and §11-1C-7 of the Code of West Virginia, 1931, as amended, all relating to reproduction, distribution and sale of tax maps; defining terms; specifying powers of the Property Valuation Training and Procedures Commission to promulgate rules; specifying duties of county assessors; requiring that sale, reproduction and distribution of certain records be in accordance with specified legislative rules; and specifying certain fees.

Referred to the Committee on Government Organization.

**By Senators Williams, Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings and D. Hall:**

**Senate Bill No. 499**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13 and §17-29-14, all relating to creating Tourist-Oriented Directional Signs Program; stating legislative purpose; setting forth application and eligibility requirements; establishing design and content guidelines; establishing sign location and placement criteria; establishing fee schedule; setting forth maintenance responsibility; permitting revocation of participation in program; exempting rulemaking from State Administrative Procedures Act; requiring rules be filed with Secretary of State; and defining terms.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senators Leonhardt, Kessler and Stollings:**

**Senate Joint Resolution No. 6**—Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to authorizing the Legislature to, by general law, allocate a portion of ad valorem property taxes paid by owners of certain new manufacturing facilities and large capital additions to existing manufacturing facilities located in counties in which county commissions elect to fund infrastructure capital improvements, in whole or in part, using property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senators Palumbo, Boley, Gaunch, Takubo, Walters, Stollings, Prezioso and D. Hall offered the following resolution:

**Senate Concurrent Resolution No. 29**—Requesting the Division of Highways name bridge number 20-77-99.01 (20A418), locally known as I-77 Greenbrier Street Overpass, with latitude of 38.34157 and longitude of -81.61183 in Kanawha County the “Rosie the Riveter Memorial Bridge”.

Whereas, Women who worked on the home front during World War II were a significant force in shortening and winning that history-changing war. West Virginia women contributed significantly to the effort by working in factories, farms, government and as volunteers doing any and all that could be done on the home front; and

Whereas, Rosie the Riveters as a group and with individual examples in West Virginia are noted for caring for their loved ones who were wounded in many ways by the war, who pioneered proof of what women do for society, and who showed what older Americans do when given the right guidance and opportunity. Most Rosies the Riveters have died without being recognized or learned from; and

Whereas, The West Virginia Rosie the Riveter Program has proven from 2009 to the present that these women were critical to the well-being of America, allied nations and freedom and showing the value of the strengths of women; and

Whereas, The Greater Kanawha Valley is the first model Rosie the Riveter Community in America, based on work done by the nonprofit called, Thanks! Plain and Simple, Inc. (“Thanks!”) which has the mission of creating projects that need to be done in America and then guiding other Americans to join in the effort. “Thanks!” has been significantly helped by Rosie the Riveters, many of whom have died since “Thanks!” began work in 2009. Families and the overall communities of West Virginia have been supporting these and other efforts to honor Rosie the Riveters; and

Whereas, The Charleston Gold Dome Lions Club has initiated naming a bridge the “Rosie the Riveter Memorial Bridge” as an



example of what can be done by communities nationwide. Increasing numbers of entities across the United States and internationally are recognizing that the ways West Virginia has recognized Rosie the Riveters are significant and achievable. A small bridge in Wetzel County was named for a living Rosie, Freda Bell, which is a first in America and shows West Virginia's spirit and commitment to contributors to freedom; and

Whereas, It is only fitting and proper that the class of Americans known as Rosie the Riveters and their good work for family, community, the nation and the world be recognized and remembered; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 20-77-99.01 (20A418), locally known as I-77 Greenbrier Street Overpass, with latitude of 38.34157 and longitude of -81.61183 in Kanawha County the "Rosie the Riveter Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs at both ends of the bridge identifying it as the "Rosie the Riveter Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways, to "Thanks! Plain and Simple, Inc." and to the Charleston Gold Dome Lions Club.

Which, under the rules, lies over one day.

Senators Walters, Unger, Stollings, Gaunch, D. Hall, Boley, M. Hall, Leonhardt, Maynard, Nohe, Palumbo and Takubo offered the following resolution:

**Senate Resolution No. 30**—Designating February 16, 2015, as West Virginia State University Day.

Whereas, West Virginia State University was founded under the provisions of the Second Morrill Act of 1890 as the West Virginia Colored Institute, one of seventeen land-grant institutions authorized by Congress and designated by the states; and

Whereas, In 1927, under the leadership of President John W. Davis, through the expansion of academic programs and the construction of new buildings, the institution was accredited by the North Central Association and holds the longest continuous accreditation of any college or university in West Virginia; and

Whereas, In 1929, the institution became known as West Virginia State College and over the next decades West Virginia State College was recognized as one of the leading public institutions of higher education for African-Americans; and

Whereas, In 1954, the United States Supreme Court made its historic decision outlawing school segregation and West Virginia State College rapidly transitioned to an integrated institution. The university's student population is one of the most diverse in the state and an accurate reflection of America today; and

Whereas, In 2004, the West Virginia Legislature approved the transition to university status; and

Whereas, West Virginia State University now offers seventy-two academic program options, leading to twenty-two baccalaureate and four master's degrees; and

Whereas, West Virginia State University is actively working with other state institutions of higher education to create additional pathways for degree-seeking students; and

Whereas, As one of only two land-grant institutions in the state, West Virginia State University's Extension Service serves thirty-eight counties daily. These services aid approximately fifteen

thousand people throughout the year, including ten thousand children through summer food programs; and

Whereas, As a regional research institution, West Virginia State University contributes significantly to state economic development efforts in the areas of biotechnology, plant, microbial and animal research; and

Whereas, With every dollar the state invests in West Virginia State University, the university generates nearly \$16 spent in the West Virginia economy, resulting in an estimated economic output of \$254 million per year; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 16, 2015, as West Virginia State University Day; and, be it

*Further Resolved,* That the Senate hereby recognizes West Virginia State University for its tremendous contributions to the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Dr. Brian O. Hemphill, President of West Virginia State University.

At the request of Senator Walters, 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 Walters, and by unanimous consent, the remarks by Senator Gaunch regarding the adoption of Senate Resolution No. 30 were ordered printed in the Appendix to the Journal.

Senators Leonhardt, D. Hall, Snyder, Unger, Laird, Prezioso, Stollings and Williams offered the following resolution:

**Senate Resolution No. 31**—Designating February 16, 2015, as “Veterans Visibility Day”.

Whereas, From the Revolutionary War, which gave America its identity as a free and democratic nation, to this moment, America’s men and women have always risen to the call of duty in order to defend and preserve our freedom and help maintain freedom throughout the world; and

Whereas, Per capita, more citizens from West Virginia have served in our nation’s armed forces than from any other state. We are proud of our citizens who, despite danger, have done what they must for peace and freedom; and

Whereas, Through wars, conflicts and the threat of terror, thousands of West Virginians have paid the ultimate price for freedom with their lives and thousands more have been wounded in battle; and

Whereas, The Senate is proud to honor those currently serving in harm’s way in Iraq, Afghanistan and in other countries all over the world to protect democracy from the threat of terror; and

Whereas, It is always important that we honor the many brave West Virginians who have faced the enemy, been wounded and even given their lives not only for our freedom, but for freedom around the world; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates February 16, 2015, as “Veterans Visibility Day”; and, be it

*Further Resolved,* That the Senate expresses its sincere gratitude to all veterans and those men and women currently serving in the armed forces to protect our freedom; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Department of Veterans Assistance.

At the request of Senator Leonhardt, 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 Carmichael, and by unanimous consent, the remarks by Senators Leonhardt and Kessler regarding the adoption of Senate Resolution No. 31 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Nohe, Stollings, Unger and D. Hall offered the following resolution:

**Senate Resolution No. 32**—Recognizing Wood County Detachment 1087 of the Marine Corps League for the many hours of volunteer service to its community.

Whereas, The Wood County Detachment 1087 is a relatively small Marine Corps League Detachment with a total current membership of one hundred twenty-two members; and

Whereas, Although small in number, the members of the Wood County Detachment work hard to serve their community through volunteer activities; and

Whereas, Several of the one hundred twenty-two members of the Wood County Detachment reside in the counties surrounding Parkersburg, some traveling more than one hour or more to take part in fund raising and other volunteer activities throughout the year; and

Whereas, Over the past two years, members of the Wood County Detachment volunteered nine hundred thirteen hours in fifteen area nursing homes to visit resident disabled veterans; and

Whereas, They assisted a family in need who lost their home due to fire on Christmas Eve by donating money toward the purchase of clothing and Christmas gifts; and

Whereas, Members of the Wood County Detachment held numerous events over the past two years to raise funds and collect toys as Christmas gifts for over four hundred underprivileged children, food baskets and holiday meals for needy families, and gas for veterans struggling with transportation costs to get to and from work; and

Whereas, Members of the Wood County Detachment provide color details for area ceremonies and veterans events year-round; and

Whereas, The Marine Corps League continues to represent the best attributes of the United States Military and the United States Marine Corps; and

Whereas, The members of the Wood County Detachment 1087 continue to honorably serve their county; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Wood County Detachment 1087 of the Marine Corps League for the many hours of volunteer service to its community; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Wood County Detachment 1087 of the Marine Corps League.

At the request of Senator Nohe, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 28**, Requesting Joint Committee on Government and Finance study magistrate court cost collection process.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 142**, Authorizing Department of Administration promulgate legislative rules.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Unger and Yost—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 142) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Unger and Yost—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 142) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill No. 378**, Relicensing electricians without retesting under certain circumstances.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Unger and Yost—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 378) passed with its title.



Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: None.

Absent: Unger and Yost—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 378) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 274**, Relating to TANF program sanctions.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 382**, Declaring claims against state.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 429**, Relating to one-day special charitable event license to sell nonintoxicating beer.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. House Bill No. 2114**, Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill No. 2115**, Updating the meaning of the term “federal taxable income” and certain other terms used in the West Virginia Corporation Net Income Tax Act.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Senate Bill No. 266**, Eliminating sales tax exemption on certain highway construction and maintenance materials.

**Com. Sub. for Com. Sub. for Senate Bill No. 277**, Requiring issuance of certificate of birth resulting in stillbirth.

**Com. Sub. for Senate Bill No. 286**, Relating to compulsory immunizations of students; exemptions.

**Com. Sub. for Senate Bill No. 421**, Relating to punitive damages in civil actions.

And,

**Eng. Com. Sub. for House Bill No. 2004**, Providing a procedure for the development of a state plan under section 111 of the Clean Air Act.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Trump.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senator Trump were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Unger and Yost.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 17, 2015, at 11 a.m.

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## TUESDAY, FEBRUARY 17, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Pastor Eric Mounts, Senior Pastor, Bible Center Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Douglas E. Facemire, a senator from the twelfth district.

Pending the reading of the Journal of Monday, February 16, 2015,

On motion of Senator Gaunch, 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 concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

**Eng. House Bill No. 2200**, Revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

**Eng. House Bill No. 2201**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

The Senate proceeded to the fourth order of business.

Senator Karnes, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 92**, Providing salary increase for natural resources police officers.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 92** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-7-1a and §20-7-1c of the Code of West Virginia, 1931, as amended, all relating to providing increase in compensation for natural resources police officers.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. No. 92), under the original double committee reference, was then referred to the Committee on Finance.

Senator Karnes, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 278**, Relating to lawful and unlawful methods of hunting.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 278** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-5, §20-2-5g, §20-2-22a and §20-2-42w of the Code of West Virginia, 1931, as amended, all relating to lawful and unlawful methods of hunting and fishing; prohibiting hunting with night vision technology, drone or other unmanned aircraft; clarifying when a person may carry certain firearms; permitting a person to carry a gun for self defense

while in the woods; permitting hunting with crossbows with certain limitations; clarifying bear laws and Class Y permits; and making certain technical corrections.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. No. 278), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill No. 316**, Exempting new veteran-owned business from certain fees paid to Secretary of State.

And,

**Senate Bill No. 415**, Relating to circuit judges.

And reports the same back with the recommendation that they each 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 No. 344**, Relating to limitations on compensatory and punitive damages in employment claims.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 344** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7E-1, §55-7E-2 and §55-7E-3, all relating to setting adequate and reasonable amounts of compensatory damages available to an employee in statutory and common law wrongful or retaliatory discharge causes of action and other employment law claims; setting forth definitions; setting forth legislative findings and declaration of public policy; placing duty to mitigate damages on plaintiffs in employment-related lawsuits and causes of action; and requiring a judge to make a finding on the appropriateness of remedy versus reinstatement before front pay damages are to be considered by a jury.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 384**, Permitting wine or alcoholic beverage sales by specialty shop located in dry county.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 384** (originating in the Committee on Government Organization)—A Bill to amend and reenact §60-8-3 of the Code of West Virginia, 1931, as amended, relating to permitting sale of wine by wine specialty shop in a county, magisterial district or municipality that has not elected to permit sale of wine or alcohol beverages.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 425**, Providing WVU, MU and WVSOM more authority to invest assets.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:



Your Committee on Education has had under consideration

**Senate Bill No. 455**, Relating to public higher education procurement and payment of expenses.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 455** (originating in the Committee on Education)—A Bill to amend and reenact §12-3A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-5-4, §18B-5-6 and §18B-5-7 of said code; and to amend said code by adding thereto a new section, designated §18B-5-4a, all relating to public higher education procurement and payment generally; receipting of electronic commerce purchases; purchase or acquisition of materials, supplies, equipment, services and printing at institutions of higher education; construction projects at Marshall University and West Virginia University; design-build procurement at institutions of higher education; and disposition of obsolete and unusable equipment, surplus supplies and other needed materials at institutions of higher education.

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,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. No. 455), under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill No. 2010**, Requiring the elections of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan and by division.

And has amended same.

And,

**Eng. Com. Sub. for House Bill No. 2234**, Requiring a court to permit a party in a divorce proceeding to resume using the name he or she used prior to the marriage.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the fifth order of business.

Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for Senate Bill No. 13**, Restoring the open and obvious doctrine of premises liability.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill No. 13 having met, after full

and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House on page two, section seven, line seven;

That both houses agree to an amendment as follows:

On pages two and three, section seven, by striking out all of subsection (c) and inserting in lieu thereof a new subsection, designated subsection (c), to read as follows:

(c) It is the intent and policy of the Legislature that this section reinstates and codifies the open and obvious hazard doctrine in actions seeking to assert liability against an owner, lessee or other lawful occupant of real property to its status prior to the decision of the West Virginia Supreme Court of Appeals in the matter of *Hersh v. E-T Enterprises, Limited Partnership*, 232 W. Va. 305 (2013). In its application of the doctrine, the court as a matter of law shall appropriately apply the doctrine considering the nature and severity, or lack thereof, of violations of any statute relating to a cause of action.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for Senate Bill No. 13**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to the liability of a possessor of real property for injuries caused by open and obvious hazards; reinstating and codifying the open and obvious doctrine of common law as it existed prior to judicial abolition; clarifying that this section does not create, recognize or ratify claim or cause of action; stating legislative intent; and providing for judicial application.

Respectfully submitted,

Charles S. Trump IV, *Chair*, Mitch Carmichael, Corey Palumbo,  
*Conferees on the part of the Senate.*

John Shott, *Chair*, Roger Hanshaw, Larry L. Rowe, *Conferees on  
the part of the House of Delegates.*

Senator Trump, Senate cochair of the committee of conference,  
was recognized to explain the report.

Thereafter, on motion of Senator Trump, the report was taken up  
for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill No. 13, as  
amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Beach,  
Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall,  
M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller,  
Mullins, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo,  
Trump, Walters, Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Kessler, Romano and Snyder—3.

Absent: Nohe, Unger and Yost—3.

So, a majority of all the members present and voting having voted  
in the affirmative, the President declared the bill (Eng. Com. Sub.  
for S. B. No. 13) passed with its conference amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso,  
Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes,  
Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo,  
Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters,  
Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Kessler, Romano and Snyder—3.

Absent: Nohe, Unger and Yost—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 13) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Karnes, Blair, Boley, Boso, Gaunch, D. Hall, Kirkendoll, Leonhardt, Mullins, Nohe, Takubo and Walters:**

**Senate Bill No. 500**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-11A-1, §3-11A-2, §3-11A-3, §3-11A-4 and §3-11A-5, all relating to providing a procedure for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America; defining terms; setting forth delegate duties and responsibilities; and providing a felony criminal penalty for violation of a delegate's oath.

Referred to the Committee on the Judiciary.

**By Senators Karnes, Blair, Boley, Boso, Gaunch, D. Hall, Leonhardt, Mullins, Nohe and Walters:**

**Senate Bill No. 501**—A Bill to amend and reenact §16-5-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-5-10a, all relating to defining “midwife”, “certified midwife” and “midwifery”; and requiring persons practicing midwifery in the State of West Virginia

to make an annual report to the Bureau for Public Health as prescribed by the section of Vital Statistics.

Referred to the Committee on Health and Human Resources.

**By Senators Sypolt, Ferns, Gaunch, Kirkendoll, Leonhardt, Plymale, Prezioso and Stollings:**

**Senate Bill No. 502**—A Bill to amend and reenact §22-3-11 of the Code of West Virginia, 1931, as amended, relating to the eligibility of a mine operator to receive a tax credit for performing reclamation or remediation at a bond forfeiture site which otherwise would have been reclaimed using funds from the Special Reclamation Fund or Special Reclamation Water Trust Fund.

Referred to the Committee on Finance.

**By Senators Kirkendoll, Beach, Facemire, D. Hall, Kessler, Laird, Stollings, Yost, Romano and Palumbo:**

**Senate Bill No. 503**—A Bill to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-2-2 of said code, all relating to permitting sheriff to hire outside attorneys to assist in the collection of taxes through the courts; and sharing cost of collection with the various taxing units.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Kirkendoll:**

**Senate Bill No. 504**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-6-6c, relating to additional dedicated fees for 911.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

**By Senators D. Hall, Ferns and Mullins:**

**Senate Bill No. 505**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-

6-38, relating to creating the Physicians Lien Act; creating physician liens on claims and causes of action by injured parties for payments made for the benefit of insured persons arising under a contract of liability insurance; excluding from lien payments made to injured persons under a policy or contract of group or individual accident and sickness insurance and health insurance benefits; requiring release of physician records; requiring adjudication of claims; establishing priority of lien; establishing liability on entities that fail to pay or satisfy the lien; providing for attorneys' fees for cost of enforcing the lien; and providing that if health care provider agrees to a negotiated reduction in fees in writing and is paid that amount, the lien shall be satisfied.

Referred to the Committee on the Judiciary.

**By Senator Carmichael:**

**Senate Bill No. 506**—A Bill to amend and reenact §30-20A-1, §30-20A-2, §30-20A-3, §30-20A-4, §30-20A-5, §30-20A-6 and §30-20A-7 of the Code of West Virginia, 1931, as amended, all relating to requiring that athletic trainers be licensed, instead of registered, by West Virginia Board of Physical Therapy.

Referred to the Committee on Government Organization.

**By Senators Trump and Plymale:**

**Senate Bill No. 507**—A Bill to amend and reenact §31-20-5e of the Code of West Virginia, 1931, as amended, relating to allowing emails and other types of electronic communications to and from regional jail inmates be monitored, intercepted, recorded and disclosed; and providing exception for attorney-client privileged communications.

Referred to the Committee on the Judiciary.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 508**—A Bill to repeal §20-14-6 and §20-14-7 of the Code of West Virginia, 1931, as amended; to amend and reenact

§15-10-3 and §15-10-4 of said code; to amend and reenact §20-7-1 of said code; to amend and reenact §20-14-1, §20-14-2, §20-14-3, §20-14-4, §20-14-5, §20-14-8 and §20-14-9 of said code; to amend said code by adding thereto four new sections, designated §20-14-4a, §20-14-10, §20-14-11 and §20-14-12; to amend and reenact §20-15-2 and §20-15-5 of said code; to amend and reenact §30-29-1 of said code; and to amend and reenact §61-7-6 of said code, all relating to reorganization of Hatfield-McCoy Regional Recreation Authority; removing rangers as law-enforcement officers; providing for law-enforcement services to be provided by natural resources police officers under reimbursement by authority; converting authority to a joint development entity of counties; altering composition of authority's board; removing authorization to issue revenue bonds and create security interests; providing for financial review and oversight of public funds; defining prohibited uses and conduct in recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; creating criminal penalties and civil remedies; and declaring responsibilities of participants to landowners and lessors in the recreation area.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill No. 509**—A Bill to amend and reenact §37-7-2 of the Code of West Virginia, 1931, as amended, relating to waste by a cotenant; providing that lawful use of the property by a majority of the ownership is not waste; and providing the cotenants, and their agents or assigns, are not liable for damages if an accounting of a pro rata share of the revenues and costs resulting from the use is provided to each cotenant.

Referred to the Committee on the Judiciary.

Senators Prezioso, Beach, D. Hall, Stollings, Williams, Romano and Plymale offered the following resolution:



**Senate Concurrent Resolution No. 30**—Requesting the Division of Highways name portion of Route 19 from its intersection at Route 218 to the junction at Sycamore Road in Marion County the “Nicholas Lou ‘Nick’ Saban, Jr., Expressway”.

Whereas, Nicholas Lou “Nick” Saban, Jr., was born October 31, 1951, in Fairmont, West Virginia; and

Whereas, Nicholas Lou “Nick” Saban, Jr., is the current head football coach at the University of Alabama, a position he has held since the 2007 season; and

Whereas, Coach Saban has previously served as head coach of the National Football League’s Miami Dolphins, as well as head football coach at Louisiana State University, Michigan State University and the University of Toledo; and

Whereas, Coach Saban led the LSU Tigers to the Bowl Championship Series National Championship in 2003 and the Alabama Crimson Tide to BCS and Associated Press National Championships in 2009, 2011 and 2012 seasons, making him the first coach in college football history to win a national championship with two different football subdivision schools; and

Whereas, Nicholas Lou “Nick” Saban, Jr., and Paul William “Bear” Bryant are the only coaches to win a South-Eastern Conference Championship at two different schools; and

Whereas, Coach Saban was inducted into the Alabama Sports Hall of Fame in May, 2013; and

Whereas, Coach Saban has four national championships, five SEC championships, eight SEC western division championships and one Mid-American Conference championship; and

Whereas, Coach Saban was named “The Most Powerful Coach in Sports” by Forbes Magazine in September of 2008; and

Whereas, Nicholas Lou “Nick” Saban, Jr., is one of the most successful coaches in football history and it is fitting to have this portion of road leading into his hometown named in his honor; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the portion of Route 19 from its intersection at Route 218 to the junction of Sycamore Road in Marion County the “Nicholas Lou ‘Nick’ Saban, Jr., Expressway”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the portion of Route 19 as the “Nicholas Lou ‘Nick’ Saban, Jr., Expressway”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of Highways and to Coach Saban.

Which, under the rules, lies over one day.

Senators Miller, Stollings, Snyder, Unger, Williams, Prezioso and Plymale offered the following resolution:

**Senate Resolution No. 33**—Designating Tuesday, February 17, 2015, as West Virginia Local Food Systems Day at the Legislature.

Whereas, The West Virginia Food and Farm Coalition is made of farmers, food processors, distributors, agencies, health professionals, extension agents, researchers, nonprofits, farmers markets, youth groups, religious organizations, consumers and institutions that feed people; and

Whereas, The West Virginia Food and Farm Coalition works within its network to change agricultural policy, promote access to local foods, share resources and grow food and farm business; and

Whereas, The West Virginia Food and Farm Coalition developed and enacted the Road Map for the Food Economy, a food charter that was developed through public input from hundreds of West Virginians from all geographic areas and walks of life that outlines major challenges facing West Virginia's food economy and serves as an action plan with a series of four goals and accompanying changes needed, next steps and indicators of success; and

Whereas, The West Virginia Food and Farm Coalition convenes five food and farm working groups that are tasked with overcoming the challenges outlined in the Road Map for the Food Economy. These working groups include Aggregation and Distribution; Meat Processing Facilities; School, Youth and Community Gardens; Access to Local, Healthy Food; and affiliate group West Virginia Farmers Market Association. Working groups are made of volunteers with backgrounds in various sectors of West Virginia's food system that come together to work through West Virginia's food system challenges and opportunities and implement impactful projects and policies; and

Whereas, The West Virginia Food and Farm Coalition, with its partners, aids in building and strengthening food and farm businesses and seeks to spur economic growth through building a strong food economy in West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates Tuesday, February 17, 2015, as West Virginia Local Food Systems Day at the Legislature; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Food and Farm Coalition.

At the request of Senator Carmichael, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Senators Unger, Prezioso, Plymale, Snyder and Stollings offered the following resolution:

**Senate Resolution No. 34**—Recognizing Delta Sigma Theta Sorority, Inc., of West Virginia for its service, dedication and commitment to the State of West Virginia.

Whereas, The objective of Delta Sigma Theta Sorority, Inc., of West Virginia is to promote knowledge and awareness of the problems, opportunities and issues facing West Virginia; and

Whereas, Delta Sigma Theta Sorority, Inc., was founded on January 13, 1913, by 22 collegiate women at Howard University to promote academic excellence and provide assistance to those in need. In March of 1913, nearly six weeks after its founding, several Delta Sigma Theta Sorority, Inc., founders marched in the historic Suffragist March under the Delta Sigma Theta Sorority, Inc., Banner, the Sorority's first public act; and

Whereas, Under the auspices of the National Social Action Commission, Delta Sigma Theta Sorority, Inc., of West Virginia continues to institute activities that foster sponsoring voter registration and voter education programs, combating voter suppression, full restoration of voting rights for individuals who have paid their debt to society (ex-offenders), clean water laws and regulations, affordable health care and access to quality health care, financial literacy and economic empowerment, support for HBCU's, political awareness and involvement, gender equality and improving community relationships with local law-enforcement agencies; and

Whereas, The membership of Delta Sigma Theta Sorority, Inc., of West Virginia includes individuals from nearly every facet of West Virginia's business, professional, religious, governmental, educational, civic, the arts, organized labor and minority organizations who demonstrate a commitment to the state; and

Whereas, Members of the West Virginia Chapters of Delta Sigma Theta Sorority, Inc., consist of Beckley Alumnae Chapter President

Paula Mitchell, Bluefield Alumnae Chapter President Carolyn Williams, Charleston-Institute Alumnae Chapter President Eva Jones, Eastern Panhandle Alumnae Chapter President Kimberley D. Crockett, Esq., Greater Morgantown Alumnae Chapter President Cheryl Williams, Huntington Alumnae Chapter President Fran Jackson, Omicron Upsilon Chapter West Virginia University President Chloe Dawson, and Theta Omega Chapter Marshall University President Bria Armstrong who operate under the leadership of West Virginia State Coordinator Marsha Lawson and West Virginia State Social Action Coordinator Michelle Barnes-Russell; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Delta Sigma Theta Sorority, Inc., of West Virginia for its service, dedication and commitment to West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of Delta Sigma Theta Sorority, Inc., of West Virginia.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 29,** Requesting DOH name bridge in Kanawha County “Rosie the Riveter 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.

**Eng. Com. Sub. for Senate Bill No. 274,** Relating to TANF program sanctions.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 274) 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 No. 382**, Declaring claims against state.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 382) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 382) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 429**, Relating to one-day special charitable event license to sell nonintoxicating beer.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 429) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 429) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill No. 2114**, Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,



Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2114) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2114) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill No. 2115**, Updating the meaning of the term “federal taxable income” and certain other terms used in the West Virginia Corporation Net Income Tax Act.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2115) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—31.

The nays were: None.

Absent: Nohe, Unger and Yost—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2115) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Senate Bill No. 266**, Eliminating sales tax exemption on certain highway construction and maintenance materials.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Carmichael, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Com. Sub. for Com. Sub. for Senate Bill No. 277**, Requiring issuance of certificate of birth resulting in stillbirth.

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 No. 286**, Relating to compulsory immunizations of students; exemptions.

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 No. 421**, Relating to punitive damages in civil actions.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Carmichael, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill No. 2004**, Providing a procedure for the development of a state plan under section 111 of the Clean Air Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page five, section twenty, line sixty, after the word “practicable.” by adding the following: Such state plan shall be on a unit-specific performance basis and shall be based upon either a rate-based model or a meter-based model.

The bill (Eng. Com. Sub. for H. B. No. 2004), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill No. 42**, Relating to sale of alcoholic beverages on Sundays prior to 1 p.m.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill No. 294**, Eliminating certain unnecessary, inactive or redundant councils, committees and boards.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Senate Bill No. 412**, Relating to Real Estate Commission complaint filings.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Laird and Kessler.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senator Laird were ordered printed in the Appendix to the Journal.

At the request of Senator Snyder, unanimous consent being granted, the remarks by Senator Kessler were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Nohe, Unger and Yost.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 18, 2015, at 11 a.m.

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## WEDNESDAY, FEBRUARY 18, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert H. Plymale, a senator from the fifth district.

Pending the reading of the Journal of Tuesday, February 17, 2015,

On motion of Senator Karnes, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2157**—A Bill to amend the Code of West Virginia, 1931, as amended, by amending and reenacting §3-9-19 relating to establishing that fraud associated with absent voters' ballots is a felony; and establishing the penalties for fraud associated with absent voters' ballots.

Referred 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. Com. Sub. for House Bill No. 2160**—A Bill to amend and reenact §18-9D-2, §18-9D-3, §18-9D-4c and §18-9D-16 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-9D-22, all relating to making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority.

Referred to the Committee on Education; and then 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 No. 2212**—A Bill to amend and reenact §31-15A-16 of the Code of West Virginia, 1931, as amended, relating to dedication of severance tax proceeds to the West Virginia Infrastructure General Obligation Debt Service Fund; specifying

reduction of the amount of severance tax proceeds dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund.

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 No. 2213**—A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to the West Virginia Infrastructure Fund; reducing the distributions to the West Virginia Infrastructure Fund from the State Excess Lottery Revenue Fund to \$30 million for fiscal year 2016; and increasing the percentage of funds available annually for grants from the West Virginia Infrastructure Fund.

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 No. 2387**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-36, relating to a framework for initiating comprehensive transformation of school leadership; making legislative findings that provide a context for leadership that promotes instructional improvement; stating purpose of section as framework for development of needed statutory and policy changes; stating further purpose to initiate transformation through general statement of legislative intent; providing certain expectations; stating intent for process of broad stakeholder input; requiring convening of stakeholders to assist state board; listing minimum issues to be considered for state recommendations; and requiring reports and recommendations to Legislature and Governor.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2606**—A Bill to amend and reenact §61-6-1b of the Code of West Virginia, 1931, as amended, relating to clarifying the potential sentence for disorderly conduct.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2608**—A Bill to amend and reenact §48-27-903 of the Code of West Virginia, 1931, as amended, relating to misdemeanor offenses for violation of protective order; and cleaning up redundant language.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 17th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(H. B. No. 2138)**, Adding aircraft operations on private airstrips and farms to the definition of recreational purpose.



And,

**(Com. Sub. for H. B. No. 2227)**, Relating to the National Coal Heritage Area Authority.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Steve Westfall,  
*Vice Chair, House Committee.*

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 14**, Creating Public Charter Schools Act of 2015.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 14** (originating in the Committee on Education)—A Bill to amend and reenact §5-16-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §6C-2-2 of said code; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-9A-2 and §18-9A-12 of said code; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, §18-33-8, §18-33-9, §18-33-10, §18-33-11, §18-33-12, §18-33-13, §18-33-14, §18-33-15, §18-33-16, §18-33-17 and §18-33-18; and to amend and reenact §29-12-5a of said code, all relating to public charter schools; setting forth legislative purpose and intent; defining terms; requiring state superintendent to report on the charter school program; setting forth provisions pertaining to eligibility and enrollment; prohibiting discrimination; allowing a county board to

authorize the creation of a start-up public charter school or the conversion of a noncharter public school to a public charter school; capping the number of public charter schools authorized; setting forth the duties of the authorizer; requiring an authorizer to develop and maintain policies and practices consistent with nationally recognized principles and professional standards for authorizing public charter schools; requiring certain authorizers to submit to the state superintendent an annual report summarizing certain information; prohibiting an employee, trustee, agent or representative of an authorizer from simultaneously serving as an employee, trustee, agent, representative, vendor or contractor of a public charter school operating under that authorizer; prohibiting a public charter school from being required to purchase services from its authorizer; establishing the West Virginia Board of Charter School Appeals and Training; setting forth provisions pertaining to board membership, member terms, board officers, board meetings, removal of board members, employees, duties, funding and training; requiring the state charter school board to issue and broadly publicize requests for proposals; setting forth information the requests for proposals shall contain, including a determination on whether to participate in the public employees grievance procedures; setting forth provisions pertaining to application for approval as a public charter school; setting forth provisions pertaining to the application review process; setting forth provisions pertaining to application approval and denial; setting forth provisions pertaining to appeal of application denial; requiring the execution of a charter contract; requiring the performance provisions of a charter contract be based on a performance framework developed by the state charter school board that sets forth the academic and operational performance indicators that will guide the authorizer's evaluations of each public charter school; requiring performance targets be set by a public charter school in conjunction with its authorizer; setting forth authorizer responsibilities relating to oversight; providing for an initial charter term of five years and a renewal term of five to ten years; setting forth authorizer responsibilities relating to renewal; requiring submission of renewal application; setting forth provisions pertaining to the renewal decision by the authorizer; setting forth

provisions pertaining to charter revocation and nonrenewal, including provisions allowing for appeal; providing for public charter school closure and dissolution; establishing priority in the application of laws, rules, regulations and authorities; allowing a charter contract to include one or more schools; allowing a single governing board to be issued one or more charter contracts; providing that the school district in which the public charter school is located remains the local education agency; providing that the school district retains responsibility for special education; declaring that the county board remains accountable for the performance of the public charter school; setting forth powers of public charter schools; prohibiting public charter schools from certain activities relating to discrimination, religious practices, charging tuition and delegating or assigning responsibilities set forth in a charter contract; limiting fees that may be charged; setting forth provisions pertaining to the applicability of other laws, rules and regulations to public charter schools; prohibiting county boards from certain actions relating to public charter schools; declaring that personnel hired by the charter school are employed by the charter school; requiring a public charter school to comply with applicable federal laws and regulations regarding the qualifications of teachers and other instructional staff; providing that all public charter school classroom teachers are subject to the same licensing requirements applicable to classroom teachers in noncharter public schools; providing that all personnel in a public charter school continue to accrue seniority in the same manner that they would accrue seniority if employed in a noncharter public school for purposes of employment in noncharter public schools; setting forth provisions pertaining to accounting, financial reporting and auditing; setting forth provisions pertaining to funding for public charter schools; allowing a public charter school to contract with a local school district or other entity for transportation services; requiring any entity providing transportation services to comply with all transportation and safety and administrative regulations applicable to noncharter public schools; setting forth provisions pertaining to public charter school facilities and property; clarifying that county boards not required to seek funds for certain facility-related purposes; setting forth provisions

pertaining to building inspections, codes, regulations and fees; setting forth provisions pertaining to the transfer of credits; setting forth provisions pertaining to extracurricular and interscholastic activities; requiring that public charter school employees participate in the Teachers Retirement System or the Teachers' Defined Contribution Retirement System, whichever is applicable; and requiring that all public charter school employees participate in insurance plans established by the Public Employees Insurance Agency.

With the recommendation that the committee substitute do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

At the request of Senator Sypolt, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 14) contained in the preceding report from the Committee on Education was taken up for immediate consideration.

On motion of Senator Sypolt, the bill was referred to the Committee on Finance.

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 18**, Creating Overdose Prevention Act.

And,

**Senate Bill No. 363**, Establishing maximum rates and service limitations for reimbursement of health care services by Court of Claims.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Com. Sub. for Senate Bill No. 30** (originating in the Committee on Agriculture and Rural Development), Permitting shared animal ownership agreement to consume raw milk.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 30** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-7, relating to shared animal ownership agreements to consume raw milk; acquiring percentage ownership interest in a milk-producing animal and its raw milk; requiring written document acknowledging the inherent dangers of consuming raw milk; agreeing not to distribute raw milk; requiring

reporting of herd-sharing agreements to Commissioner of Agriculture and Commissioner of Bureau for Public Health; requiring physicians to report any disease related to consumption of raw milk to local health department; providing for rule-making authority to set out the contents of the report; and requiring herd seller to meet animal health and testing requirements established by state veterinarian.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Ryan J. Ferns,  
*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 Nos. 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159 and 170**, Authorizing OMHST promulgate legislative rule relating to employee safety in and around quarries.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 170** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Bureau of Commerce; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the

agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications and as amended by the Legislature; authorizing Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to the safety of those employed in and around quarries in West Virginia; authorizing Division of Natural Resources to promulgate a legislative rule relating to defining the terms used in all hunting and trapping rules; authorizing Division of Natural Resources to promulgate a legislative rule relating to hunting, trapping and fishing license and stamp fees; authorizing Division of Natural Resources to promulgate a legislative rule relating to general hunting; authorizing Division of Natural Resources to promulgate a legislative rule relating to lifetime hunting, trapping and fishing licenses; authorizing Division of Natural Resources to promulgate a legislative rule relating to wildlife damage control agents; authorizing Division of Natural Resources to promulgate a legislative rule relating to special boating; authorizing Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters; authorizing Division of Labor to promulgate a legislative rule relating to the Amusement Rides and Amusement Attractions Safety Act; authorizing Division of Labor to promulgate a legislative rule relating to child labor; authorizing Division of Labor to promulgate a legislative rule relating to the supervision of plumbing work; authorizing Division of Labor to promulgate a legislative rule relating to verifying the legal employment status of workers; authorizing Division of Labor to promulgate a legislative rule relating to the regulation of heating, venting and cooling work; authorizing Division of Labor to promulgate a legislative rule relating to weights and measures calibration fees; and authorizing Division of Forestry to promulgate a legislative rule relating to ginseng.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill Nos. 182, 184 and 185**, Authorizing State Police promulgate legislative rule relating to DNA databank regulations and procedures.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 182** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications; authorizing State Police to promulgate a legislative rule relating to the regulations and procedures pertaining to the West Virginia DNA databank; authorizing State Fire Commission to promulgate a legislative rule relating to volunteer firefighters' training, equipment and operating standards; and authorizing State Fire Marshal to



promulgate a legislative rule relating to supervision of fire protection work.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill Nos. 192 and 193**, Authorizing DMV promulgate legislative rule relating to examination and issuance of driver's licenses.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 192** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Transportation; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to the examination and issuance of driver's licenses; and authorizing the Office of Administrative Hearings to promulgate a legislative rule relating to appeal procedures.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 334**, Relating to practice of medicine and surgery or podiatry.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 334** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-3-13 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §30-3-13a; to amend said code by adding thereto a new section, designated §30-7-21; and to amend said code by adding thereto a new section, designated §30-14-16, all relating generally to practice of medicine, osteopathy and advance practice registered nursing; rewriting licensing requirements for practice of medicine and surgery or podiatry; making exceptions; providing for unauthorized practice; requiring notice; establishing criminal penalties; permitting practice of telemedicine; establishing requirements; making exceptions; defining terms; and authorizing rulemaking.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill No. 343**, Exempting chiropractors from continuing education requirement on mental health conditions common to veterans.

And,

**Senate Bill No. 350**, Establishing criminal penalties for assault or battery on utility workers.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 364**, Exempting State Police Forensic Laboratory from state purchasing guidelines.

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 No. 390**, Authorizing PSC approve expedited cost recovery of natural gas utility infrastructure projects.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 390** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1k, relating to additional duties of the Public Service Commission; authorizing commission to approve expedited cost recovery of natural gas utility infrastructure projects deemed just and reasonable and in the public interest; making findings; establishing application and hearing process; and providing for rulemaking.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Walters, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 391**, Relating to unemployment compensation benefit eligibility for certain victims of domestic violence, sexual offenses or stalking.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Chris Walters,  
*Vice Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 398**, Extending expiration date for health care provider tax on eligible acute care hospitals.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 403**, Increasing period during which motor vehicle lien is valid.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Chris Walters,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 407**, Implementing state safety oversight program.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 407** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-16E-1, §17-16E-2 and §17-16E-3, all relating to implementation of a state safety oversight program pursuant to a mandate per 49 U. S. C. §5329; designating the Division of Public Transit as the State Safety Oversight Agency; specifying powers and duties of the State Safety Oversight Agency; and requiring rulemaking.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. No. 407), under the original double committee reference, was then referred to the Committee on Finance.

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 424**, Eliminating compulsory tuberculosis testing for certain school children and school personnel.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Education.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Education.

Senator Walters, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 435**, Creating WV Sheriffs' Bureau of Professional Standards.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 435** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-26-1, §7-26-2, §7-26-3, §7-26-4, §7-26-5 and §7-26-6, all relating to creating West Virginia Sheriffs' Bureau of Professional Standards; purpose and composition; general powers and duties; officers; promotion of training; standards for vehicles, badges and uniforms; and standards for interagency cooperation.

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,

Chris Walters,  
*Vice Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration



**Senate Bill No. 459**, Relating to development of broadband middle mile infrastructure.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 459** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §31-15A-2, §31-15A-8, §31-15A-10, §31-15A-11 and §31-15A-17 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto sixteen new sections, designated §31-15A-9a, §31-15A-9b, §31-15A-10a, §31-15A-11a, §31-15A-12a, §31-15A-13a, §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a, all relating generally to development of infrastructure in the state; providing for development of broadband middle mile infrastructure; defining new terms; creating a separate infrastructure fund for broadband middle mile infrastructure projects; providing for deposits and expenditures; setting forth additional powers to West Virginia Network for Educational Telecomputing and Water Development Authority; creating West Virginia Infrastructure Fund for Broadband Middle Mile Development; providing for disposition of funds on termination or dissolution of authority; providing that broadband middle mile projects funded by authority are not public improvements for purposes of financing and noting bidding and wage requirements; authorizing issuance of broadband middle mile revenue bonds; creating West Virginia Broadband Middle Mile Infrastructure Revenue Debt Service Fund; providing for funding of debt service fund; specifying requirements for issuance of bonds; providing for contents of trust agreement and trustee for bonds; specifying remedies available to bondholders, noteholders and trustee; making broadband middle mile infrastructure revenue bonds lawful investments; providing for purchase, cancellation and refunding of bonds; declaring that bonds are not state debts and are exempt from taxation; requiring periodic reporting; limiting personal liability; and permitting legislative and emergency rulemaking.

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,

Chris Walters,  
*Chair.*

The bill (Com. Sub. for S. B. No. 459), under the original double committee reference, was then referred to the Committee on Finance.

Senator M. 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 No. 2008**, Auditing the Division of Highways.

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

**Eng. House Bill No. 2274**, Authorizing the Commissioner of Corrections to enter into mutual aid agreements.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

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 Ferns:**

**Senate Bill No. 510**—A Bill to amend and reenact §48-16-102, §48-16-103, §48-16-104, §48-16-201, §48-16-203, §48-16-204, §48-16-205, §48-16-206, §48-16-207, §48-16-208, §48-16-209, §48-16-210, §48-16-211, §48-16-301, §48-16-304, §48-16-305, §48-16-307, §48-16-310, §48-16-311, §48-16-313, §48-16-314, §48-16-316, §48-16-317, §48-16-318, §48-16-319, §48-16-401, §48-16-501, §48-16-502, §48-16-504, §48-16-505, §48-16-506, §48-16-507, §48-16-601, §48-16-602, §48-16-603, §48-16-604, §48-16-605, §48-16-606, §48-16-607, §48-16-608, §48-16-609, §48-16-610, §48-16-611, §48-16-613, §48-16-614, §48-16-615, §48-16-701, §48-16-801, §48-16-802, §48-16-902 and §48-16-903 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto fifteen new sections, designated §48-16-105, §48-16-402, §48-16-616, §48-16-702, §48-16-703, §48-16-704,

§48-16-705, §48-16-706, §48-16-707, §48-16-708, §48-16-709, §48-16-710, §48-16-711, §48-16-712 and §48-16-713, all relating to amending the Uniform Interstate Family Support Act; implementing language for the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance; establishing uniform procedures for processing international child support cases; improving enforcement of American child support orders abroad; ensuring that children residing in the United States will receive the financial support due from parents, wherever the parents reside; providing guidelines and procedures for registration, enforcement and modification of foreign support orders from countries that are parties to the convention; providing that a support order from a country that has acceded to the convention must be registered immediately unless a tribunal in the state where the registration is sought determines that the language of the order goes against the policy of the state; providing notice to the nonregistering party; allowing opportunity to challenge order on certain grounds; providing for enforcement of an order unless one of the grounds for denying recognition is established; and requiring documents submitted under the convention be in the original language and a translated version submitted if the original language is not English.

Referred to the Committee on Interstate Cooperation; and then to the Committee on the Judiciary.

**By Senators Boso and Stollings:**

**Senate Bill No. 511**—A Bill to amend and reenact §21-5A-1, §21-5A-7, §21-5A-8 and §21-5A-9 of the Code of West Virginia, 1931, as amended, all relating to obligations of a contractor or subcontractor with regard to minimum prevailing wage rates for work performed on a public improvement project under a contract awarded by a state agency; clarifying the scope of a worker's right of action for recovery from a contractor or subcontractor for nonpayment of minimum prevailing wage rates; defining terms; and providing retroactive application.

Referred to the Committee on the Judiciary.

**By Senator D. Hall:**

**Senate Bill No. 512**—A Bill to amend and reenact §7-18-1 of the Code of West Virginia, 1931, as amended, relating to clarifying that complimentary hotel rooms provided without charge to guests are not subject to hotel occupancy tax.

Referred to the Committee on Finance.

**By Senator D. Hall:**

**Senate Bill No. 513**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-6-42, relating to establishing minimum standards for unconventional well sites; and defining terms.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Gaunch and Plymale:**

**Senate Bill No. 514**—A Bill to amend and reenact §33-3-14d of the Code of West Virginia, 1931, as amended, relating to investments by local policemen's and firemen's pension and relief fund boards; and requiring investment with the Management Investment Board in certain circumstances.

Referred to the Committee on Pensions; and then to the Committee on Finance.

Senators Ferns, Plymale, Kessler and D. Hall offered the following resolution:

**Senate Resolution No. 35**—Recognizing Robert Sincavich of Wheeling, West Virginia, for being named chairman of the American Wholesale Marketers Association and for his service to the convenience product distribution industry in the State of West Virginia.

Whereas, The American Wholesale Marketers Association is an international trade organization representing convenience distributors in the United States whose distributor members represent more than \$85 billion in convenience product sales; and

Whereas, Mr. Robert Sincavich will assume the chairmanship of the American Wholesale Marketers Association at the association's annual convention in Las Vegas, Nevada, later this month; and

Whereas, Mr. Sincavich was born and raised in Wheeling, West Virginia, and attended the Linsly Institute and also received a degree in psychology from Allegheny College; and

Whereas, Mr. Sincavich is president of Team Sledd, a convenience store wholesale product distributor established in Wheeling in 1937; and

Whereas, Under the leadership of Mr. Sincavich, Team Sledd has grown from a company with less than thirty employees with \$3 million in revenue to more than two hundred sixty employees with \$560 million in revenue over the past thirty years; and

Whereas, Mr. Sincavich has established Team Sledd as the preeminent supplier of convenience retail products and services in the six state Mid-Atlantic region, serving customers in Pennsylvania, Ohio, Virginia, Maryland, Kentucky and West Virginia; and

Whereas, Mr. Sincavich and his business partner, Mr. Randy Emanuelson, purchased Sledd Company in 1996 and have built it into today's Team Sledd, a top twenty-five United States convenience wholesaler; and

Whereas, Mr. Sincavich is a two-time past president of the West Virginia Wholesalers Association; and

Whereas, Mr. Sincavich is a board member on the Ohio Wholesale Marketers Association and also chairman of the Mid-

Atlantic Legislative Conference relating to convenience distribution issues; and

Whereas, Mr. Sincavich serves on the board for the Regional Economic Development Council; and

Whereas, Mr. Sincavich is entering his thirty-fourth year in the convenience distribution industry; and

Whereas, Mr. Sincavich and his wife of nearly 32 years, Dianne, have four children: daughters Carrie, Kimberly and Erin; and son Evan; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Robert Sincavich of Wheeling, West Virginia, for being named chairman of the American Wholesale Marketers Association and for his service to the convenience product distribution industry in the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Mr. Robert Sincavich.

At the request of Senator Ferns, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Plymale, Woelfel, Yost, Unger, Kessler, Laird, Stollings, Nohe, Prezioso and D. Hall offered the following resolution:

**Senate Resolution No. 36**—Memorializing the life of Stephen J. Kopp, Marshall University’s thirty-sixth President, for his remarkable and everlasting contributions to Marshall University and the State of West Virginia.

Whereas, Dr. Stephen J. Kopp became Marshall University’s thirty-sixth president on July 1, 2005; and

Whereas, Dr. Kopp, during his nine and one-half years as president, led Marshall to unprecedented growth and expansion; and

Whereas, Under Dr. Kopp’s leadership, more than \$300 million was wisely spent on construction of new buildings and renovations on Marshall University campuses; and

Whereas, With Dr. Kopp’s guidance, the Marshall University Board of Governors approved the Bachelor of Science in Engineering degree program, reviving the degree after a thirty-year absence; and

Whereas, Dr. Kopp’s accomplishments are well documented, including the building of the much-needed and long-promised Marshall Recreation Center; new freshman dorms; a new parking garage; the Rural Health and Clinical Education Center in Chapmanville; the Indoor Athletic Facility and the Chris Cline Athletic Complex; the Edwards Comprehensive Cancer Center; the Robert C. Byrd Biotechnology Science Center; the Erma Ora Byrd Clinical Center; the Veterans Memorial Soccer Complex, the Visual Arts Center and the Foundation Hall; and

Whereas, Dr. Kopp kept his word by fulfilling the promise of a better future for Marshall’s students, while challenging each of us to “dream boldly, plan well and dedicate ourselves individually and collectively to fulfilling this promise”; and

Whereas, Dr. Kopp was married to his beloved wife of 42 years, Jane, with whom he shared the joy of having two children, Adam and Elizabeth, and two grandchildren, Rachel and Ryan; and



Whereas, Sadly, Dr. Stephen J. Kopp died suddenly on December 17, 2014, leaving behind a host of family and friends, all of whom will miss him and his vision and passion for life and Marshall University; and

Whereas, On Marshall University Day at the Capitol, we celebrate the life and legacy of Dr. Stephen J. Kopp and the university he worked so hard to make so great; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of Dr. Stephen J. Kopp, Marshall University's thirty-sixth President, for his remarkable and everlasting contributions to Marshall University and the State of West Virginia; and, be it

*Further Resolved,* That the Senate extends its deepest sympathy to the family of Dr. Stephen J. Kopp on his passing; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the family of Dr. Stephen J. Kopp and Gary White, interim president of Marshall University.

At the request of Senator Plymale, 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 Carmichael, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution No. 36 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Plymale, Woelfel, Kessler, Laird, Stollings, D. Hall, Unger, Yost, Nohe and Prezioso offered the following resolution:

**Senate Resolution No. 37**—Recognizing the Marshall University football team and designating February 18, 2015, as Marshall University Day at the Capitol.

Whereas, The Marshall University Thundering Herd football team won the 2014 Conference USA championship for the first time in its 10 years in the league; and

Whereas, The Marshall University Thundering Herd football team finished the season ranked number 22 in the Amway Coaches' poll and number 23 in the Associated Press media poll, the first time in twelve years it was ranked in the Top 25 in both polls; and

Whereas, The Marshall University Thundering Herd football team won the Boca Raton Bowl with a convincing 52-23 victory over Mid-American Conference champion Northern Illinois; and

Whereas, The Marshall University Thundering Herd football team finished the season with a 13-1 record, becoming only the third team in school history to win 13 games; and

Whereas, The Marshall University Thundering Herd football team's coach and two players received major C-USA awards: Coach Doc Holliday was named Coach of the Year; quarterback Rakeem Cato was named Offensive Player of the Year; and linebacker Neville Hewitt was named Defensive Player of the Year; and

Whereas, The Marshall University Thundering Herd football team had a league-record 10 players selected to the All-Conference USA first team; and

Whereas, The Marshall University Thundering Herd football team's players excelled in the classroom as well as on the field, with tight end Eric Frohnappfel and offensive tackle Trevor Mendelson

selected to the 11-player C-USA All-Academic team, both having received their undergraduate degrees and both having 4.0 GPAs in MBA programs; and

Whereas, The Marshall University Thundering Herd football team's quarterback Rakeem Cato set the NCAA's FBS record for most consecutive games with a touchdown pass at forty-six, which also tied the all-divisions record; and

Whereas, The Marshall University Thundering Herd football team's Rakeem Cato, center Chris Jasperse and defensive tackle James Rouse were selected to play in post-season all-star games for seniors; and

Whereas, The Marshall University Thundering Herd football team's place kicker Justin Haig was the MVP of the Conference USA championship game, kicking four field goals, including a record three of 40 or more yards, and finished his career as the top kicked-points scorer in Thundering Herd history; and

Whereas, The Marshall University Thundering Herd football team was the only team among 128 FBS teams to rank in the top 20 nationally in both rushing offense and passing offense; and

Whereas, The Marshall University Thundering Herd football team's running back Devon Johnson's 1,767 rushing yards in 2014 ranked second in Thundering Herd single-season history and fifth nationally in FBS; and

Whereas, The Marshall University Thundering Herd football team's wide receiver Tommy Shuler finished his career with a Marshall-record 322 receptions, ranking fourth in all-time in major college football; and

Whereas The Marshall University Thundering Herd football team is one of six programs with four consecutive victories in bowls, the longest active streak in the nation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Marshall University football team and designates February 18, 2015, as Marshall University Day at the Capitol; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Doc Holliday, head football coach at Marshall University.

At the request of Senator Woelfel, 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 Kessler, and by unanimous consent, the remarks by Senator Woelfel regarding the adoption of Senate Resolution No. 37 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, 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 No. 30**, Requesting DOH name portion of Rt. 19 in Marion County “Nicholas Lou ‘Nick’ Saban, Jr., Expressway”.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Resolution No. 34**, Recognizing Delta Sigma Theta Sorority, Inc.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Unger, unanimous consent being granted, reference of the resolution to a committee was dispensed with and the resolution was adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened.

Senator Carmichael announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with rule number seventeen of the Rules of the Senate, had removed from the Senate second reading calendar, **Senate Bill No. 266**.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Com. Sub. for Senate Bill No. 277**, Requiring issuance of certificate of birth resulting in stillbirth.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 277) 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 No. 286**, Relating to compulsory immunizations of students; exemptions.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 286) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 421**, Relating to punitive damages in civil actions.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 17, 2015, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Palumbo, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page three, section twenty-seven, line twenty-eight, by striking out the word “three” and inserting in lieu thereof the word “five”;

On page four, section twenty-seven, line forty-five, after the words “excess of” by inserting the words “three times the amount of compensatory damages or”;

On page four, section twenty-seven, line forty-six, after “\$500,000” by inserting a comma and the words “if compensatory damages are less than one third of \$500,000,”;

On page four, section twenty-seven, line forty-eight, by striking out the words “one third of the amount in excess of \$500,000” and inserting in lieu thereof the words “all of the amount in excess of the three times the amount of compensatory damages or \$500,000, if compensatory damages are less than one third of \$500,000,”;

On page five, section twenty-seven, line fifty-one, after the word “code” by changing the period to a colon and inserting the following proviso: *Provided*, That under no circumstances may the total amount owed by the defendant(s) exceed the limits set forth in subsection (c) of this section.;

And,

On pages five through seven, section twenty-seven, lines fifty-six through one hundred three, by striking out all of subsections (f) and (g) and inserting in lieu thereof two new subsections, designated subsections (f) and (g), to read as follows:

(f) For civil actions adjudicated in the courts of the state where an award of punitive damages is in excess of the applicable amount set forth in subsection (e) of this section, the defendant(s) shall pay the part of the punitive damages award not in excess of the applicable amount set forth in subsection (e) of this section directly to the plaintiff in accordance with any court order. Any amount awarded

in excess of the applicable amount set forth in subsection (e) of this section shall be paid to the circuit clerk of the county in which the civil action was maintained. The circuit clerk shall remit the amount of the excess payment, less one percent which shall be retained by the circuit clerk to cover administrative and other costs associated with the obligations imposed under this section, made by the defendant(s) to the State Treasurer, and a statement showing any deductions made therefrom by the circuit clerk, together with a certified copy of the court order awarding punitive damages.

(g) For civil actions adjudicated in the courts of the United States of America sitting in the state where an award of punitive damages exceeded the applicable amount set forth in subsection (e) of this section, a party to such action shall file, upon a form prescribed by the Secretary of Tax and Revenue, an informational return stating the amount of punitive damages awarded to a plaintiff, the filing of which will be accompanied by a certified copy of the court order making such award. A copy of this return, together with a copy of the court order, shall also be filed with the circuit clerk of the county of residence of the defendant(s), if a natural person, or the county of the principal place of business, if a domestic entity. The defendant(s) shall pay the part of the punitive damages award not in excess of the applicable amount set forth in subsection (e) of this section directly to the plaintiff in accordance with any court order. Any amount awarded in excess of the applicable amount set forth in subsection (e) of this section shall be paid to the circuit clerk of the county of residence of the defendant(s), if a natural person, or the county of the principal place of business, if a domestic entity. The circuit clerk shall remit the amount of the excess payment, less one percent which shall be retained by the circuit clerk to cover administrative and other costs associated with the obligations imposed under this section, made by the defendant(s) to the State Treasurer, and a statement showing any deductions made therefrom by the circuit clerk, together with a certified copy of the court order awarding punitive damages.

Following discussion,



The question being on the adoption of Senator Palumbo's amendments to the bill, the same was put and did not prevail.

On motion of Senator Kessler, the following amendments to the bill (Com. Sub. for S. B. No. 421) were next reported by the Clerk and considered simultaneously:

On pages four and five, section twenty-seven, lines forty-nine through fifty-one, by striking out the words "Revenue Shortfall Reserve Fund and administered therefrom as provided in section twenty, article two, chapter eleven-b" and inserting in lieu thereof the words "West Virginia Future Fund, created by section five-b, article thirteen-a, chapter eleven";

On page five, section twenty-seven, lines fifty-two and fifty-three, by striking out the words "Revenue Shortfall Reserve Fund" and inserting in lieu thereof the words "West Virginia Future Fund";

And,

On pages seven and eight, section twenty-seven, lines one hundred five through one hundred eight, by striking out the words "Revenue Shortfall Reserve Fund and any such deposits shall be administered pursuant to section twenty, article two, chapter eleven-b" and inserting in lieu thereof the words "West Virginia Future Fund, created by section five-b, article thirteen-a, chapter eleven".

Following discussion,

The question being on the adoption of Senator Kessler's amendments to the bill, the same was put and did not prevail.

There being no further amendments offered,

The bill was then ordered to engrossment.

Engrossed Committee Substitute for Senate Bill No. 421 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 421 pass?”

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Takubo, Trump and Cole (Mr. President)—16.

The nays were: Beach, Facemire, D. Hall, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Walters, Williams, Woelfel and Yost—18.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 421) rejected.

Thereafter, at the respective requests of Senators Snyder and M. Hall, and by unanimous consent, the remarks by Senators Palumbo, Kessler, Romano and Trump regarding the adoption of the amendments offered by Senators Palumbo and Kessler and regarding the rejection of Engrossed Committee Substitute for Senate Bill No. 421 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for House Bill No. 2004**, Providing a procedure for the development of a state plan under section 111 of the Clean Air Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill No. 2004 pass?”

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Stollings, Sybolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—24.

The nays were: Beach, Facemire, Kessler, Laird, Miller, Palumbo, Romano, Snyder, Woelfel and Yost—10.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2004) 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 No. 2004**—A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended, relating to the development of a state plan under Section 111(d) of the Clean Air Act; setting forth legislative findings; prohibiting submission of a state plan without authority; requiring the Department of Environmental Protection to study the feasibility of a state plan; requiring the Department of Environmental Protection to submit a report to the Legislature determining whether a state plan is feasible; allowing for the development of a proposed state plan; requiring the state plan to be on a unit-specific basis; allowing for the plan to be on either a rate-based or meter-based standard; allowing for legislative review and consideration prior to submission of a state plan to the Environmental Protection Agency; and creating exceptions to the legal effect of the state plan.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—24.

The nays were: Beach, Facemire, Kessler, Laird, Miller, Palumbo, Romano, Snyder, Woelfel and Yost—10.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2004) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 42**, Relating to sale of alcoholic beverages on Sundays prior to 1 p.m.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 266**, Eliminating sales tax exemption on certain highway construction and maintenance materials.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Senate Bill No. 294**, Eliminating certain unnecessary, inactive or redundant councils, committees and boards.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 412**, Relating to Real Estate Commission complaint filings.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for Senate Bill No. 316**, Exempting new veteran-owned business from certain fees paid to Secretary of State.

**Com. Sub. for Senate Bill No. 344**, Relating to limitations on back and front pay and punitive damages.

**Com. Sub. for Senate Bill No. 384**, Permitting wine sales by specialty shop located in dry county, magisterial district or municipality.

**Senate Bill No. 415**, Relating to circuit judges.

**Senate Bill No. 425**, Providing WVU, MU and WVSOM more authority to invest assets.

**Eng. Com. Sub. for House Bill No. 2010**, Requiring the elections of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan and by division.

And,

**Eng. Com. Sub. for House Bill No. 2234**, Requiring a court to permit a party in a divorce proceeding to resume using the name he or she used prior to the marriage.

The Senate proceeded to the eleventh order of business and the introduction of guests.

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Kirkendoll.

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 19, 2015, at 11 a.m.

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## THURSDAY, FEBRUARY 19, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by C. Edward Gaunch, a senator from the eighth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael J. Romano, a senator from the twelfth district.

Pending the reading of the Journal of Wednesday, February 18, 2015,

On motion of Senator D. Hall, 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 Clerk presented a communication from the Court of Claims, submitting its annual report, in accordance with chapter fourteen, article two-a, section twenty-one of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Clerk presented a communication from the Department of Transportation, Office of Administrative Hearings, submitting its annual report as required by chapter seventeen-c, article five-c, section two of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill No. 6**, Relating to medical professional liability.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.****§55-7B-1. Legislative findings and declaration of purpose.**

The Legislature ~~hereby~~ finds and declares that:

The citizens of this state are entitled to the best medical care and facilities available and that health care providers offer an essential and basic service which requires that the public policy of this state encourage and facilitate the provision of such service to our citizens;

~~That as~~ As in every human endeavor the possibility of injury or death from negligent conduct commands that protection of the public served by health care providers be recognized as an important state interest;

~~That our~~ Our system of litigation is an essential component of this state's interest in providing adequate and reasonable compensation to those persons who suffer from injury or death as a result of professional negligence, and any limitation placed on this system must be balanced with and considerate of the need to fairly compensate patients who have been injured as a result of negligent and incompetent acts by health care providers;

~~That liability~~ Liability insurance is a key part of our system of litigation, affording compensation to the injured while fulfilling the need and fairness of spreading the cost of the risks of injury;

~~That a~~ A further important component of these protections is the capacity and willingness of health care providers to monitor and effectively control their professional competency, so as to protect the public and ensure to the extent possible the highest quality of care;

~~That it~~ It is the duty and responsibility of the Legislature to balance the rights of our individual citizens to adequate and reasonable compensation with the broad public interest in the provision of services by qualified health care providers and health



care facilities who can themselves obtain the protection of reasonably priced and extensive liability coverage;

~~That in~~ In recent years, the cost of insurance coverage has risen dramatically while the nature and extent of coverage has diminished, leaving the health care providers, the health care facilities and the injured without the full benefit of professional liability insurance coverage;

~~That many~~ Many of the factors and reasons contributing to the increased cost and diminished availability of professional liability insurance arise from the historic inability of this state to effectively and fairly regulate the insurance industry so as to guarantee our citizens that rates are appropriate, that purchasers of insurance coverage are not treated arbitrarily and that rates reflect the competency and experience of the insured health care providers and health care facilities;

~~That the~~ The unpredictable nature of traumatic injury health care services often result in a greater likelihood of unsatisfactory patient outcomes, a higher degree of patient and patient family dissatisfaction and frequent malpractice claims, creating a financial strain on the trauma care system of our state, increasing costs for all users of the trauma care system and impacting the availability of these services, requires appropriate and balanced limitations on the rights of persons asserting claims against trauma care health care providers, this balance must guarantee availability of trauma care services while mandating that these services meet all national standards of care, to assure that our health care resources are being directed towards providing the best trauma care available; ~~and~~

~~That the~~ The cost of liability insurance coverage has continued to rise dramatically, resulting in the state's loss and threatened loss of physicians, which, together with other costs and taxation incurred by health care providers in this state, have created a competitive disadvantage in attracting and retaining qualified physicians and other health care providers;

~~The Legislature further finds that medical~~ Medical liability issues have reached critical proportions for the state's long-term health care facilities, as: (1) Medical liability insurance premiums for nursing homes in West Virginia continue to increase and the number of claims per bed has increased significantly; (2) the cost to the state Medicaid program as a result of such higher premiums has grown considerably in this period; (3) current medical liability premium costs for some nursing homes constitute a significant percentage of the amount of coverage; (4) these high costs are leading some facilities to consider dropping medical liability insurance coverage altogether; and (5) the medical liability insurance crisis for nursing homes may soon result in a reduction of the number of beds available to citizens in need of long-term care; and

The modernization and structure of the health care delivery system necessitate an update of provisions of this article in order to facilitate and continue the objectives of this article which are to control the increase in the cost of liability insurance and to maintain access to affordable health care services for our citizens.

Therefore, the purpose of this article is to provide ~~for~~ a comprehensive resolution of the matters and factors which the Legislature finds must be addressed to accomplish the goals set forth in this section. In so doing, the Legislature has determined that reforms in the common law and statutory rights of our citizens must be enacted together as necessary and mutual ingredients of the appropriate legislative response relating to:

(1) Compensation for injury and death;

(2) The regulation of ratemaking and other practices by the liability insurance industry, including the formation of a physicians' mutual insurance company and establishment of a fund to assure adequate compensation to victims of malpractice; and

(3) The authority of medical licensing boards to effectively regulate and discipline the health care providers under such board.

**§55-7B-2. Definitions.**

(a) “Board” means the State Board of Risk and Insurance Management.

(b) “Collateral source” means a source of benefits or advantages for economic loss that the claimant has received from:

(1) Any federal or state act, public program or insurance which provides payments for medical expenses, disability benefits, including workers’ compensation benefits, or other similar benefits. Benefits payable under the Social Security Act and Medicare are not considered payments from collateral sources except for Social Security disability benefits directly attributable to the medical injury in question;

(2) Any contract or agreement of any group, organization, partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental, nursing, rehabilitation, therapy or other health care services or provide similar benefits, but excluding any amount that a group, organization, partnership, corporation or health care provider agrees to reduce, discount or write off of a medical bill;

(3) Any group accident, sickness or income disability insurance, any casualty or property insurance, including automobile and homeowners’ insurance, which provides medical benefits, income replacement or disability coverage, or any other similar insurance benefits, except life insurance, to the extent that someone other than the insured, including the insured’s employer, has paid all or part of the premium or made an economic contribution on behalf of the plaintiff; or

(4) Any contractual or voluntary wage continuation plan provided by an employer or otherwise or any other system intended to provide wages during a period of disability.

(c) “Consumer Price Index” means the most recent Consumer Price Index for All Consumers published by the United States Department of Labor.

(d) “Emergency condition” means any acute traumatic injury or acute medical condition which, according to standardized criteria for triage, involves a significant risk of death or the precipitation of significant complications or disabilities, impairment of bodily functions or, with respect to a pregnant woman, a significant risk to the health of the unborn child.

(e) “Health care” means:

(1) Any act, service or treatment provided under, pursuant to or in the furtherance of a physician’s plan of care, a health care facility’s plan of care, medical diagnosis or treatment;

(2) Any act, service or treatment performed or furnished, or which should have been performed or furnished, by any health care provider or person supervised by or acting under the direction of a health care provider or licensed professional for, to or on behalf of a patient during the patient’s medical care, treatment or confinement, including, but not limited to, staffing, medical transport, custodial care or basic care, infection control, positioning, hydration, nutrition and similar patient services; and

(3) The process employed by health care providers and health care facilities for the appointment, employment, contracting, credentialing, privileging and supervision of health care providers.

(f) “Health care facility” means any clinic, hospital, pharmacy, nursing home, or assisted living facility, ~~including personal care home, residential care community, and residential board and care home, or end-stage renal disease facility, home health agency, child welfare agency, group residential facility,~~ behavioral health care facility or comprehensive community mental ~~health/mental retardation center,~~ in and licensed health center, intellectual/developmental disability center or program, or other ambulatory health care facility, in and licensed, regulated or certified by the State of West Virginia under state or federal law and any state-operated institution or clinic providing health care and any related entity to the health care facility.

(g) “Health care provider” means a person, partnership, corporation, professional limited liability company, health care facility, entity or institution licensed by, or certified in, this state or another state, to provide health care or professional health care services, including, but not limited to, a physician, osteopathic physician, physician assistant, advanced practice registered nurse, hospital, health care facility, dentist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, speech-language pathologist and audiologist, occupational therapist, psychologist, pharmacist, technician, certified nursing assistant, emergency medical service personnel, emergency medical services authority or agency, any person supervised by or acting under the direction of a licensed professional, any person taking actions or providing service or treatment pursuant to or in furtherance of a physician’s plan of care, a health care facility’s plan of care, medical diagnosis or treatment; or an officer, employee or agent ~~thereof~~ of a health care provider acting in the course and scope of such the officer’s, employee’s or agent’s employment.

(h) “Medical injury” means injury or death to a patient arising or resulting from the rendering of or failure to render health care.

(i) “Medical professional liability” means any liability for damages resulting from the death or injury of a person for any tort or breach of contract based on health care services rendered, or which should have been rendered, by a health care provider or health care facility to a patient. It also means other claims that may be contemporaneous to or related to the alleged tort or breach of contract or otherwise provided, all in the context of rendering health care services.

(j) “Medical professional liability insurance” means a contract of insurance or any actuarially sound self-funding program that pays for the legal liability of a health care facility or health care provider arising from a claim of medical professional liability. In order to qualify as medical professional liability insurance for purposes of

this article, a self-funding program for an individual physician must meet the requirements and minimum standards set forth in section twelve of this article.

(k) “Noneconomic loss” means losses, including, but not limited to, pain, suffering, mental anguish and grief.

(l) “Patient” means a natural person who receives or should have received health care from a licensed health care provider under a contract, expressed or implied.

(m) “Plaintiff” means a patient or representative of a patient who brings an action for medical professional liability under this article.

(n) “Related entity” means any corporation, foundation, partnership, joint venture, professional limited liability company, limited liability company, trust, affiliate or other entity under common control or ownership, whether directly or indirectly, partially or completely, legally, beneficially or constructively, with a health care provider or health care facility; or which owns directly, indirectly, beneficially or constructively any part of a health care provider or health care facility.

(n) (o) “Representative” means the spouse, parent, guardian, trustee, attorney or other legal agent of another.

**§55-7B-7. Testimony of expert witness on standard of care.**

(a) The applicable standard of care and a defendant’s failure to meet the standard of care, if at issue, shall be established in medical professional liability cases by the plaintiff by testimony of one or more knowledgeable, competent expert witnesses if required by the court. Expert testimony may only be admitted in evidence. A proposed expert witness may only be found competent to testify if the foundation therefor for his or her testimony is first laid establishing that: (1) The opinion is actually held by the expert witness; (2) the opinion can be testified to with reasonable medical probability; (3) the expert witness possesses professional knowledge

and expertise coupled with knowledge of the applicable standard of care to which his or her expert opinion testimony is addressed; (4) the expert witness's opinion is grounded on scientifically valid peer reviewed studies if available; (5) the expert witness maintains a current license to practice medicine with the appropriate licensing authority of any state of the United States: *Provided*, That the expert witness's license has not been revoked or suspended in the past year in any state; and ~~(5)~~ (6) the expert witness is engaged or qualified in a medical field in which the practitioner has experience and/or training in diagnosing or treating injuries or conditions similar to those of the patient. If the witness meets all of these qualifications and devoted, at the time of the medical injury, sixty percent of his or her professional time annually to the active clinical practice in his or her medical field or specialty, or to teaching in his or her medical field or speciality in an accredited university, there shall be a rebuttable presumption that the witness is qualified as an expert. The parties shall have the opportunity to impeach any witness's qualifications as an expert. Financial records of an expert witness are not discoverable or relevant to prove the amount of time the expert witness spends in active practice or teaching in his or her medical field unless good cause can be shown to the court.

(b) Nothing contained in this section ~~may be construed to limit~~ limits a trial court's discretion to determine the competency or lack of competency of a witness on a ground not specifically enumerated in this section.

**§55-7B-7a. Admissibility and use of certain information.**

(a) In an action brought, there is a rebuttable presumption that the following information may not be introduced unless it applies specifically to the injured person or it involves substantially similar conduct that occurred within one year of the particular incident involved:

(1) A state or federal survey, audit, review or other report of a health care provider or health care facility;

(2) Disciplinary actions against a health care provider's license, registration or certification;

(3) An accreditation report of a health care provider or health care facility; and

(4) An assessment of a civil or criminal penalty.

(b) In any action brought, if the health care facility or health care provider demonstrates compliance with the minimum staffing requirements under state law, the health care facility or health care provider is entitled to a rebuttable presumption that appropriate staffing was provided.

(c) Information under this section may only be introduced in a proceeding if it is otherwise admissible under the West Virginia Rules of Evidence.

**§55-7B-8. Limit on liability for noneconomic loss.**

(a) In any professional liability action brought against a health care provider pursuant to this article, the maximum amount recoverable as compensatory damages for noneconomic loss ~~shall~~ may not exceed \$250,000 per for each occurrence, regardless of the number of plaintiffs or the number of defendants or, in the case of wrongful death, regardless of the number of distributees, except as provided in subsection (b) of this section.

(b) The plaintiff may recover compensatory damages for noneconomic loss in excess of the limitation described in subsection (a) of this section, but not in excess of \$500,000 for each occurrence, regardless of the number of plaintiffs or the number of defendants or, in the case of wrongful death, regardless of the number of distributees, where the damages for noneconomic losses suffered by the plaintiff were for: (1) Wrongful death; (2) permanent and substantial physical deformity, loss of use of a limb or loss of a bodily organ system; or (3) permanent physical or mental functional injury that permanently prevents the injured person from being able



to independently care for himself or herself and perform life-sustaining activities.

(c) On January 1, 2004, and in each year thereafter, the limitation for compensatory damages contained in subsections (a) and (b) of this section shall increase to account for inflation by an amount equal to the Consumer Price Index published by the United States Department of Labor, not to exceed one hundred fifty percent of the amounts specified in said subsections. ~~(b) and (c)~~

(d) The limitations on noneconomic damages contained in subsections (a), (b), (c) and (e) of this section are not available to any defendant in an action pursuant to this article which does not have medical professional liability insurance in the aggregate amount of at least \$1 million per for each occurrence covering the medical injury which is the subject of the action.

(e) If subsection (a) or (b) of this section, as enacted during the 2003 regular session of the Legislature, or the application thereof to any person or circumstance, is found by a court of law to be unconstitutional or otherwise invalid, the maximum amount recoverable as damages for noneconomic loss in a professional liability action brought against a health care provider under this article shall thereafter not exceed \$1 million.

**§55-7B-9. Several liability.**

(a) In the trial of a medical professional liability action under this article involving multiple defendants, the trier of fact shall report its findings on a form provided by the court which contains each of the possible verdicts as determined by the court. Unless otherwise agreed by all the parties to the action, the jury shall be instructed to answer special interrogatories, or the court, acting without a jury, shall make findings as to:

(1) The total amount of compensatory damages recoverable by the plaintiff;

(2) The portion of the damages that represents damages for noneconomic loss;

(3) The portion of the damages that represents damages for each category of economic loss;

(4) The percentage of fault, if any, attributable to each plaintiff; and

(5) The percentage of fault, if any, attributable to each of the defendants.

(b) In assessing percentages of fault, the trier of fact shall consider only the fault of the parties in the litigation at the time the verdict is rendered and ~~shall~~ may not consider the fault of any other person who has settled a claim with the plaintiff arising out of the same medical injury: *Provided*, That, upon the creation of the Patient Injury Compensation Fund provided for in article twelve-c, chapter twenty-nine of this code, or of some other mechanism for compensating a plaintiff for any amount of economic damages awarded by the trier of fact which the plaintiff has been unable to collect, the trier of fact shall, in assessing percentages of fault, consider the fault of all alleged parties, including the fault of any person who has settled a claim with the plaintiff arising out of the same medical injury.

(c) If the trier of fact renders a verdict for the plaintiff, the court shall enter judgment of several, but not joint, liability against each defendant in accordance with the percentage of fault attributed to the defendant by the trier of fact.

(d) To determine the amount of judgment to be entered against each defendant, the court shall first, after adjusting the verdict as provided in section nine-a of this article, reduce the adjusted verdict by the amount of any preverdict settlement arising out of the same medical injury. The court shall then, with regard to each defendant, multiply the total amount of damages remaining, with interest, by

the percentage of fault attributed to each defendant by the trier of fact. The resulting amount of damages, together with any post-judgment interest accrued, shall be the maximum recoverable against the defendant.

(e) Upon the creation of the Patient Injury Compensation Fund provided for in article twelve-c, chapter twenty-nine of this code, or of some other mechanism for compensating a plaintiff for any amount of economic damages awarded by the trier of fact which the plaintiff has been unable to collect, the court shall, in determining the amount of judgment to be entered against each defendant, first multiply the total amount of damages, with interest, recoverable by the plaintiff by the percentage of each defendant's fault and that amount, together with any post-judgment interest accrued, is the maximum recoverable against said defendant. Prior to the court's entry of the final judgment order as to each defendant against whom a verdict was rendered, the court shall reduce the total jury verdict by any amounts received by a plaintiff in settlement of the action. When any defendant's percentage of the verdict exceeds the remaining amounts due plaintiff after the mandatory reductions, each defendant shall be liable only for the defendant's pro rata share of the remainder of the verdict as calculated by the court from the remaining defendants to the action. The plaintiff's total award may never exceed the jury's verdict less any statutory or court-ordered reductions.

(f) Nothing in this section is meant to eliminate or diminish any defenses or immunities which exist as of the effective date of this section, except as expressly noted in this section.

(g) Nothing in this article is meant to preclude a health care provider from being held responsible for the portion of fault attributed by the trier of fact to any person acting as the health care provider's agent or servant or to preclude imposition of fault otherwise imputable or attributable to the health care provider under claims of vicarious liability. A health care provider may not be held vicariously liable for the acts of a nonemployee pursuant to a theory

of ostensible agency unless the alleged agent does not maintain professional liability insurance covering the medical injury which is the subject of the action in the aggregate amount of at least \$1 million for each occurrence.

**§55-7B-9a. Reduction in compensatory damages for economic losses for payments from collateral sources for the same injury.**

(a) In any action arising after the effective date of this section, a defendant who has been found liable to the plaintiff for damages for medical care, rehabilitation services, lost earnings or other economic losses may present to the court, after the trier of fact has rendered a verdict, but before entry of judgment, evidence of payments the plaintiff has received for the same injury from collateral sources.

(b) In ~~any~~ a hearing held pursuant to subsection (a) of this section, the defendant may present evidence of future payments from collateral sources if the court determines that:

(1) There is a preexisting contractual or statutory obligation on the collateral source to pay the benefits;

(2) The benefits, to a reasonable degree of certainty, will be paid to the plaintiff for expenses the trier of fact has determined the plaintiff will incur in the future; and

(3) The amount of the future expenses is readily reducible to a sum certain.

(c) In ~~the~~ a hearing held pursuant to subsection (a) of this section, the plaintiff may present evidence of the value of payments or contributions he or she has made to secure the right to the benefits paid by the collateral source.

(d) After hearing the evidence presented by the parties, the court shall make the following findings of fact:

(1) The total amount of damages for economic loss found by the trier of fact;

(2) The total amount of damages for each category of economic loss found by the trier of fact;

(3) The total amount of allowable collateral source payments received or to be received by the plaintiff for the medical injury which was the subject of the verdict in each category of economic loss; and

(4) The total amount of any premiums or contributions paid by the plaintiff in exchange for the collateral source payments in each category of economic loss found by the trier of fact.

(e) The court shall subtract the total premiums the plaintiff was found to have paid in each category of economic loss from the total collateral source benefits the plaintiff received with regard to that category of economic loss to arrive at the net amount of collateral source payments.

(f) The court shall then subtract the net amount of collateral source payments received or to be received by the plaintiff in each category of economic loss from the total amount of damages awarded the plaintiff by the trier of fact for that category of economic loss to arrive at the adjusted verdict.

(g) The court ~~shall~~ may not reduce the verdict rendered by the trier of fact in any category of economic loss to reflect:

(1) Amounts paid to or on behalf of the plaintiff which the collateral source has a right to recover from the plaintiff through subrogation, lien or reimbursement;

(2) Amounts in excess of benefits actually paid or to be paid on behalf of the plaintiff by a collateral source in a category of economic loss;

(3) The proceeds of any individual disability or income replacement insurance paid for entirely by the plaintiff;

(4) The assets of the plaintiff or the members of the plaintiff's immediate family; or

(5) A settlement between the plaintiff and another tortfeasor.

(h) After determining the amount of the adjusted verdict, the court shall enter judgment in accordance with the provisions of section nine of this article.

**§55-7B-9c. Limit on liability for treatment of emergency conditions for which patient is admitted to a designated trauma center; exceptions; emergency rules.**

(a) In any action brought under this article for injury to or death of a patient as a result of health care services or assistance rendered in good faith and necessitated by an emergency condition for which the patient enters a health care facility designated by the Office of Emergency Medical Services as a trauma center, including health care services or assistance rendered in good faith by a licensed EMS emergency medical services authority or agency, certified emergency medical service personnel or an employee of a licensed EMS emergency medical services authority or agency, the total amount of civil damages recoverable ~~shall~~ may not exceed \$500,000 for each occurrence, exclusive of interest computed from the date of judgment, and regardless of the number of plaintiffs or the number of defendants or, in the case of wrongful death, regardless of the number of distributees.

(b) The limitation of liability in subsection (a) of this section also applies to any act or omission of a health care provider in rendering continued care or assistance in the event that surgery is required as a result of the emergency condition within a reasonable time after the patient's condition is stabilized.

(c) The limitation on liability provided under subsection (a) of this section does not apply to any act or omission in rendering care or assistance which:

(1) Occurs after the patient's condition is stabilized and the patient is capable of receiving medical treatment as a nonemergency patient; or

(2) Is unrelated to the original emergency condition.

(d) In the event that: (1) A physician provides follow-up care to a patient to whom the physician rendered care or assistance pursuant to subsection (a) of this section; and (2) a medical condition arises during the course of the follow-up care that is directly related to the original emergency condition for which care or assistance was rendered pursuant to said subsection, there is rebuttable presumption that the medical condition was the result of the original emergency condition and that the limitation on liability provided by said subsection applies with respect to that medical condition.

(e) There is a rebuttable presumption that a medical condition which arises in the course of follow-up care provided by the designated trauma center health care provider who rendered good faith care or assistance for the original emergency condition is directly related to the original emergency condition where the follow-up care is provided within a reasonable time after the patient's admission to the designated trauma center.

(f) The limitation on liability provided under subsection (a) of this section does not apply where health care or assistance for the emergency condition is rendered:

(1) In willful and wanton or reckless disregard of a risk of harm to the patient; or

(2) In clear violation of established written protocols for triage and emergency health care procedures developed by the Office of

Emergency Medical Services in accordance with subsection (e) of this section. In the event that the Office of Emergency Medical Services has not developed a written triage or emergency medical protocol by the effective date of this section, the limitation on liability provided under subsection (a) of this section does not apply where health care or assistance is rendered under this section in violation of nationally recognized standards for triage and emergency health care procedures.

(g) The Office of Emergency Medical Services shall, prior to the effective date of this section, develop a written protocol specifying recognized and accepted standards for triage and emergency health care procedures for treatment of emergency conditions necessitating admission of the patient to a designated trauma center.

(h) In its discretion, the Office of Emergency Medical Services may grant provisional trauma center status for a period of up to one year to a health care facility applying for designated trauma center status. A facility given provisional trauma center status is eligible for the limitation on liability provided in subsection (a) of this section. If, at the end of the provisional period, the facility has not been approved by the Office of Emergency Medical Services as a designated trauma center, the facility ~~will~~ is no longer ~~be~~ eligible for the limitation on liability provided in subsection (a) of this section.

(i) The Commissioner of the Bureau for Public Health may grant an applicant for designated trauma center status a one-time only extension of provisional trauma center status, upon submission by the facility of a written request for extension, accompanied by a detailed explanation and plan of action to fulfill the requirements for a designated trauma center. If, at the end of the six-month period, the facility has not been approved by the Office of Emergency Medical Services as a designated trauma center, the facility ~~will~~ no longer ~~have~~ has the protection of the limitation on liability provided in subsection (a) of this section.



(j) If the Office of Emergency Medical Services determines that a health care facility no longer meets the requirements for a designated trauma center, it shall revoke the designation, at which time the limitation on liability established by subsection (a) of this section ~~shall cease~~ ceases to apply to that health care facility for services or treatment rendered thereafter.

(k) The Legislature hereby finds that an emergency exists compelling promulgation of an emergency rule, consistent with the provisions of this section, governing the criteria for designation of a facility as a trauma center or provisional trauma center and implementation of a statewide trauma/emergency care system. The Legislature therefore directs the Secretary of the Department of Health and Human Resources to file, on or before July 1, 2003, emergency rules specifying the criteria for designation of a facility as a trauma center or provisional trauma center in accordance with nationally accepted and recognized standards and governing the implementation of a statewide trauma/emergency care system. The rules governing the statewide trauma/emergency care system shall include, but not be limited to:

(1) System design, organizational structure and operation, including integration with the existing emergency medical services system;

(2) Regulation of facility designation, categorization and credentialing, including the establishment and collection of reasonable fees for designation; and

(3) System accountability, including medical review and audit to assure system quality. Any medical review committees established to assure system quality shall include all levels of care, including emergency medical service providers, and both the review committees and the providers shall qualify for all the rights and protections established in article three-c, chapter thirty of this code.

(l) On January 1, 2016, and in each year after that, the limitation for civil damages contained in subsection (a) of this section shall increase to account for inflation by an amount equal to the Consumer Price Index published by the United States Department of Labor, not to exceed one hundred fifty percent of said subsection.

**§55-7B-9d. Adjustment of verdict for past medical expenses.**

A verdict for past medical expenses is limited to:

(1) The total amount of past medical expenses paid by or on behalf of the plaintiff; and

(2) The total amount of past medical expenses incurred but not paid by or on behalf of the plaintiff for which the plaintiff or another person on behalf of the plaintiff is obligated to pay.

**§55-7B-10. Effective date; applicability of provisions.**

(a) The provisions of House Bill 149, enacted during the first extraordinary session of the Legislature, 1986, shall be effective at the same time that the provisions of Enrolled Senate Bill 714, enacted during the regular session, 1986, become effective, and the provisions of said House Bill 149 shall be deemed to amend the provisions of Enrolled Senate Bill 714. The provisions of this article shall not apply to injuries which occur before the effective date of this said Enrolled Senate Bill 714.

The amendments to this article as provided in House Bill 601, enacted during the sixth extraordinary session of the Legislature, 2001, apply to all causes of action alleging medical professional liability which are filed on or after March 1, 2002.

(b) The amendments to this article provided in Enrolled Committee Substitute for House Bill No. 2122 during the regular session of the Legislature, 2003, apply to all causes of action alleging medical professional liability which are filed on or after July 1, 2003.

(b) The amendments to this article provided in Enrolled Committee Substitute for Senate Bill No. 6 during the regular session of the Legislature, 2015, apply to all causes of action alleging medical professional liability which arise on or after July 1, 2015.

**§55-7B-11. Severability.**

(a) If any provision of this article as enacted during the First Extraordinary Session of the Legislature, 1986, in House Bill 149, or as enacted during the regular session of the Legislature, 1986, in Senate Bill 714, or as enacted during the regular session of the Legislature, 2015, or the application thereof to any person or circumstance is held invalid, ~~such the~~ invalidity shall does not affect other provisions or applications of this article, and to this end, the provisions of this article are declared to be severable.

(b) If any provision of the amendments to section five of this article, any provision of ~~new~~ section six-d of this article or any provision of the amendments to section eleven, article six, chapter fifty-six of this code as provided in House Bill 601, enacted during the Sixth Extraordinary Session of the Legislature, 2001, is held invalid, or the application thereof to any person is held invalid, then, notwithstanding any other provision of law, every other provision of said House Bill 601 shall be deemed invalid and of no further force and effect.

(c) If any provision of the amendments to section six or ten of this article or any provision of ~~new~~ section six-a, six-b or six-c of this article as provided in House Bill 601, enacted during the Sixth Extraordinary Session of the Legislature, 2001, is held invalid, ~~such the~~ invalidity shall does not affect other provisions or applications of this article, and to this end, such provisions are deemed severable.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill No. 6**—A Bill to amend and reenact §55-7B-1, §55-7B-2, §55-7B-7, §55-7B-8, §55-7B-9, §55-7B-9a, §55-7B-9c, §55-7B-10 and §55-7B-11 of the Code of West Virginia, 1931; and to amend said code by adding thereto two new sections, designated §55-7B-7a and §55-7B-9d, all relating to medical professional liability generally; providing additional legislative findings and purposes related to medical professional liability; providing definitions; modifying the qualifications for the competency of experts who testify in medical professional liability actions; providing rebuttable presumptions and evidentiary requirements related to the admission of certain government, health care provider or health care facility information; modifying the maximum amount of recovery for, and availability of, noneconomic damages; clarifying that a health care provider is not vicariously liable unless the alleged agent does not maintain certain insurance; clarifying eligibility for, and application of, emergency medical services caps; providing a methodology for determining the amount of trauma care caps to account for inflation; providing certain limitations of verdicts for past medical expenses of the plaintiff; establishing effective date; and providing for severability.

On motion of Senator Trump, the following amendments to the House of Delegates amendments to the bill were reported by the Clerk and adopted:

On page three, section two, subsection (b), subdivision (1), after the word “Medicare” by inserting the words “set aside”;

And,

On page seventeen, section ten, subsection (b), by striking out the word “arise” and inserting in lieu thereof the words “are filed”.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill No. 6, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—30.

The nays were: Beach, Facemire, Romano and Snyder—4.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 6) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—30.

The nays were: Beach, Facemire, Romano and Snyder—4.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 6) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of

conference report, passage as amended by the conference report with its conference amended title, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill No. 13**, Reinstating open and obvious doctrine for premises liability.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill No. 262**, Transferring CHIP and Children's Health Insurance Agency from Department of Administration to DHHR.

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill No. 389**, Relating to Board of Registration for Professional Engineers license renewals and reinstatements.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

That §30-13-13a, §30-13-17 and §30-13-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 13. ENGINEERS.**

**§30-13-13a. Designations of nonpracticing status.**

The board may designate a professional engineer as ineligible to practice or offer to practice engineering in this state using one of the following terms:

(1) *Professional engineer-retired.* – A registrant may apply for retired status upon certification that he or she is no longer practicing or offering to practice engineering in this state for remuneration.

(2) *Professional engineer-inactive.* – A registrant may request inactive status upon affirmation that he or she is no longer practicing or offering to practice engineering in this state.

(3) *Professional engineer-lapsed.* – A registrant's license is lapsed when the registrant does not respond to renewal notices or pay the required renewal fees.

(4) *Professional engineer-invalidated.* – A registrant's license is invalidated when he or she is unable to provide sufficient proof that any condition of renewal set forth in this article or by board rule has been met.

**§30-13-17. Certificates of authorization required; naming of engineering firms.**

(a) No person or firm is authorized to practice or offer to practice engineering in this state until the person or firm has been issued a certificate of authorization by the board.

(b) A person or firm desiring a certificate of authorization must file all the required information with the board on an application form specified by the board. The required information shall include the sworn statement of the engineer in responsible charge who is a professional engineer registered in this state. The board shall issue a certificate of authorization to an applicant who has met all the requirements and paid the fees set forth in board rules.

(c) No person or firm is relieved of responsibility for the conduct or acts of its agents, employees, officers or partners due to

compliance with the provisions of this article. No individual practicing engineering under the provisions of this article is relieved of responsibility for engineering services performed due to his or her employment or other relationship with a person or firm holding a certificate of authorization.

(d) An engineer who renders occasional, part-time or contract engineering services to or for a firm may not be designated as being in responsible charge for the professional activities of the firm unless that engineer is an owner or principal of the firm.

(e) The Secretary of State shall not issue a certificate of authority or business registration or license to an applicant whose business includes, among the objectives for which it is established, the words engineer, engineering or any modification or derivation thereof unless the board of registration for this profession has issued to the applicant a certificate of authorization or a letter indicating eligibility to receive the certificate. The certificate or letter from the board shall be filed with the application filed with the Secretary of State to do business in West Virginia.

(f) The Secretary of State shall decline to register a trade name or service mark which includes the words engineer, engineering or modifications or derivatives thereof in its business name or logotype except those businesses holding a certificate of authorization issued under the provisions of this article.

(g) The certificate of authorization may be renewed or reinstated in accordance with board rule and upon payment of the required renewal fee fees.

(h) Every holder of a certificate of authorization has a duty to notify the board promptly of any change in information previously submitted to the board in an application for a certificate of authorization.

**§30-13-18. Renewals and reinstatement.**



(a) Certificates of registration and certificates of authorization for firms expire on the last day of the month of June following issuance December of the year indicated on the certificate, and are invalid after that date unless renewed the holder of any certificate that is not timely renewed is ineligible to practice or offer to practice engineering in this state until the certificate has been reinstated in accordance with rules promulgated by the board.

(b) The secretary of the board shall notify every person registered and every firm holding a certification of authorization under this article of the pending expiration of a certificate of registration or certificate of authorization issued to that person or firm, including notice of the fee required to renew the registration or certificate. The notice shall be mailed to the registrant or firm at their last known address at the last mailing address or email address provided to the board, at least one month in advance of the date of the expiration. Certificates may be renewed only in accordance with board rule, which may include payment of a late fee for renewals not postmarked by December 31 of the year in which renewal is required. The board shall notify every person or firm holding an active certificate under this article of the certificate renewal requirements at least one month prior to the renewal date. The notice shall be made by mail or electronic means using the contact information provided to the board.

(c) An expired A certificate that was not timely renewed or for other reason was given a nonpracticing status may be renewed reinstated under rules promulgated by the board and may require reexamination and payment of penalty fees set forth in board rules.

(d) Effective July 1, 2015, the board may renew certificates on a biennial basis.

(e) The board shall promulgate emergency rules pursuant to section fifteen, article three, chapter twenty-nine-a of this code to implement the provisions of this section.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill No. 389**—A Bill to amend and reenact §30-13-13a, §30-13-17 and §30-13-18 of the Code of West Virginia, 1931, as amended, all relating to the Board of Registration for Professional Engineers; changing time period for renewal from fiscal year to calendar year; authorizing renewal notification by mail or electronically; requiring reinstatement of nonrenewed licenses; and authorizing annual or biennial renewal periods.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill No. 389, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 389) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes,

Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 389) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2391**—A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to minimum instructional days per week, minimum instructional minutes per week and minimum instructional days per year for early childhood education programs.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2523**—A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to creating a special revenue account to offset costs for the West Virginia State Police 100th Anniversary in 2019.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2527**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-8, relating to establishing the Task Force on Prevention of Sexual Abuse of Children; authorizing section to be called “Erin Merryn’s Law”; specifying membership; specifying responsibilities, including report of recommendations to Legislature and Governor; precluding member compensation or expense reimbursement.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2776**—A Bill to amend and reenact §30-3E-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-15a of said code; and to amend and reenact §30-8-9 of said code, all relating to prescribing hydrocodone combination drugs for a duration of no more than three days.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2777**—A Bill to amend the Code of West Virginia, 1931, as amended, by repealing §30-27-11a and §30-27-12; to amend and reenact §30-27-1, §30-27-3, §30-27-4, §30-27-5, §30-27-6, §30-27-8, §30-27-8a, §30-27-10, §30-27-11, §30-27-13 and §30-27-16 of the code; and to amend said code by adding thereto two new sections, designated §30-27-8b and

§30-27-8c, all relating to licensing of aestheticians, barbers, cosmetologists, hairstylists and nail technicians; revising the membership requirements of the Board of Barbers and Cosmetologists; exempting shampoo assistants and hair braiding from licensure by the Board of Barbers and Cosmetologists; creating certifications; modifying barber apprentice program; limiting continuing education requirements for barbers and cosmetologists; and modifying the requirements to be an instructor in a school.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 74**—Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 2002, Predicating actions for damages upon principles of comparative fault.

*Resolved by the Legislature of West Virginia:*

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three days for the express purpose of consideration of matters of disagreement between the two houses as to Com. Sub. for H. B. 2002.

At the request of Senator Carmichael, and by unanimous consent, the message was taken up for immediate consideration and reference of the resolution to a committee dispensed with.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered,* That The Clerk communicate to the House of Delegates the action of the Senate.

### Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 18, 2015, he had approved **Enr. House Bill No. 2138, Enr. Committee Substitute for House Bill No. 2217** and **Enr. Committee Substitute for House Bill No. 2227**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 18th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(H. B. No. 2201)**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 19th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. No. 7)**, Requiring CPR and care for conscious choking instruction in public schools.

**(Com. Sub. for S. B. No. 237)**, Creating Captive Cervid Farming Act.

And,

**(Com. Sub. for S. B. No. 335)**, Creating Access to Opioid Antagonists Act.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 89**, Providing Prosecuting Attorneys Institute's council establish Executive Director's salary.

And,

**Senate Bill No. 445**, Relating to investment of RJCFA excess funds.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Karnes, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 167**, Authorizing DEP promulgate legislative rule relating to requirements governing water quality standards.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 234**, Exempting water and sewer utilities owned by political subdivisions from PSC jurisdiction.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 234** (originating in the Committee on Government Organization)—A Bill to repeal §8-16-19 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-12-17 of said code; to amend and reenact §8-19-4 of said code; to amend and



reenact §16-13A-1a, §16-13A-9 and §16-13A-25 of said code; to amend and reenact §24-1-1, §24-1-1b and §24-1-2 of said code; to amend and reenact §24-2-1, §24-2-2, §24-2-3, §24-2-4a, §24-2-4b, §24-2-7 and §24-2-11 of said code; and to amend and reenact §24-3-5 of said code, all relating to removing from the jurisdiction of the Public Service Commission certain water and sewer utilities owned or operated by political subdivisions of the state; providing that bondholders may petition the court for redress in the event of significant insufficiencies; expanding jurisdiction of Public Service Commission to provide assistance to public service districts regarding proposed rate changes; expanding powers of certain public service boards; limiting use of certain information collected by Public Service Commission; providing mechanism for Public Service Commission to address deficiencies in the measurements, practices acts or services provided by certain public utility that is a political subdivision of the state; and providing mechanisms for various functions of political subdivisions related to water and sewer services.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. No. 234), under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 283**, Relating to branch banking.

And,

**Senate Bill No. 292**, Relating to licenses for business of currency exchange, transportation or transmission.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 285**, Relating to primary and subordinate mortgage loans.

With amendments from the Committee on Banking and Insurance pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as amended by the Committee on Banking and Insurance to which the bill was first referred; and as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill No. 300**, Relating to military service credit for PERS members.

**Senate Bill No. 305**, Relating to state retirement system participation and concurrent employment provisions.

**Senate Bill No. 420**, Relating to retirement benefits for certain employees in kindergarten programs.

**Senate Bill No. 481**, Relating to municipal policemen's and firemen's pension and relief funds' investment.

And,

**Senate Bill No. 514**, Relating to investments of local policemen's and firemen's pension and relief funds.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The bills, under the original double committee references, were then referred to the Committee on Finance.

Senator Gaunch, from the Committee on Interstate Cooperation, submitted the following report, which was received:

Your Committee on Interstate Cooperation has had under consideration

**Senate Bill No. 330**, Adopting Interstate Medical Licensure Compact.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 330** (originating in the Committee on Interstate Cooperation)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-1C-1, §30-1C-2, §30-1C-3, §30-1C-4, §30-1C-5, §30-1C-6, §30-1C-7, §30-1C-8, §30-1C-9, §30-1C-10, §30-1C-11, §30-1C-12, §30-1C-13, §30-1C-14, §30-1C-15, §30-1C-16, §30-1C-17, §30-1C-18, §30-1C-19, §30-1C-20, §30-1C-21, §30-1C-22, §30-1C-23 and §30-1C-24, all relating to adopting the Interstate Medical Licensure Compact; strengthening access to health care; developing comprehensive process that complements current statutes regarding medical practices; providing streamlined process that allows physicians to become licensed in multiple states, thereby enhancing portability of a medical license and ensuring safety of patients; creating another pathway for licensure; adopting prevailing standard for licensure and affirming that practice of medicine occurs where the patient is located at the time of physician-patient encounter; and requiring physician to be under jurisdiction of state medical board where the patient is located.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Health and Human Resources.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The bill (Com. Sub. for S. B. No. 330), under the original double committee reference, was then referred to the Committee on Health and Human Resources.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill No. 342**, Clarifying scope, application and methods for corrections by CPRB.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 342** (originating in the Committee on Pensions)—A Bill to amend and reenact §5-10-44 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-7a of said code; to amend and reenact §8-22A-8 of said code; to amend said code by adding thereto a new section, designated §8-22A-8a; to amend said code by adding thereto a new section, designated §15-2-54; to amend said code by adding thereto a new section, designated §15-2A-23; to amend and reenact §16-5V-8a of said code; to amend and reenact §18-7A-14c of said code; to amend and reenact §18-7B-21 of said code; and to amend said code by adding thereto a new section, designated §51-9-18, all relating to correction of errors under the West Virginia Public Employees Retirement System, West Virginia Deputy Sheriff Retirement System, West Virginia Municipal Police Officers and Firefighters Retirement System, West Virginia Emergency Medical Services Retirement System, State Teachers Retirement System, Teachers' Defined Contribution Retirement System, West Virginia State Police Death, Disability and Retirement System, West Virginia State Police Retirement System and Judges' Retirement System; and clarifying scope, application and requirements for error correction by Consolidated Public Retirement Board.

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. No. 342), under the original double committee reference, was then referred to the Committee on Finance.

Senator Karnes, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 352**, Exempting certain solid waste common carriers from obtaining certificate of convenience and necessity.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 352** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §19-4-1, §19-4-2, §19-4-3, §19-4-4, §19-4-5, §19-4-13, §19-4-16 and §19-4-22 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24A-1-3 of said code, all relating to cooperative associations; clarifying definitions; expanding scope of cooperative associations to goods and services, including recycling; limiting scope of recycling cooperatives; expanding membership of cooperative associations; and revising exemptions for motor carriers to allow nonprofit recycling cooperatives.

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,

Robert Karnes,  
*Chair.*

The bill (Com. Sub. for S. B. No. 352), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 370**, Reorganizing Governor's Committee on Crime, Delinquency and Correction and its subcommittees.

With an amendment from the Committee on the Judiciary pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on the Judiciary to which the bill was first referred.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill No. 483**, Clarifying continuing election of municipal policemen's and firemen's pension and relief funds' trustees.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

At the request of Senator Gaunch, unanimous consent being granted, the bill (S. B. No. 483) contained in the preceding report from the Committee on Pensions was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Karnes, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 508**, Reorganizing Hatfield-McCoy Regional Recreation Authority.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Robert Karnes,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Gaunch, from the Committee on Interstate Cooperation, submitted the following report, which was received:



Your Committee on Interstate Cooperation has had under consideration

**Senate Concurrent Resolution No. 21**, Urging Congress call convention for proposal of constitutional amendments imposing fiscal restraints, limiting jurisdiction and setting term limits.

And reports the same back with the recommendation that it be adopted; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The resolution, under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Gaunch and Plymale:**

**Senate Bill No. 515**—A Bill to amend and reenact §8-22-18a and §8-22-18b of the Code of West Virginia, 1931, as amended, all relating to Municipal Pensions Oversight Board; and retention and investment of funds.

Referred to the Committee on Finance.

**By Senators Leonhardt, Karnes and Blair:**

**Senate Bill No. 516**—A Bill to repeal §30-7-15a, §30-7-15b and §30-7-15c of the Code of West Virginia, 1931, as amended; to

repeal §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a, §30-15-7b and §30-15-7c of said code; to amend and reenact §16-5-19 of said code; to amend and reenact §30-7-1 of said code; and to amend said code by adding thereto a new article, designated §30-7F-1, §30-7F-2, §30-7F-3, §30-7F-4, §30-7F-5, §30-7F-6, §30-7F-7, §30-7F-8, §30-7F-9, §30-7F-10, §30-7F-11, §30-7F-12, §30-7F-13, §30-7F-14, §30-7F-15, §30-7F-16, §30-7F-17, §30-7F-18, §30-7F-19, §30-7F-20, §30-7F-21, §30-7F-22, §30-7F-23, §30-7F-24, §30-7F-25, §30-7F-26, §30-7F-27 and §30-7F-28, all relating to the practice of advance practice registered nurses; allowing advance practice registered nurses to sign death certificates; setting up West Virginia Board of Examiners for Advance Practice Registered Nurses; establishing board membership; setting forth terms of office; setting forth requirements for board membership; setting forth meeting requirements; setting forth powers and duties of board; granting rule-making authority to board; setting forth matters that should be included in legislative rules; creating special revenue account for fees and fines; setting forth licensing requirements; providing for licensing of individuals from outside United States; providing for circumstances that are exceptions to licensing; setting forth license renewal process; providing for special volunteer license; setting out elements which must be included on license or certificate; providing limitations on use of certain terms and titles relative to advance practice registered nurses; setting forth procedure for disciplinary action, including complaints and investigations; providing due process; setting out what matters require disciplinary action by board; setting forth what actions are acceptable disciplinary action; providing for reinstatement of licensee following disciplinary action; providing for enjoinder for violations of article; granting an appeal right; setting forth hearing procedures; allowing for judicial review; providing for action which may be taken in criminal matters; creating misdemeanor for fraudulent activities associated with the practice of an advance practice registered nurse; providing for criminal penalties; allowing injunctive relief for improperly engaging in the practice of an advance practice registered nurse;

allowing for a voluntary agreement for treatment of alcohol or chemical dependency; providing for single act evidence of practice; setting forth requirements for administration of anesthetics; allowing for prescriptive authority for advance practice registered nurses; providing for collaborative agreement with a physician to allow prescriptive authority; setting forth specified drugs and dosage level of certain drugs; setting forth procedure for granting prescriptive authority; setting forth requirements for prescriptive authority; setting out form of prescriptions; providing for termination of prescriptive authority; allowing for prescriptive authority without a collaborative agreement in specified instances; requiring an annual report; and setting forth exceptions to applicability of article.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senator D. Hall:**

**Senate Bill No. 517**—A Bill to amend and reenact §11-13A-3d of the Code of West Virginia, 1931, as amended, relating to exempting privilege of producing coalbed methane gas from severance tax; and providing effective date.

Referred to the Committee on Finance.

**By Senators Blair, Carmichael, Snyder, Trump and Unger:**

**Senate Bill No. 518**—A Bill to amend and reenact §7-12-7 and §7-12-12 of the Code of West Virginia, 1931, as amended, all relating generally to granting the power to county and municipal economic development authorities to invest funds received from the sale, lease or other disposition of real or personal property owned by such authority in a manner determined by the authority's board of directors to be in the best interest of the authority.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senators Laird, Carmichael, Gaunch, Mullins, Palumbo, Prezioso, Stollings, Walters, Williams, Nohe, Snyder and Plymale:**

**Senate Bill No. 519**—A Bill to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting from property tax certain properties in this state owned by nonprofit youth organizations and built at cost of at least \$100 million; setting forth restrictions affecting the property; setting forth permitted activities; requiring property owner to pay four percent of net revenues; establishing how that four percent is to be allocated; requiring reports; and defining terms.

Referred to the Committee on Finance.

**By Senators Walters, Blair, Miller, Snyder and Woelfel:**

**Senate Bill No. 520**—A Bill to amend the Code of West Virginia, 1931, as amended, 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 and §5B-2I-7, all relating to authorizing local units of government to adopt local energy efficiency partnership programs and to create districts to promote the use of energy efficiency improvements by owners of certain real property; providing for financing of programs through voluntary property assessments, commercial lending and other means; authorizing local unit of government to issue bonds, notes and other evidences of indebtedness and to pay the cost of energy efficiency improvements from the proceeds thereof; providing for repayment of bonds, notes and other evidences of indebtedness; authorizing certain fees; prescribing powers and duties of certain governmental officers and entities; and providing remedies.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

**By Senator Kessler:**

**Senate Bill No. 521**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-14-2a, relating to requiring certain disclosures with respect to group life insurance policies.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

**By Senators Laird, Miller and Kessler:**

**Senate Bill No. 522**—A Bill to amend and reenact §60-3A-17 of the Code of West Virginia, 1931, as amended, relating generally to wholesale sales of liquor; and directing commissioner to increase wholesale prices of liquor purchased from state to generate funds to promote travel and tourism in West Virginia.

Referred to the Committee on Finance.

**By Senators Cole (Mr. President) and Kessler (By Request of the Executive):**

**Senate Bill No. 523**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-47-1, §16-47-2, §16-47-3, §16-47-4, §16-47-5 and §16-47-6, all relating to obtaining emergency medical assistance for persons who may be experiencing alcohol or drug overdose; establishing short title; stating legislative findings; defining terms; providing immunity from prosecution in limited circumstances for persons who call for emergency medical assistance for person who reasonably appears to be experiencing drug or alcohol overdose; specifying actions that must be taken to be eligible for immunity from prosecution for certain misdemeanor offenses; providing seeking emergency medical assistance may be raised as mitigating factor at sentencing in certain criminal proceedings; clarifying limited immunity does not preclude civil claims based on violation of misdemeanor criminal statutes at issue; providing option of limited immunity from prosecution; and providing deferred prosecution, pretrial diversion, adjudication in drug court and other clemency options for prosecution to consider for persons who experienced drug or alcohol overdose for whom emergency medical assistance was sought; allowing persons to plead guilty to certain exempted criminal offenses if desired; and providing limited civil immunity to law-enforcement officers except in cases of willful, wanton and reckless misconduct in arresting or issuing citations.

Referred to the Committee on the Judiciary.

**By Senators Prezioso, Sypolt and Blair:**

**Senate Bill No. 524**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-14-2, relating to transfer of course credit among higher education institutions; and requiring all state higher education institutions award credit to transfer students for similar courses completed at different institution.

Referred to the Committee on Education.

**By Senator M. Hall:**

**Senate Bill No. 525**—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to exempting services of enrolled agents, enrolled retirement plan agents or registered tax return preparers from consumers sales and service tax and use tax.

Referred to the Committee on Finance.

**By Senators Kessler, Miller, Laird and Yost:**

**Senate Bill No. 526**—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to expungement of certain criminal convictions generally; permitting expungement of certain felony convictions; establishing amount of time after felony conviction before expungement may be sought; creating exceptions; clarifying retirement or employment benefits lost due to conviction are not reinstated due to expungement; declaring expungement does not preclude person who has received expungement from being subject to sentencing enhancements for second and subsequent violations; declaring information in State Police database sufficient to prove existence of prior convictions; establishing fee to offset State Police costs associated with administering this section and the Criminal Identification Bureau; establishing special revenue account in State Treasury for funds received; and prohibiting expiration of funds.

Referred to the Committee on the Judiciary.

Senator Cole (Mr. President) offered the following resolution:

**Senate Concurrent Resolution No. 31**—Authorizing the Joint Select Committee on Tax Reform, created under the authority of Joint Rule 12, to meet to study tax reform in West Virginia.

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby authorizes the Joint Select Committee on Tax Reform to study the West Virginia tax system for the purpose of preparing a report with recommendations for comprehensive tax reform; and, be it

*Further Resolved*, That the Joint Select Committee on Tax Reform may meet after the adjournment *sine die* of the Regular Session of the 2015 Legislature, under the supervision of the Joint Committee on Government and Finance, and all members of the committee are entitled to compensation and reimbursement for expenses as authorized for members of the Legislature in accordance with the performance of their interim duties; and, be it

*Further Resolved*, That, at the conclusion of its study, the Joint Select Committee on Tax Reform report to the Joint Committee on Government and Finance 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.

Which, under the rules, lies over one day.

Senators Kirkendoll, Stollings, Williams, Unger, Kessler and Yost offered the following resolution:

**Senate Resolution No. 38**—Recognizing the West Virginia Auxiliary of Wives Behind the Badge for its dedication to providing support and resources to the law-enforcement community.

Whereas, Established in 2006, Wives Behind the Badge is a nonprofit organization dedicated to helping police families across the country; and

Whereas, Wives Behind the Badge is growing in numbers and support and includes the programs Families Behind the Badge, Blue Line Kids and H.A.L.O.S.; and

Whereas, Wives Behind the Badge provides support for two scholarship funds, the Law Enforcement Children’s Scholarship and the Law Enforcement Spouse’s Scholarship; and

Whereas, The West Virginia Auxiliary of Wives Behind the Badge is proud to be a strong supporter of local law-enforcement agencies throughout West Virginia; and

Whereas, The West Virginia Auxiliary of Wives Behind the Badge has organized the “Paint the Town Blue” campaign, which designates February 19, 2015, as a day to honor fallen law enforcement and their families; and

Whereas, Law-enforcement officers give generously of themselves both in spirit and deed so others might share in the joy of living in a free and democratic society, so it is fitting and proper that they be commended, encouraged and honored for their contributions; and

Whereas, The Senate extends its sincere gratitude to the West Virginia Auxiliary of Wives Behind the Badge for their support of law-enforcement officers who have distinguished themselves with unselfish and exemplary service to the community and its citizens; therefore, be it



*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia Auxiliary of Wives Behind the Badge for its dedication to providing support and resources to the law-enforcement community; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Auxiliary of Wives Behind the Badge.

At the request of Senator Stollings, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator D. Hall, the Senate reconsidered the vote by which on yesterday, Wednesday, February 18, 2015, it rejected

**Eng. Com. Sub. for Senate Bill No. 421**, Relating to punitive damages in civil actions.

The vote thereon having been reconsidered,

The question being on the passage of the bill,

At the request of Senator Palumbo, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motions of Senators Trump and Palumbo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page three, section twenty-seven, line twenty-eight, by striking out the word “three” and inserting in lieu thereof the word “four”;

And,

On page four, section twenty-seven, after line thirty, by striking out the remainder of the bill.

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Senate Bill No. 421 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—26.

The nays were: Facemire, Kessler, Laird, Miller, Romano, Snyder, Unger and Yost—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 421) passed.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for Senate Bill No. 421**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating generally to treatment of punitive damages in civil actions; providing for limitations on punitive damages in civil actions; providing for when punitive damages may be awarded in civil actions; and providing for a bifurcated trial, upon request, for civil actions involving punitive damages.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 42**, Relating to sale of alcoholic beverages on Sundays prior to 1 p.m.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 42) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 42) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 294**, Eliminating certain unnecessary, inactive or redundant councils, committees and boards.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 294) 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 No. 412**, Relating to Real Estate Commission complaint filings.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 412) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 316**, Exempting new veteran-owned business from certain fees paid to Secretary of State.

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 No. 344**, Relating to limitations on back and front pay and punitive damages.

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 No. 384**, Permitting wine sales by specialty shop located in dry county, magisterial district or municipality.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Blair, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 8. SALE OF WINES.**

**§60-8-3. Licenses; fees; general restrictions.**

(a) No person may engage in business in the capacity of a winery, farm winery, supplier, distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa or wine specialty shop without first obtaining a license from the commissioner, nor shall a person continue to engage in any activity after his or her license has expired, been suspended or revoked. No person may be licensed simultaneously as a distributor and a retailer. No person, except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer. No person may be licensed simultaneously as a supplier and a private wine bed and breakfast, private wine restaurant or a private wine spa. No person may be licensed simultaneously as a distributor and a private wine bed and breakfast, a private wine restaurant or a private wine spa. No person may be licensed simultaneously as a retailer and a private wine bed and breakfast, a private wine restaurant or a private wine spa.

(b) The commissioner shall collect an annual fee for licenses issued under this article as follows:

(1) One hundred fifty dollars per year for a supplier's license;

(2) Two thousand five hundred dollars per year for a distributor's license and each separate warehouse or other facility from which a distributor sells, transfers or delivers wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$2,500 as herein provided;

(3) One hundred fifty dollars per year for a retailer's license;

(4) Two hundred fifty dollars per year for a wine specialty shop license, in addition to any other licensing fees paid by a winery or retailer holding a license, except for the amount of the license fee and the restriction to sales of winery or farm winery wines, a winery or farm winery acting as a wine specialty shop retailer is subject to all other provisions of this article which are applicable to a wine specialty shop retailer as defined in section two of this article; Provided, That notwithstanding any provision of this code to the contrary, the commissioner may issue a license to a wine specialty shop consistent with the provisions of section two, article eight, chapter six of this code that is located on the premises of an existing resort area in a county that has elected not to permit the sale of wine or alcohol beverages. "Resort area" shall mean an area encompassing one or more resort hotels, and attachments of the resort hotels, and the traditional, immediate grounds of such resort hotels.

(5) One hundred fifty dollars per year for a wine tasting license;

(6) One hundred fifty dollars per year for a private wine bed and breakfast license and each separate bed and breakfast from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as herein provided;

(7) Two hundred fifty dollars per year for a private wine restaurant license and each separate restaurant from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as herein provided;

(8) One hundred fifty dollars per year for a private wine spa license and each separate private wine spa from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as herein provided;

(9) One hundred fifty dollars per year for a wine sampling license issued for a wine specialty shop under subsection (n) of this section;

(10) No fee shall be charged for a special one-day license under subsection (p) of this section or for a heritage fair and festival license under subsection (q) of this section; and

(11) One hundred fifty dollars per year for a direct shipper's license for a licensee who sells and ships only wine and \$250 per year for a direct shipper's license who ships and sells wine, nonfortified dessert wine, port, sherry or Madeira wines;

(12) Three hundred dollars per year for a multicapacity winery or farm winery license which shall enable the holder to operate as a retailer, wine specialty shop, supplier and direct shipper without obtaining an individual license for each capacity.

(c) The license period shall begin on July 1 of each year and end on June 30 of the following year and if granted for a lesser period, the same shall be computed semiannually in proportion to the remainder of the fiscal year.

(d) No retailer may be licensed as a private club as provided by article seven of this chapter, except as provided by subsection (k) of this section.

(e) No retailer may be licensed as a Class A retail dealer in nonintoxicating beer as provided by article sixteen, chapter eleven of this code: *Provided*, That a delicatessen, a caterer or party supply store which is a grocery store as defined in section two of this article and which is licensed as a Class A retail dealer in nonintoxicating beer may be a retailer under this article: *Provided, however*, That any delicatessen, caterer or party supply store licensed in both capacities must maintain average monthly sales exclusive of sales of wine and nonintoxicating beer which exceed the average monthly sales of nonintoxicating beer.



(f) A wine specialty shop under this article may also hold a wine tasting license authorizing the retailer to serve complimentary samples of wine in moderate quantities for tasting. ~~Such~~ The wine specialty shop shall organize a wine taster's club, which has at least fifty duly elected or approved dues-paying members in good standing. ~~Such~~ The club shall meet on the wine specialty shop's premises not more than one time per week and shall either meet at a time when the premises are closed to the general public or shall meet in a separate segregated facility on the premises to which the general public is not admitted. Attendance at tastings shall be limited to duly elected or approved dues-paying members and their guests.

(g) A retailer who has more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop.

(h) The commissioner may issue a special license for the retail sale of wine at any festival or fair which is endorsed or sponsored by the governing body of a municipality or a county commission. ~~Such~~ The special license ~~shall~~ may be issued for ~~a term of~~ no longer than ten consecutive days and the fee therefor ~~shall be~~ is \$250 regardless of the term of the license unless the applicant is the manufacturer of ~~said~~ the wine on a winery or a farm winery as defined in section five-a, article one of this chapter, in which event the fee ~~shall be~~ is \$50 if the event is held on the premises of the winery or farm winery. The application for the license shall contain information as the commissioner may reasonably require and shall be submitted to the commissioner at least thirty days prior to the first day when wine is to be sold at the festival or fair. A winery or a farm winery licensed under this subsection may exhibit, conduct tastings or sell samples, not to exceed a reasonable serving of three ounces, and may sell wine samples for consumption on the premises during the operation of a festival or fair: *Provided*, That for licensed wineries or farm wineries at a licensed festival or fair the tastings, samples and off-premises sales shall occur under the hours of operation as

required in this article, except that on Sunday tastings, samples and off-premises sales are unlawful between the hours of 2:00 a. m. and 10:00 a. m. A special license issued other than to a winery or a farm winery may be issued to a “wine club” as defined herein below. The festival or fair committee or the governing body shall designate a person to organize a club under a name which includes the name of the festival or fair and the words “wine club”. The license shall be issued in the name of the wine club. A licensee may not commence the sale of wine as provided in this subsection until the wine club has at least fifty dues-paying members who have been enrolled and to whom membership cards have been issued. Thereafter, new members may be enrolled and issued membership cards at any time during the period for which the license is issued. A wine club licensed under the provisions of this subsection may sell wine only to its members, and in portions not to exceed eight ounces per serving. The sales shall take place on premises or in an area cordoned or segregated so as to be closed to the general public, and the general public shall not be admitted to the premises or area. A wine club licensee under the provisions of this subsection ~~shall be~~ is authorized to serve complimentary samples of wine in moderate quantities for tasting.

A license issued under the provisions of this subsection and the licensee holding the license ~~shall be~~ is subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule ~~regulation~~ or order provide for certain waivers or exceptions with respect to the provisions, rules ~~regulations~~ or orders as the circumstances of each festival or fair may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions of sections twenty-seven and twenty-eight of this article: *Provided, however*, That under no circumstances ~~shall~~ may the provisions of subsection (c) or (d), section twenty of this article be waived ~~nor~~ shall or any exception ~~be~~ granted with respect thereto.

A license issued under the provisions of this subsection and the licensee holding the license is not subject to the provisions of subsection (g) of this section.

(i) (A) The commissioner may issue a special license for the retail sale of wine in a professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine, for consumption in a professional baseball stadium. For the purpose of this subsection, “professional baseball stadium” means a facility constructed primarily for the use of a major or minor league baseball franchisee affiliated with the National Association of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league baseball park. Any special license issued pursuant to this subsection shall be for a term beginning on the date of issuance and ending on the next following June 30 and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information as the commissioner may reasonably require and must be submitted to the commissioner at least thirty days prior to the first day when wine is to be sold at the professional baseball stadium. The special license may be issued in the name of the baseball franchisee or the name of the primary food and beverage vendor under contract with the baseball franchisee. These sales must take place within the confines of the professional baseball stadium, provided that the exterior of the area where wine sales may occur are surrounded by a fence or other barrier prohibiting entry except upon the franchisee’s express permission, and under the conditions and restrictions established by the franchisee so that the wine sales area is closed to free and unrestricted entry by the general public.

(B) A license issued under this subsection and the licensee holding the license is subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as the circumstances of each professional baseball stadium may require,

including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding sections twenty-seven and twenty-eight of this article: *Provided, however,* That under no circumstances may subsection (c) or (d), section twenty of this article be waived ~~nor shall any or an~~ exception be granted concerning those subsections.

(C) The commissioner has the authority to propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement this subsection.

(j) A license to sell wine granted to a private wine bed and breakfast, private wine restaurant, private wine spa or a private club under the provisions of this article entitles the operator to sell and serve wine, for consumption on the premises of the licensee, when the sale accompanies the serving of food or a meal to its members and their guests in accordance with the provisions of this article: *Provided,* That a licensed private wine bed and breakfast, private wine restaurant, private wine spa or a private club may permit a person over twenty-one years of age to purchase wine, consume wine and recork or reseal, using a tamper resistant cork or seal, up to two separate bottles of unconsumed wine in conjunction with serving of food or a meal to its members and their guests in accordance with the provisions of this article and in accordance with ~~regulations~~ rules promulgated by the commissioner for the purpose of consumption of ~~said~~ the wine off premises: *Provided, however,* That for this article, food or a meal provided by the private licensee means that the total food purchase, excluding beverage purchases, taxes, gratuity or other fees is at least \$15: *Provided further,* That a licensed private wine restaurant or a private club may offer for sale for consumption off the premises sealed bottles of wine to its customers provided that no more than one bottle is sold per each person over twenty-one years of age, as verified by the private wine restaurant or private club, for consumption off the premises. ~~Such~~ The licensees are authorized to keep and maintain on their premises a supply of wine in quantities as may be appropriate for the conduct of operations thereof. Any sale of wine so made ~~shall be~~ is subject

to all restrictions set forth in section twenty of this article. A private wine restaurant may also be licensed as a Class A retail dealer in nonintoxicating beer as provided by article sixteen, chapter eleven of this code.

(k) With respect to subsections (h), (i), (j), (o) and (p) of this section, the commissioner shall ~~promulgate~~ propose legislative rules in accordance with the provisions of chapter twenty-nine-a of this code with regard to the form of the applications, the suitability of both the applicant and location of the licensed premises and other legislative rules deemed necessary to carry the provisions of the subsections into effect.

(l) The commissioner shall ~~promulgate~~ propose legislative rules in accordance with the provisions of chapter twenty-nine-a of this code to allow restaurants to serve wine with meals and to sell wine by the bottle for off-premises consumption as provided in subsection (j) of this section. Each restaurant so licensed shall be charged an additional \$100 per year fee.

(m) The commissioner shall establish guidelines to permit wines to be sold in all stores licensed for retail sales.

(n) Wineries and farm wineries may advertise off premises as provided in section seven, article twenty-two, chapter seventeen of this code.

(o) A wine specialty shop under this article may also hold a wine sampling license authorizing the wine specialty shop to conduct special wine sampling events at a licensed wine specialty shop location during regular hours of business. The wine specialty shop may serve up to three complimentary samples of wine, consisting of no more than one ounce each, to any one consumer in one day. Persons serving the complimentary samples must be twenty-one years of age and an authorized representative of the licensed wine specialty shop, winery, farm winery or a representative of a distributor or registered supplier. Distributor and supplier

representatives attending wine sampling events must be registered with the commissioner. No licensee, employee or representative may furnish, give or serve complimentary samples of wine to any person less than twenty-one years of age or to a person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs. The wine specialty shop shall notify and secure permission from the commissioner for all wine sampling events one month prior to the event. Wine sampling events may not exceed six hours per calendar day. Licensees must purchase all wines used during these events from a licensed farm winery or a licensed distributor.

(p) The commissioner may issue special one-day licenses to duly organized, nonprofit corporations and associations having received federal tax exempt status allowing the sale and serving of wine when raising money for artistic, athletic, charitable, educational or religious purposes. The nonrefundable fee is \$25 for the one-day license. The license application shall contain information as the commissioner may reasonably require and shall be submitted to the commissioner at least ~~thirty~~ fifteen days prior to the event. Wines used during these events may be donated by or purchased from a licensed retailer, a distributor or a farm winery. Under no circumstances may the provision of subsection (c), section twenty of this article be waived ~~nor~~ or may ~~any~~ an exception be granted with respect thereto.

(q) The commissioner may issue special licenses to heritage fairs and festivals allowing the sale, serving and sampling of wine from a licensed farm winery. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least thirty days prior to the event. Wines used during these events may be donated by or purchased from a licensed farm winery. Under no circumstances may the provision of subsection (c), section twenty of this article be waived nor may any exception be granted with respect thereto. The commissioner shall propose rules for legislative approval in accordance with article

three, chapter twenty-nine-a of this code to implement the provisions of this subsection.

(r) (1) The commissioner may issue a special license for the retail sale of wine in a college stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine for consumption in a college stadium. For the purpose of this subsection, “college stadium” means a facility constructed primarily for the use of a Division I college that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer or other Division I sports stadium. A special license issued pursuant to this subsection shall be for a term beginning on the date of its issuance and ending on the next following June 30 and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information as the commissioner may reasonably require and must be submitted to the commissioner at least thirty days prior to the first day when wine is to be sold. The special license may be issued in the name of the National Collegiate Athletic Association Division I college or university or the name of the primary food and beverage vendor under contract with that college or university. These sales must take place within the confines of the college stadium: *Provided*, That the exterior of the area where wine sales may occur are surrounded by a fence or other barrier prohibiting entry except upon the college or university’s express permission, and under the conditions and restrictions established by the college or university, so that the wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee are subject to the other requirements of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as the circumstances of each the college stadium may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding sections twenty-seven and

twenty-eight of this article: *Provided, however,* That subsection (c) or (d), section twenty of this article may not be waived, nor ~~shall any~~ may an exception be granted concerning those subsections.

(3) The commissioner may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement this subsection.

The bill (Com. Sub. for S. B. No. 384), as amended, was then ordered to engrossment and third reading.

**Senate Bill No. 415**, Relating to circuit judges.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 425**, Providing WVU, MU and WVSOM more authority to invest assets.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. Com. Sub. for House Bill No. 2010**, Requiring the elections of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan and by division.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:



That §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §3-4A-11a of said code be amended and reenacted; that §3-5-4 of said code be amended and reenacted; that said code be amended by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; that §3-5-7, §3-5-13 and §3-5-13a of said code be amended and reenacted; that §3-10-3 of said code be amended and reenacted; that §3-12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12 and §3-12-14 of said code be amended and reenacted; that §6-5-1 of said code be amended and reenacted; that §50-1-1 and §50-1-6 of said code be amended and reenacted; that §51-1-1 of said code be amended and reenacted; and that §51-2A-5 of said code be amended and reenacted, all to read as follows:

### CHAPTER 3. ELECTIONS.

#### ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

##### §3-1-16. Election of state officers.

(a) At the general election to be held in 1968, and in every fourth year thereafter, there shall be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of Agriculture. At the general election in 1968, and in every second year thereafter, there shall be elected a member of the State Senate for each senatorial district, and a member or members of the House of Delegates of the state from each county or each delegate district.

(b) At the general time of the primary election to be held in the year ~~1968~~ 2016, and in every twelfth year thereafter, there shall be elected one judge justice of the Supreme Court of Appeals, and at the general time of the primary election to be held in ~~1972~~ 2020, and in every twelfth year thereafter, two judges justices of the Supreme Court of Appeals and at the general time of the primary election to be held in ~~1976~~ 2024, and in every twelfth year thereafter, two judges justices of the Supreme Court of Appeals. Effective with the primary election held in the year 2016, the election of justices of the Supreme Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully in article five of this chapter.

**§3-1-17. Election of circuit judges; county and district officers; magistrates.**

(a) There shall be elected, at the general time of the primary election to be held in ~~1992~~ 2016, and ~~in~~ every eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to ~~but~~ one judge, and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to two or more circuit judges; and at the time of the primary election to be held in 2016, and in every fourth year thereafter, the number of magistrates prescribed by law for the county. Beginning with the election held in the year 2016, an election for the purpose of electing judges of the circuit court, or an election for the purpose of electing magistrates, shall be upon a nonpartisan ballot printed for the purpose.

(b) ~~and at~~ At the general election to be held in 1992, and ~~in~~ every fourth year thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors prescribed by law for the county; ~~and the number of magistrates prescribed by law for the county;~~ and at the general election to be held in 1990, and ~~in~~ every second year thereafter, a commissioner of the county commission for each county; and at the general election to be held in 1992, and ~~in~~ every sixth year thereafter, a clerk of the county commission and a clerk of the circuit court for each county.

(c) Effective with the primary election of 2016, all elections for judge of the circuit courts in the respective circuits and magistrates in each county will be elected on a nonpartisan basis and by division as set forth more fully in article five of this chapter.

**ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

**§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.**

(a) The board of ballot commissioners in counties using ballots upon which votes may be recorded by means of marking with

electronically sensible ink or pencil and which marks are tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the electronic voting system for use in elections.

(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to ~~the provisions of~~ sections thirteen and thirteen-a, article five of this chapter.

(2) For the general election, the heading of the ballot, the straight ticket positions, the instructions to straight ticket voters, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to ~~the provisions of~~ section two, article six of this chapter, except as otherwise provided in this article.

(3) (A) Effective with the primary election held in 2016, and thereafter, for the nonpartisan judicial offices, by division, of:

(i) Justice of the Supreme Court of Appeals;

(ii) Judge of the circuit court;

(iii) Family court judge; and

(iv) Magistrate;

(B) Nonpartisan elections for Board of Education: and

(C) Any question to be voted upon;

are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under ~~the provisions of~~ this chapter.

(4) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

(5) The arrangement of candidates within each office is to be determined in the same manner as for other electronic voting systems, as prescribed in this chapter. On the general election ballot for all offices, and on the primary election ballot only for those offices to be filled by election, except delegate to national convention, lines for entering write-in votes are to be provided below the names of candidates for each office, and the number of lines provided for any office shall equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be opposite a position to mark the vote.

(c) Except for electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in the color of ink specified by the Secretary of State for the various political parties, and the general election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the general election ballot are to be printed in black ink. All ballots are to be printed, where applicable, on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as provided in section thirteen, article five of this chapter, or are to be displayed on the screens of the electronic voting system upon which votes are recorded by means of a stylus or touch. The number of ballots printed and the packaging of ballots for the precincts are to conform to the requirements for paper ballots provided in this chapter.

(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

**ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

**§3-5-4. Nomination of candidates in primary elections.**

(a) At each primary election, the candidate or candidates of each political party for all offices to be filled at the ensuing general election by the voters of the entire state, of each congressional district, of each state senatorial district, of each delegate district, ~~of each judicial circuit of West Virginia, and~~ of each county, ~~and of each magisterial district in the state~~ shall be nominated by the voters of the different political parties, except that no presidential elector shall be nominated at a primary election.

(b) In primary elections a plurality of the votes cast shall be sufficient for the nomination of candidates for office. Where only one candidate of a political party for any office in a political division, including party committeemen and delegates to national conventions, is to be chosen, ~~or where a judicial circuit has two or more circuit judges and one circuit judge is to be chosen for each numbered division within the circuit,~~ the candidate receiving the highest number of votes therefor in the primary election shall be declared the party nominee for such office. Where two or more such candidates are to be chosen in the primary election, the candidates constituting the proper number to be so chosen who shall receive the highest number of votes cast in the political division in which they are candidates shall be declared the party nominees and choices for such offices, except that:

(1) Candidates for the office of commissioner of the county commission shall be nominated and elected in accordance with the provisions of section ten, article nine of the Constitution of the State of West Virginia and the requirements of section one-b, article one, chapter seven of this code;

(2) Members of county boards of education shall be elected at primary elections in accordance with the provisions of sections five and six of this article;

(3) Candidates for the House of Delegates shall be nominated and elected in accordance with the residence restrictions provided in section two, article two, chapter one of this code, ~~and~~

~~(4) In judicial circuits having numbered divisions, each numbered division shall be tallied separately and the candidate in each division receiving a plurality of the votes cast shall be declared the party nominee for the office in that numbered division.~~

(c) In case of tie votes between candidates for party nominations or elections in primary elections, the choice of the political party shall be determined by the executive committee of the party for the political division in which such persons are candidates.

**§3-5-6a. Election of justices of the Supreme Court of Appeals.**

(a) An election for the purpose of electing a justice or justices of the Supreme Court of Appeals shall be held on the same date as the primary election, as provided by law, upon a nonpartisan ballot by division printed for this purpose. For election purposes, in each election at which shall be elected more than one justice of the Supreme Court of Appeals, the election shall be by numbered division corresponding to the number of justices being elected. Each justice shall be elected at large from the entire state.

(b) In each nonpartisan election by division for a justice of the Supreme Court of Appeals, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie vote.

**§3-5-6b. Election of circuit judges.**

(a) An election for the purpose of electing a circuit court judge or judges shall be held on the same date as the primary election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a circuit court judge, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie vote.

**§3-5-6c. Election of family court judges.**

(a) An election for the purpose of electing a family court judge or judges shall be held on the same date as the primary election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a family court judge, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie vote.

**§3-5-6d. Election of magistrates.**

(a) An election for the purpose of electing a magistrate or magistrates by division shall be held on the same date as the primary election in their respective circuits, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In each nonpartisan election by division for a magistrate, the candidates for election in each numbered division shall be tallied separately, and the board of canvassers shall declare and certify the election of the eligible candidate receiving the highest numbers of votes cast within a numbered division to fill any full terms.

(c) In case of a tie vote under this section, section twelve, article six of this chapter controls in breaking the tie vote.

**§3-5-7. Filing announcements of candidacies; requirements; withdrawal of candidates when section applicable.**

(a) Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring his or her candidacy for the nomination or election to the office.

(b) The certificate of announcement shall be filed as follows:

(1) Candidates for the House of Delegates, ~~or~~ the State Senate, circuit judge, family court judge, and any other office or political position to be filled by the voters of more than one county shall file a certificate of announcement with the Secretary of State.

(2) Candidates for an office or political position to be filled by the voters of a single county or a subdivision of a county, except for candidates for the House of Delegates, ~~or~~ State Senate, circuit judge or family court judge, shall file a certificate of announcement with the clerk of the county commission.

(3) Candidates for an office to be filled by the voters of a municipality shall file a certificate of announcement with the recorder or city clerk.

(c) The certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January ~~next preceding~~ before the primary election day and not later than the last Saturday in January ~~next preceding~~ before the primary election day and must



be received before midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour. This includes the offices of justice of the Supreme Court of Appeals, circuit court judge, family court judge and magistrate, which are to be filled on a nonpartisan and division basis at the primary election.

(d) The certificate of announcement shall be on a form prescribed by the Secretary of State on which the candidate shall make a sworn statement before a notary public or other officer authorized to administer oaths, containing the following information:

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought; the district, if any; and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in section thirteen, article five of this chapter;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

(5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state and zip code;

(6) For partisan elections, the name of the candidate's political party and a statement that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of sixty days before the date of filing the announcement;

(7) For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot; or a statement that the candidate prefers to remain “uncommitted”;

(8) A statement that the person filing the certificate of announcement is a candidate for the office in good faith;

(9) The words “subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_” and a space for the signature of the officer giving the oath.

(e) The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter’s registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed formal complaint of violation of this section and the certified copy of the voter’s registration record of the candidate are filed with the officer receiving that candidate’s certificate of announcement no later than ten days following the close of the filing period, the candidate may not be refused certification for this reason.

(f) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty of false swearing and shall be punished in accordance with section three, article nine of this chapter.

(g) Any candidate for delegate to a national convention may change his or her statement of presidential preference by notifying the Secretary of State by letter received by the Secretary of State no later than the third Tuesday following the close of candidate filing. When the rules of the political party allow each presidential

candidate to approve or reject candidates for delegate to convention who may appear on the ballot as committed to that presidential candidate, the presidential candidate or the candidate's committee on his or her behalf may file a list of approved or rejected candidates for delegate and the Secretary of State shall list as "uncommitted" any candidate for delegate who is disapproved by the presidential candidate.

(h) A person may not be a candidate for more than one office or office division at any election: *Provided*, That a candidate for an office may also be a candidate for President of the United States, for membership on political party executive committees or for delegate to a political party national convention; *Provided, however, That an unsuccessful candidate for a nonpartisan office in an election held concurrently with the primary election may be appointed under the provisions of section nineteen of this article to fill a vacancy on the general ballot.*

(i) A candidate who files a certificate of announcement for more than one office or division and does not withdraw, as provided by section eleven, article five of this chapter, from all but one office prior to the close of the filing period may not be certified by the Secretary of State or placed on the ballot for any office by the board of ballot commissioners.

~~(j) The provisions of this section enacted during the regular session of the Legislature in the year 1991 shall apply to the primary election held in the year 1992 and every primary election held thereafter. The provisions of this section enacted during the regular session of the Legislature in the year 2009 shall apply to the primary election held in the year 2010 and every primary election held thereafter.~~

**§3-5-13. Form and contents of ballots.**

The following provisions apply to the form and contents of election ballots:

(1) The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

(†) (2) The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words “Primary Election” and the month, day and year of the election. The ballot title of the political party ballots is to contain the words “Official Ballot of the (Name) Party” and the official symbol of the political party may be included in the heading.

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officer shall commence with the words “Nonpartisan Ballot of Election of Judicial Officers” and each such office shall be listed in the following order:

(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all justices of the Supreme Court of Appeals shall contain the words “Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia”. The names of the candidates for the Supreme Court of Appeals shall be printed by division without references to political party affiliation or registration.

(ii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The names of the candidates for the respective circuit court judge office shall be printed by division without references to political party affiliation or registration.

(iii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Family Court Judge(s)”. The names of the candidates for the respective family court judge office shall be printed by division without references to political party affiliation or registration.

(iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Magistrate(s)”. The names of the candidates for the respective magistrate office shall be printed by division without references to political party affiliation or registration.

(B) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Board of Education is to contain the words “Nonpartisan Ballot of Election of Members of the \_\_\_\_\_ County Board of Education”. The districts for which less than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed without reference to political party affiliation and without designation as to a particular term of office.

(C) Any other ballot or portion of a ballot on a question is to have a heading which clearly states the purpose of the election according to the statutory requirements for that question.

~~(2)~~ (3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the ballot by heavy lines and the offices shall be arranged in columns with the following headings, from left to right across the ballot: “National Ticket”, “State Ticket”, “County Ticket” and, in a presidential election year, “National Convention” or, in a nonpresidential election year, “District Ticket”. The columns are to be separated by heavy lines. Within the columns, the offices are to be arranged in the order prescribed in section thirteen-a of this article.

(B) For voting machines, electronic voting devices and any ballot tabulated by electronic means, the offices are to appear in the same sequence as prescribed in section thirteen-a of this article and under the same headings as prescribed in paragraph (A) of this section subdivision. The number of pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and composition requirements subject to approval by the Secretary of State.

(C) The title of each office is to be separated from preceding offices or candidates by a line and is to be printed in bold type no smaller than eight point. Below the office is to be printed the number of the district, if any, the number of the division, if any, and the words "Vote for \_\_\_\_\_" with the number to be nominated or elected or "Vote For Not More Than \_\_\_\_\_" in multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words "Vote for One" printed below the name of the office: *Provided*, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

(D) The location for indicating the voter's choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot is to contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

~~(3)~~ (4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree or

nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are to be printed in lower case letters beneath the names of the candidates.

(C) The arrangement of names within each office must be determined as prescribed in section thirteen-a of this article.

(D) If the number of candidates for an office exceeds the space available on a column or ballot page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages are to be nearly equal and clear instructions given the voter that the candidates for the office are continued on the following column or page.

~~(4)~~ (5) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office or for the voters to elect sufficient members to the board of Education or to executive committees, the vacant positions on the ballot shall be filled with the words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to be made directly on the ballot, a blank line shall be placed in any vacant position in the office of board of education or for election to any party executive committee. A line shall separate each candidate from every other candidate for the same office. Notwithstanding any other provision of this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed description, approved by the Secretary of State, indicating that there are no candidates listed for the vacant positions.

~~(5)~~ (6) In presidential election years, the words “For election in accordance with the plan adopted by the party and filed with the Secretary of State” is to be printed following the names of all candidates for delegate to national convention.

~~(6)~~ (7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.

~~(7)~~ (8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with unique sequential numbers from one to the highest number representing the total number of ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

~~(8)~~ (9) On the back of every official ballot or ballot card the words “Official Ballot” with the name of the county and the date of the election are to be printed. Beneath the date of the election there are to be two blank lines followed by the words “Poll Clerks”.

~~(9)~~ (10) The face of sample paper ballots and sample ballot labels are to be like other official ballots or ballot labels except that the word “sample” is to be prominently printed across the front of the ballot in a manner that ensures the names of candidates are not obscured and the word “sample” may be printed in red ink. No printing may be placed on the back of the sample.

**§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.**



(a) The order of offices for state and county elections on all ballots within the state shall be as prescribed herein. When the office does not appear on the ballot in an election, then it shall be omitted from the sequence. When an unexpired term for an office appears on the ballot along with a full term, the unexpired term shall appear immediately below the full term.

NATIONAL TICKET: President (and Vice President in the general election), United States Senator, member of the United States House of Representatives.

STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, Attorney General, ~~Justice of the Supreme Court of Appeals~~, State Senator, member of the House of Delegates, ~~circuit judge in multicounty districts, family court judge in multicounty districts~~, any other multicounty office, state executive committee.

COUNTY TICKET: ~~Circuit judge in single-county districts, Family court judge in single-county districts, clerk~~ Clerk of the circuit court, county commissioner, clerk of the county commission, prosecuting attorney, sheriff, assessor, ~~magistrate~~, surveyor, congressional district executive committee, senatorial district executive committee in multicounty districts, delegate district executive committee in multicounty districts.

NATIONAL CONVENTION: Delegate to the national convention – at-large, delegate to the national convention – congressional district.

DISTRICT TICKET: County executive committee.

(b) Except for office divisions in which no more than one person has filed a certificate of announcement, the arrangement of names for all offices shall be determined by lot according to the following provisions:

(1) On the fourth Tuesday following the close of the candidate filing, beginning at nine o'clock a. m., a drawing by lot shall be

conducted in the office of the clerk of the county commission in each county. Notice of the drawing shall be given on the form for the certificate of announcement and no further notice shall be required. The clerk of the county commission shall superintend and conduct the drawing and the method of conducting the drawing shall be prescribed by the Secretary of State.

(2) Except as provided herein, the position of each candidate within each office division shall be determined by the position drawn for that candidate individually: *Provided*, That if fewer candidates file for an office division than the total number to be nominated or elected, the vacant positions shall appear following the names of all candidates for the office.

(3) Candidates for delegate to national convention who have filed a commitment to a candidate for president shall be listed alphabetically within the group of candidates committed to the same candidate for president and uncommitted candidates shall be listed alphabetically in an uncommitted category. The position of each group of committed candidates and uncommitted candidates shall be determined by lot by drawing the names of the presidential candidates and for an uncommitted category.

(4) A candidate or the candidate's representative may attend the drawings.

#### **ARTICLE 10. FILLING VACANCIES.**

##### **§3-10-3. Vacancies in offices of state officials, United States Senators and judges.**

(a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, ~~Justice of the Supreme Court of Appeals~~ or in any office created or made elective to be filled by the voters of the entire state, ~~judge of a circuit court or judge of a family court~~ is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by section one of this article.

(b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of a circuit court or judge of a family court is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, as required by subsection (d) of this section. If an election is required under subsection (d) of this section, the Governor, circuit court or the chief judge thereof in vacation, is responsible for the proper proclamation by order and notice required by section one of this article.

(c) Any vacancy in the office of magistrate is appointed according to the provisions of section one, article six, chapter fifty of this code, and subsequent election to fill the remainder of the term, as required by subsection (d) of this section.

(d) (1) When the vacancy in Justice of the Supreme Court of Appeals, judge of the circuit court, judge of a family court or magistrate occurs after the eighty-fourth day before a general election, and the affected term of office ends on the thirty-first day of December following the next election, the person appointed to fill the vacancy shall continue in office until the completion of the term.

(2) When the vacancy occurs before the close of the candidate filing period for the primary election, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently with the primary election, and the appointment shall continue until a successor is elected and certified.

(3) When the vacancy occurs after the close of candidate filing for the primary election and not later than eighty-four days before the general election, the vacancy shall be filled by election in a nonpartisan judicial election held concurrently with the general election, and the appointment shall continue until a successor is elected and certified.

(e) When an election to fill a vacancy is required to be held at the general election according to the provisions of subsection (d) of this section, a special candidate filing period shall be established.

Candidates seeking election to any unexpired term for Justice of the Supreme Court of Appeals, judge of a circuit court, judge of the family court or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the first Monday in August and no later than seventy-seven days before the general election.

**ARTICLE 12. WEST VIRGINIA SUPREME COURT OF APPEALS  
PUBLIC CAMPAIGN FINANCING PILOT  
PROGRAM.**

**§3-12-3. Definitions.**

As used in this article, the following terms and phrases have the following meanings:

(1) “Candidate’s committee” means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(2) “Certified candidate” means an individual seeking election to the West Virginia Supreme Court of Appeals who has been certified in accordance with section ten of this article as having met all of the requirements for receiving public campaign financing from the fund.

(3) “Contribution” means a gift subscription, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without

compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(4) “Exploratory contribution” means a contribution of no more than \$1,000 made by an individual adult, including a participating candidate and members of his or her immediate family, during the exploratory period but prior to filing the declaration of intent. Exploratory contributions may not exceed \$20,000 in the aggregate.

(5) “Exploratory period” means the period during which a participating candidate may raise and spend exploratory contributions to examine his or her chances of election and to qualify for public campaign financing under this article. The exploratory period begins on January 1 the year before the primary election in which the candidate may run for Justice of the Supreme Court of Appeals and ends on the last Saturday in January of the election year.

(6) “Financial agent” means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(7) “Fund” means the Supreme Court of Appeals Public Campaign Financing Fund created by section five of this article.

~~(8) “General election campaign period” means the period beginning the day after the primary election and ending on the day of the general election.~~

~~(9)~~ (9) “Immediate family” or “immediate family members” means the spouse, parents, step-parents, siblings and children of the participating candidate.

~~(10)~~ (9) “Nonparticipating candidate” means a candidate who is:

(A) Seeking election to the Supreme Court of Appeals;

(B) Is neither certified nor attempting to be certified to receive public campaign financing from the fund; and

(C) Has an opponent who is a participating or certified candidate.

(10) “Nonpartisan judicial election campaign period” means the period beginning on the first day of the primary election filing period, as determined under section seven, article five of this chapter, and ending on the day of the nonpartisan judicial election.

(11) “Participating candidate” means a candidate who is seeking election to the Supreme Court of Appeals and is attempting to be certified in accordance with section ten of this article to receive public campaign financing from the fund.

(12) “Person” means an individual, partnership, committee, association and any other organization or group of individuals.

~~(13) “Primary election campaign period” means the period beginning on the first day of the primary election filing period, as determined under section seven, article five of this chapter, and ending on the day of the subsequent primary election.~~

(14) “Qualifying contribution” means a contribution received from a West Virginia registered voter of not less than \$1 nor more than \$100 in the form of cash, check or money order, made payable to a participating candidate or the candidate’s committee, or in the form of an electronic payment or debit or credit card payment, received during the qualifying period.

~~(15)~~ (14) “Qualifying period” means the period during which participating candidates may raise and spend qualifying contributions in order to qualify to receive public campaign financing.

~~(A) For candidates seeking nomination on the primary election ballot, to be placed on the general nonpartisan judicial election ballot, the qualifying period begins on September 1 preceding the election year and ends on the last Saturday in January of the election year.~~

~~(B) For candidates, other than those nominated during the primary election, seeking to be placed on the general election ballot, the qualifying period begins on June 1 of the election year and ends on October 1 of the election year.~~

**§3-12-6. Sources of revenue for the fund.**

Revenue from the following sources shall be deposited in the fund:

(1) All exploratory and qualifying contributions in excess of the established maximums;

(2) Money returned by participating or certified candidates who fail to comply with this article;

(3) Unspent or unobligated moneys allotted to certified candidates and remaining unspent or unobligated on the date of the general nonpartisan judicial election for which the money was distributed;

(4) If a certified candidate loses, all remaining unspent or unobligated moneys ~~after the primary election~~;

(5) Civil penalties levied by the State Election Commission against candidates for violations of this article;

(6) Civil penalties levied by the Secretary of State pursuant to section seven, article eight of this chapter;

(7) Voluntary donations made directly to the fund;

(8) Any interest income or other return earned on the money's investment;

(9) On or before July 1, 2010, and for two successive years thereafter, the State Auditor shall authorize the transfer of the amount of \$1 million from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article;

(10) On or before July 1, 2015, the state Auditor shall authorize the transfer of the amount of \$400,000 from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article; and

(11) Money appropriated to the fund.

**§3-12-10. Certification of candidates.**

(a) To be certified, a participating candidate shall apply to the State Election Commission for public campaign financing from the fund and file a sworn statement that he or she has complied and will comply with all requirements of this article throughout the applicable campaign.

(b) Upon receipt of a notice from the Secretary of State that a participating candidate has received the required number and amount of qualifying contributions, the State Election Commission shall determine whether the candidate or candidate's committee:

(1) Has signed and filed a declaration of intent as required by section seven of this article;

(2) Has obtained the required number and amount of qualifying contributions as required by section nine of this article;

(3) Has complied with the contribution restrictions of this article;



(4) Is eligible, as provided in section nine, article five of this chapter, to appear on the ~~primary or general~~ nonpartisan judicial election ballot; and

(5) Has met all other requirements of this article.

(c) The State Election Commission shall process applications in the order they are received and shall verify a participating candidate's compliance with the requirements of subsection (b) of this section by using the verification and sampling techniques approved by the State Election Commission.

(d) The State Election Commission shall determine whether to certify a participating candidate as eligible to receive public campaign financing no later than three business days after the candidate or the candidate's committee makes his or her final report of qualifying contributions or, if a challenge is filed under subsection (g) of this section, no later than six business days after the candidate or the candidate's committee makes his or her final report of qualifying contributions. A certified candidate shall comply with this article through the ~~general~~ nonpartisan judicial election campaign period.

(e) No later than two business days after the State Election Commission certifies that a participating candidate is eligible to receive public campaign financing under this section, the State Election Commission, acting in concert with the State Auditor's office and the State Treasurer's office, shall cause a check to be issued to the candidate's campaign depository account an amount equal to the public campaign financing benefit for which the candidate qualifies under section eleven of this article, minus the candidate's qualifying contributions, and shall notify all other candidates for the same office of its determination.

(f) If the candidate desires to receive public financing benefits by electronic transfer, the candidate shall include in his or her application sufficient information and authorization for the State

Treasurer to transfer payments to his or her campaign depository account.

(g) Any person may challenge the validity of any contribution listed by a participating candidate by filing a written challenge with the State Election Commission setting forth any reason why the contribution should not be accepted as a qualifying contribution. If a contribution is challenged under this subsection, the State Election Commission shall decide the validity of the challenge no later than the end of the next business day after the day that the challenge is filed, unless the State Election Commission determines that the candidate whose contribution is challenged has both a sufficient qualifying number and amount of qualifying contributions to be certified as a candidate under this section without considering the challenge. Within five business days of a challenge, the candidate or candidate's committee who listed any contribution that is the subject of a challenge may file a report with the State Election Commission of an additional contribution collected pursuant to section nine of this article for consideration as a qualifying contribution.

(h) A candidate's certification and receipt of public campaign financing may be revoked by the State Election Commission, if the candidate violates this article. A certified candidate who violates this article shall repay all moneys received from the fund to the State Election Commission.

(i) The determination of any issue before the State Election Commission is the final administrative determination. Any meetings conducted by the State Elections Commission to certify a candidate's eligibility to receive funds under this article shall not be subject the public notice and open meeting requirements of article nine-a, chapter six of this code, but the commission shall concurrently provide public notice of any decision and determination it makes which impacts the candidate's eligibility to receive funds pursuant to this article. Any person adversely affected by a decision of the State Election Commission under this article may appeal that decision to the circuit court of Kanawha County.

(j) A candidate may withdraw from being a certified candidate and become a nonparticipating candidate at any time with the approval of the State Election Commission. Any candidate seeking to withdraw shall file a written request with the State Election Commission, which shall consider requests on a case-by-case basis. No certified candidate may withdraw until he or she has repaid all moneys received from the fund: *Provided*, That the State Election Commission may, in exceptional circumstances, waive the repayment requirement. The State Election Commission may assess a penalty not to exceed \$10,000 against any candidate who withdraws without approval.

**§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing Fund payments.**

(a) The State Election Commission, acting in concert with the State Auditor's office and the State Treasurer's office, shall have a check issued within two business days after the date on which the candidate is certified, to make payments from the fund for the ~~2012~~ primary nonpartisan judicial election campaign period available to a certified candidate.

(1) In a contested primary nonpartisan judicial election, a certified candidate shall receive ~~\$300,000~~ \$525,000 in campaign financing from the fund, minus the certified candidate's qualifying contributions.

~~(2) In an uncontested primary election, a certified candidate shall receive \$50,000 from the public campaign financing fund, minus the certified candidate's qualifying contributions.~~

~~(b) Within two business days after the primary election results are certified by the Secretary of State, the State Election Commission, acting in concert with the State Auditor's office and the State Treasurer's office, shall cause a check to be issued to make payments from the fund for the general election campaign period available to a certified candidate.~~

~~(1) In a contested general election, a certified candidate shall receive from the fund an amount not to exceed \$525,000.~~

~~(2) In an uncontested general election, a certified candidate shall receive \$35,000 from the public campaign financing fund.~~

~~(c)~~ (b) The State Election Commission shall authorize the distribution of campaign financing moneys to certified candidates in equal amounts. The commission shall propose a legislative rule on distribution of funds.

~~(d)~~ (c) The State Election Commission may not authorize or direct the distribution of moneys to certified candidates in excess of the total amount of money deposited in the fund pursuant to section six of this article. If the commission determines that the money in the fund is insufficient to totally fund all certified candidates, the commission shall authorize the distribution of the remaining money proportionally, according to each candidate's eligibility for funding. Each candidate may raise additional money in the same manner as a nonparticipating candidate for the same office up to the unfunded amount of the candidate's eligible funding.

**§3-12-12. Restrictions on contributions and expenditures.**

(a) A certified candidate or his or her committee may not accept loans or contributions from any private source, including the personal funds of the candidate and the candidate's immediate family, during the ~~primary or general~~ nonpartisan judicial election campaign ~~periods~~ period except as permitted by this article.

(b) After filing the declaration of intent and during the qualifying period, a participating candidate may not spend or obligate more than he or she has collected in exploratory and qualifying contributions. After the qualifying period and through the ~~general~~ nonpartisan judicial election campaign period, a certified candidate may spend or obligate any unspent exploratory or qualifying contributions and the moneys he or she receives from the fund under the provisions of section eleven of this article.

(c) A participating or certified candidate may expend exploratory and qualifying contributions and funds received from the fund only for lawful election expenses as provided in section nine, article eight of this chapter. Moneys distributed to a certified candidate from the fund may be expended only during the ~~primary and general~~ nonpartisan judicial election campaign period for which funds were dispersed. Money from the fund may not be used:

(1) In violation of the law;

(2) To repay any personal, family or business loans, expenditures or debts; or

(3) To help any other candidate.

(d) A certified candidate or his or her committee shall return to the fund any unspent and unobligated exploratory contributions, qualifying contributions or moneys received from the fund within forty-eight hours after:

~~(1) The~~ the date on which the candidate ceases to be certified; ~~or~~

~~(2) The date on which the individual loses the primary election or otherwise ceases to be a candidate.~~

~~(e) Funds remaining unspent or unobligated after the close of the primary election campaign period may be retained by the candidate for use during the general election campaign period but shall be deducted from the amount the candidate is eligible to receive under subsection (b), section eleven of this article.~~

~~(f)~~ A certified candidate or his or her committee shall return to the fund any unspent or unobligated public campaign financing funds no later than five business days after the ~~general~~ nonpartisan judicial election.

(g) (f) A contribution from one person may not be made in the name of another person.

(h) (g) A participating or certified candidate or his or her committee receiving qualifying contributions or exploratory contributions from a person not listed on the receipt required by sections eight and nine of this article is liable to the State Election Commission for the entire amount of that contribution and any applicable penalties.

(i) (h) A certified candidate accepting any benefits under the provisions of this article shall continue to comply with all of its provisions throughout the ~~primary election campaign period and general~~ nonpartisan judicial election campaign period.

(j) (i) A participating or certified candidate or his or her financial agent shall provide the Secretary of State with all requested campaign records, including all records of exploratory and qualifying contributions received and campaign expenditures and obligations, and shall fully cooperate with any audit of campaign finances requested or authorized by the State Election Commission.

#### **§3-12-14. Duties of the State Election Commission; Secretary of State.**

(a) In addition to its other duties, the State Election Commission shall carry out the duties of this article and complete the following as applicable:

(1) Prescribe forms for reports, statements, notices and other documents required by this article;

(2) Make an annual report to the Legislature accounting for moneys in the fund, describing the State Election Commission's activities and listing any recommendations for changes of law, administration or funding amounts;

(3) Propose emergency and legislative rules for legislative approval, in accordance with article three, chapter twenty-nine-a of

this code, as may be necessary for the proper administration of this article;

(4) Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;

(5) Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified candidates receive funds promptly and to ensure that moneys required by this article to be paid to the fund are deposited in the fund;

(6) Cause an audit of the fund to be conducted by independent certified public accountants ninety days after a ~~general~~ nonpartisan judicial election. The State Election Commission shall cooperate with the audit, provide all necessary documentation and financial records to the auditor and maintain a record of all information supplied by the audit;

(7) In consultation with the State Treasurer and the State Auditor, develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the commission shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability and safeguards the integrity of the fund;

(8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to determine whether the fund will have sufficient moneys to meet its obligations and sufficient moneys available for disbursement during the ~~primary and general~~ nonpartisan judicial election campaign period; and

(9) Transfer a portion of moneys maintained in the fund to the West Virginia Investment Management Board for their supervised investment, after consultation with the State Treasurer, the State Auditor and the West Virginia Investment Management Board.

(b) In addition to his or her other duties, the Secretary of State shall carry out the duties of this article and complete the following as applicable:

(1) Prescribe forms for reports, statements, notices and other documents required by this article;

(2) Prepare and publish information about this article and provide it to potential candidates and citizens of this state;

(3) Prepare and publish instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with this article and to explain the duties of candidates and others participating in elections under this article;

(4) Propose emergency and legislative rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code as may be necessary for the proper administration of this article;

(5) Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;

(6) Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified candidates receive funds promptly and to ensure that moneys required by this article to be paid to the fund are deposited in the fund;

(7) Ensure public access to the campaign finance reports required pursuant to this article, and whenever possible, use electronic means for the reporting, storing and display of the information; and

(8) Prepare a voters' guide for the general public listing the names of each candidate seeking election to the Supreme Court of Appeals. Both certified and nonparticipating candidates shall be invited by the State Election Commission to submit a statement, not to exceed five hundred words in length, for inclusion in the guide. The guide shall identify the candidates that are certified candidates and the candidates that are nonparticipating candidates. Copies of the guide shall be posted on the website of the Secretary of State, as soon as may be practical.



(c) To fulfill their responsibilities under this article, the State Election Commission and the Secretary of State may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require, by subpoena, the production of any books, papers, records or other items material to the performance of their duties or the exercise of their powers.

(d) The State Election Commission may also propose and adopt procedural rules to carry out the purposes and provisions of this article and to govern procedures of the State Election Commission as it relates to the requirements of this article.

## **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

### **ARTICLE 5. TERMS OF OFFICE; MATTERS AFFECTING THE RIGHT TO HOLD OFFICE.**

#### **§6-5-1. When terms of office to begin.**

The terms of officers, except when elected or appointed to fill vacancies, shall begin respectively as follows: That of Governor, Secretary of State, state superintendent of free schools, treasurer, Auditor, Attorney General and commissioner of agriculture, on the first Monday after the second Wednesday of January next after their election; that of a member of the Legislature, on December 1, next after his or her election; and that of the judges of the Supreme Court of Appeals, the judges of the several circuit courts, the judges of the ~~criminal, intermediate, common pleas~~ family and other inferior courts, the county commissioners, prosecuting attorneys, surveyors of land, assessors, sheriffs, clerks of the circuit, ~~criminal, intermediate, common pleas~~, or other inferior courts, clerks of the county courts commissions, ~~justices of the peace and constables~~ magistrates, on January 1, next after their election.

Whenever a person is elected or appointed to fill a vacancy, his or her term shall be as prescribed by chapter three of this code.

**CHAPTER 50. MAGISTRATE COURTS.****ARTICLE 1. COURTS AND OFFICERS.****§50-1-1. Magistrate court created.**

There is hereby created in each county of this state a magistrate court with such numbers of magistrates for each court as are hereafter provided. There shall be elected by the voters of each county, at the general election to be held in ~~the year~~ 1976, and in every fourth year thereafter, such number of magistrates as is provided in section two of this article. The filing fee for the office of magistrate shall be one percent of the annual salary. The term of magistrates shall be for four years and shall begin on January 1, of the year following the year of election.

~~In counties where voting machines or electronic voting systems are used, the procedures of section eleven, article four, chapter three and section twelve, article four-a of said chapter three of this code shall apply respectively to the election of magistrates in the same manner as they apply to the election of members of the House of Delegates.~~

~~Notwithstanding the provisions of section seven, article five, chapter three of this code, for purposes of the primary election to be held in the year one thousand nine hundred seventy- six, the last day for filing certificates of candidacy for the office of magistrate shall be extended to the twenty-seventh day of February of that year.~~

Effective with the primary election of 2016, all elections for magistrates will be on a nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for magistrates and all elections for magistrates are to be held in the nonpartisan judicial election as set forth in article five, chapter three of this code. All indications of party identification on election ballots for magistrate shall be omitted.

**§50-1-6. Vacancy in office of magistrate.**

Subject to the provisions of section one, article ten, chapter three of this code, when a vacancy occurs in the office of magistrate, the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, shall fill the same by appointment of a person of the same political party as the officeholder vacating the office.

At a ~~general~~ nonpartisan judicial election in which a magistrate is elected for an unexpired term, the circuit judge, or the chief judge thereof if there is more than one judge of the circuit court, shall cause a notice of such election to be published prior to such election as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county involved. If the vacancy occurs before the ~~primary~~ election held to nominate candidates to be voted for at the general election, at which any such vacancy is to be filled, candidates to fill such vacancy shall be nominated at such primary election in accordance with the time requirements and the provisions and procedures prescribed in article five, chapter three of this code. Otherwise, they shall be nominated by the county executive committee in the manner provided in section nineteen, article five, chapter three of this code, as in the case of filling vacancies in nominations, and the names of the persons so nominated and certified to the clerk of the circuit court of such county shall be placed upon the ballot to be voted at such next general election.

**CHAPTER 51. COURTS AND THEIR OFFICERS.****ARTICLE 1. SUPREME COURT OF APPEALS.****§51-1-1. Justices.**

The Supreme Court of Appeals shall consist of five justices, elected and qualified according to the Constitution and the laws of this state, any three of whom shall constitute a quorum. Effective with the primary election of 2016, all elections for justices will be on a

nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for the office of justice and all elections for justice are to be held in the nonpartisan judicial election as set forth in article five, chapter three of this code. All indications of party identification on election ballots for that office shall be omitted.

#### ARTICLE 2A. FAMILY COURTS.

##### §51-2A-5. Term of office of family court judge; initial appointment; elections.

(a) Beginning with the ~~primary and general elections~~ election to be conducted in the year ~~2002~~ 2016, family court judges shall be elected. In family court circuits having two or more family court judges there shall be, for election purposes, numbered divisions corresponding to the number of family court judges in each area. Each family court judge shall be elected at large by the entire family court circuit. In each numbered division of a family court circuit, the candidates for nomination or election shall be voted upon and the votes cast for the candidates in each division shall be tallied separately from the votes cast for candidates in other numbered divisions within the family court circuit. The candidate or candidates receiving the highest number of the votes cast within a numbered division shall be nominated or elected, as the case may be. Effective with the primary election of 2016, all elections for family court judges in the respective circuits will be on a nonpartisan basis by division. Beginning in 2016, there will no longer be primary elections held for family court judges and all elections for family court judges are to be held in the nonpartisan judicial election as set forth in article five, chapter three of this code. All indications of party identification on election ballots for family court judge shall be omitted.

(b) The term of office for all family court judges elected in 2002 shall be for six years, commencing on January 1, 2003, and ending on December 31, 2008. Subsequent terms of office for family court judges elected thereafter shall be for eight years.

~~(c) The primary and general elections conducted in the year 2008 shall be conducted to fill the family court judge positions in the reconfigured districts set forth by subsection (c), section three of this article, for terms to commence on January 1, 2009.~~

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. No. 2010) was reported by the Clerk and adopted:

On page thirty-seven, section six, after the words “county involved.” by striking out the remainder of the section.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. No. 2010), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill No. 2234**, Requiring a court to permit a party in a divorce proceeding to resume using the name he or she used prior to the marriage.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 5. DIVORCE.**

**§48-5-613. Former name of party; restoration.**

(a) The court, upon the entry of a final order of divorce shall, if requested to do so by a party, allow such party to resume a surname

used prior to the marriage that is being dissolved: *Provided*, That the court may only allow a party to return to the surname of a former spouse if the person seeking the name change has a living child or children with said former spouse.

(b) Upon granting a change of name pursuant to subsection (a) of this section, the court shall issue a certificate of divorce reflecting the change in name. The certificate shall be no more than one page in length and shall contain the docket number and style of the divorce action, the birth name of the person requesting the change of name, said person's date of birth, social security number and the effective date of the change of surname.

(c) For a change of surname pursuant to this section to be valid it must be attested to by the circuit clerk.

(d) A valid certificate of divorce issued pursuant to this section may be used for any lawful purpose and shall serve as proof of legal change of name for purposes of obtaining a driver's license or state-issued identification card.

The bill (Eng. Com. Sub. for H. B. No. 2234), as amended, was then ordered to 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 No. 30**, Permitting shared animal ownership agreement to consume raw milk.

**Com. Sub. for Senate Bill No. 170**, Authorizing Bureau of Commerce promulgate legislative rules.

**Com. Sub. for Senate Bill No. 182**, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules.

**Com. Sub. for Senate Bill No. 192**, Authorizing Department of Transportation promulgate legislative rules.

**Com. Sub. for Senate Bill No. 334**, Relating to practice of medicine and surgery or podiatry.

**Com. Sub. for Senate Bill No. 343**, Exempting chiropractors from continuing education requirement on mental health conditions common to veterans.

**Senate Bill No. 350**, Establishing criminal penalties for assault or battery on utility workers.

**Senate Bill No. 364**, Exempting State Police Forensic Laboratory from state purchasing guidelines.

**Com. Sub. for Senate Bill No. 390**, Authorizing PSC approve expedited cost recovery of natural gas utility infrastructure projects.

**Senate Bill No. 398**, Extending expiration date for health care provider tax on eligible acute care hospitals.

**Com. Sub. for Senate Bill No. 435**, Creating WV Sheriffs' Bureau of Professional Standards.

**Eng. Com. Sub. for House Bill No. 2008**, Auditing the Division of Highways.

And,

**Eng. House Bill No. 2274**, Authorizing the Commissioner of Corrections to enter into mutual aid agreements.

The Senate proceeded to the eleventh order of business and the introduction of guests.

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Miller and Ferns.

Thereafter, at the request of Senator D. Hall, and by unanimous consent, the remarks by Senator Miller were ordered printed in the Appendix to the Journal.

At the request of Senator Carmichael, unanimous consent being granted, the remarks by Senator Ferns were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Beach, the name of Senator Beach was removed as a sponsor of **Senate Bill No. 439** (*Relating to higher education*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 20, 2015, at 11 a.m.

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## FRIDAY, FEBRUARY 20, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by the Reverend Gary Nelson, Cross Lanes United Methodist Church, Cross Lanes, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ron Stollings, a senator from the seventh district.



Pending the reading of the Journal of Thursday, February 19, 2015,

On motion of Senator Ferns, 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.

On motion of Senator Carmichael, the Senate recessed for five minutes to permit William Wasson to address the Senate on behalf of the Frasure-Singleton Student Legislative Program.

Upon expiration of the recess, the Senate reconvened and proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

**Eng. Com. Sub. for House Bill No. 2004**, Providing a procedure for the development of a state plan under section 111(d) of the Clean Air Act.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2098**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-11b; and to amend said code by adding thereto a new section, designated §30-14-12c, all relating to health care professionals providing services in federal veterans' affairs facilities in this state; authorizing those health care professionals to provide services to patients or residents of state-run veterans' facilities without obtaining an authorization to practice from the appropriate licensing agency of this state.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2099**—A Bill to amend and reenact §11-8-9 of the Code of West Virginia, 1931, as amended, relating to extending the time of meetings of local levying bodies when meetings are delayed due to circumstances beyond the control of a local levying body; providing the State Auditor is authorized to extend the time of meetings of local levying bodies; authorizing the State Auditor to propose rules to implement this section; requiring that the meeting be held in compliance with chapter six, article nine-a; and authorizing the State Auditor to set the meeting time.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2100**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5X-1, §16-5X-2, §16-5X-3, §16-5X-4, §16-5X-5 and §16-5X-6, all relating to permitting hospital patients to designate a lay caregiver; providing definitions; requiring patient consent; requiring certain notation in medical records; permitting modifications to the lay caregiver designations; requiring certain notices to a lay caregiver; requiring hospital to consult with a lay caregiver to prepare for aftercare and to issue discharge plan; providing for circumstances in which hospital is unable to contact a lay caregiver; providing immunity; prohibiting certain construction; and prohibiting use of state or federal funds for payment of a lay caregiver.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2535**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-40; to amend said code by adding thereto a new section, designated §18B-1B-7; to amend said code by adding thereto a new article, designated §27-6-1 and §27-6-2; and to amend and reenact §30-1-7a of said code, all relating generally to suicide prevention training; requiring middle and high schools to provide information and opportunities for discussion of suicide prevention to students; authorizing the State Board of Education to consult with the Bureau for Behavioral Health to assure the quality and accuracy of the information provided; providing that institutions of higher education will develop and implement a policy to advise students and staff on available depression and suicide prevention resources; requiring suicide prevention information to be provided to all incoming students; requiring suicide prevention information to be posted on the websites of institutions of higher education; requiring free prevention materials and programs to be posted on the websites of all institutions of higher education, the higher education policy commission and the Bureau for Behavioral Health and Health Facilities; requiring the Bureau for Behavioral Health and Health Facilities to review such posted materials annually; providing legislative findings; requiring the Bureau for Behavioral Health and Health Facilities to post certain suicide prevention and awareness information on its website; providing for the Bureau for Behavioral Health and Health Facilities to assist middle and high schools in providing suicide prevention information to students; requiring certain health care professionals to obtain continuing education courses on suicide prevention and related topics as part of their license renewal; providing that certain health care professionals may only be required to complete two hours of suicide prevention training; requiring certain health care licensing boards to establish continuing education requirements and criteria and approve continuing education courses on suicide prevention and related topics.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2586**—A Bill to amend and reenact §48-27-311 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §56-3-33a, all relating to service of process; actions against nonresident persons by petitioners seeking domestic violence or personal safety relief; and authorizing the Secretary of State to receive process against nonresidents.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2607**—A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, relating to the violation of interfering with emergency services communications and clarifying penalties under subdivision (n) of this section for the violation.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 20**—Requesting the Division of Highways to name U. S. Route 54/6 in Wyoming County the “U. S. Army Major Woodrow Cook and Virginia Cook Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 30**—Requesting that bridge number 30-3/5-13.59 (30A016) on County Route 3/5 in Mingo County, West Virginia, locally known as the Bailey Branch Pony Truss, be named “The Baisden Family Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 36**—Requesting the Division of Highways to name the bridge on Route 119, over WV Route 10 near Chapmanville in Logan County, bridge number 23-119-15.56 (23A095), latitude 37.97487, longitude -82.01675, as the “U.S. Army SPC David H. Stamper Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 37**—Requesting the Division of Highways to name bridge number 13-64-179.36 EB and WB (13A165, 13A166) locally known as Mountain Avenue Bridge, carrying Interstate 64 over Tuckahoe Run and CR50 in Greenbrier County, the “U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 38**—Requesting the Division of Highways to name the bridge number 1296 on Route 220, Franklin Pike, five miles South of Petersburg, Grant County, the “Captain John Bond and the West Virginia State Troops Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 46**—Requesting the Division of Highways to name the bridge on County Route 85, bridge number: 03-85/24-0.01 (03A167) (37.88458, -81.65320), locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in Boone County, the “U. S. Army SSG James C. Vickers and U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 19th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(H. B. No. 2200)**, Revising, rearranging, consolidating and recodifying the laws of the State of West Virginia relating to child welfare.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill No. 88** (originating in the Committee on Health and Human Resources), Creating WV Clearance for Access: Registry and Employment Screening Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 88** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4, §16-46-5, §16-46-6, §16-46-7, §16-46-8 and §16-46-9, all relating to requiring background checks for individuals who have direct access to residents, members or beneficiaries of covered providers or covered contractors participating in the West Virginia Clearance for Access: Registry and Employment Screening program; providing short title; defining terms; requiring Secretary of the Department of Health and Human Resources to develop plan and program for conducting background checks; requiring centralized database to maintain criminal history record information and results; establishing prescreening process conducted by covered providers and covered contractors; requiring applicants to provide fingerprints and undergo criminal background check; establishing procedures and criteria for obtaining and reviewing criminal history record information; establishing criteria for approving applicants for employment; authorizing contractors and fees; creating

special revenue account for administrative fees; providing for protests of the secretary's decisions and permitting variances; creating exceptions; authorizing legislative rules; providing monetary penalties; and providing for civil and criminal immunity.

With the recommendation that the committee substitute for committee substitute 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

**Com. Sub. for Senate Bill No. 109** (originating in the Committee on Military), Relating to local indoor smoking prohibitions.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 109** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-2-16, all relating to local indoor smoking prohibition; exempting certain veterans' organizations from local indoor smoking prohibition; and establishing a procedure for certain establishments to apply for exemption from local indoor smoking prohibition.

With the recommendation that the committee substitute for committee substitute do pass.



Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 329**, Requiring real property seller satisfy unpaid charges to county and municipality.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 329** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, §37-16-2, §37-16-3 and §37-16-4, all relating to requiring a seller of real property satisfy upon closing any unpaid charges owed to the county and municipality in which the property is located.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. No. 329), under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 403**, Increasing period during which motor vehicle lien is valid.

And,

**Senate Bill No. 507**, Relating to monitoring inmates' electronic communications.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 424**, Eliminating compulsory tuberculosis testing for certain school children and school personnel.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 463**, Making supplementary appropriation to DHHR, DHS, Health Care Provider Tax, Medicaid State Share Fund.

**Senate Bill No. 466**, Making supplementary appropriation of federal funds to Department of Commerce.

**Senate Bill No. 467**, Making supplementary appropriation of federal funds to Department of Agriculture, State Conservation Committee.

**Senate Bill No. 469**, Making supplementary appropriation of federal funds to DEP, Division of Environmental Protection.

**Senate Bill No. 471**, Making supplementary appropriation of federal funds to DHHR, Human Rights Commission, and DHHR, DHS.

**Senate Bill No. 472**, Making supplementary appropriation to DOT, DMV, Motor Vehicle Fees Fund.

**Senate Bill No. 473**, Making supplementary appropriation of federal funds to DMAPS, WV State Police.

**Senate Bill No. 475**, Making supplementary appropriation to DMAPS, Division of Corrections, Parolee Supervision Fees, and WV State Police, Motor Vehicle Inspection Fund.

**Senate Bill No. 476**, Making supplementary appropriation to Department of Administration, Division of Purchasing, Purchasing Improvement Fund.

And,

**Senate Bill No. 477**, Supplementing, amending, decreasing and increasing appropriation from State Road Fund to DOH.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 484**, Relating to procedure for removal of certain county, school district and municipal officers.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 498**, Clarifying tax map rules apply to paper and electronic documents.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Bill No. 2212**, Changing the amount of severance tax revenue annually dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Bill No. 2213**, Reducing the distributions to the West Virginia Infrastructure Fund.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

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

**Eng. Com. Sub. for House Bill No. 2568**, The Pain-Capable Unborn Child Protection Act.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Without objection, the Senate returned to the third order of business.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 82**—Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 2025, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

*Resolved by the Legislature of West Virginia:*

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three days for the express purpose of consideration of matters of disagreement between the two houses as to Com. Sub. for H. B. 2025.

At the request of Senator Carmichael, and by unanimous consent, the message was taken up for immediate consideration and reference of the resolution to a committee dispensed with.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered,* That The Clerk communicate to the House of Delegates the action of the Senate.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 20, 2015, he had approved **Enr. House Bill No. 2200**.

The Senate proceeded to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 11:30 a.m. today:

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Miller and D. Hall:**

**Senate Bill No. 527**—A Bill to amend and reenact §19-1-2 of the Code of West Virginia, 1931, as amended, relating to qualifications of Commissioner of Agriculture; and eliminating certain requirements.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

**By Senators Kessler, Beach, Laird, Miller, Snyder and Yost:**

**Senate Bill No. 528**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4, §21-1E-5, §21-1E-6, §21-1E-7, §21-1E-8, §21-1E-9, §21-1E-10, §21-1E-11, §21-1E-12 and §21-1E-13, all relating to creating the Earned Sick Time Act; requiring employers to provide paid sick leave; stating legislative purpose; defining terms; setting standards for the use and accrual of earned sick time; distinguishing between unpaid and paid sick time for certain employees based on size of employer; excepting more generous employer policies; requiring certain certification; excepting collective bargaining agreements; requiring notice and posting requirements; setting forth duties of Commissioner of Labor; providing rule-making authority; requiring employers retain certain documents; creating penalties and enforcement measures; creating misdemeanor offense; noting lack of an intent to preempt, limit or affect other requirements; and providing an effective date.

Referred to the Committee on Labor; then to the Committee on the Judiciary; and then to the Committee on Finance.



**By Senators Gaunch and Carmichael:**

**Senate Bill No. 529**—A Bill to amend and reenact §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-10-21a; to amend and reenact §5-13-2 of said code; to amend and reenact §5-16-13 of said code; to amend and reenact §15-2A-21 of said code; to amend and reenact §18-7A-17, §18-7A-23 and §18-7A-25 of said code; and to amend said code by adding thereto two new sections, designated §18-7A-17a and §18-7A-25b, all relating generally to benefits and costs for future members of the West Virginia Public Employees Retirement System, State Police Retirement System and Teachers Retirement System.

Referred to the Committee on Finance.

**By Senators Yost, Ferns, Kessler, Snyder and Romano:**

**Senate Bill No. 530**—A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to continuing the personal income tax adjustment to the gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee.

Referred to the Committee on Finance.

**By Senators Kessler, Palumbo, Romano, Stollings and Unger:**

**Senate Bill No. 531**—A Bill to amend and reenact §11-17-3 of the Code of West Virginia, 1931, as amended, relating to incrementally increasing cigarette tax by a total of \$1 per pack in order to fund substance abuse and workforce development initiatives; setting forth timing of increases; and detailing how newly generated funds are to be distributed.

Referred to the Committee on Finance.

**By Senators Trump, Woelfel, Plymale, Stollings, Takubo, Prezioso, Carmichael, Ferns and Beach:**

**Senate Bill No. 532**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7E-1, §55-7E-2, §55-7E-3, §55-7E-4, §55-7E-5 and §55-7E-6, all relating to immunity from civil liability for clinical practice plans and personnel associated with medical and dental schools; providing legislative findings and declarations of public purpose; defining terms; limiting civil liability for clinical practice plans and their directors, officers, employees, agents and contractors; providing for minimum medical professional liability insurance requirements; and determining the applicability and construction of the immunity from civil liability.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

**By Senators Laird, D. Hall, Trump, Boso and Romano:**

**Senate Bill No. 533**—A Bill to amend and reenact §17A-3-15 of the Code of West Virginia, 1931, as amended, relating to prohibition of obstructing view of motor vehicle registration plates.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Takubo, Stollings, Kessler and Prezioso:**

**Senate Bill No. 534**—A Bill to amend and reenact §11-17-3 of the Code of West Virginia, 1931, as amended, relating to increasing excise tax on cigarettes.

Referred to the Committee on Finance.

**By Senators Nohe and Boso:**

**Senate Bill No. 535**—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to exempting certain community rehabilitation programs from the payment of taxes relating to sales of personal property and services.

Referred to the Committee on Finance.

**By Senator Woelfel:**

**Senate Bill No. 536**—A Bill to amend and reenact §61-2-14a of the Code of West Virginia, 1931, as amended, relating to expanding definition of “kidnapping” to include taking or gaining custody of, confining or concealing another person by acts which include, but are not limited to, force, duress, fraud, deceit, misrepresentation or enticement; and including existing criminal penalty.

Referred to the Committee on the Judiciary.

**By Senators D. Hall and Boso:**

**Senate Bill No. 537**—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to school calendar; and changing mandatory instructional days from one hundred eighty days to minutes based upon minimum amount of hours of instruction offered to students provided by state board rules.

Referred to the Committee on Education.

**By Senators Kirkendoll, Romano, Trump, Facemire and Snyder:**

**Senate Bill No. 538**—A Bill to amend and reenact §17C-5A-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §17C-5C-4c and §17C-5C-4d, all relating to hearings before Office of Administrative Hearings; deleting provision that provides OAH cannot be made a party to an appeal; requiring parties appealing a decision of OAH to serve petition for appeal on OAH; establishing procedures for recusal of Chief Hearing Examiner; providing appeal procedures for petitioners denied entry into alcohol test and lock program; allowing OAH to enter orders nunc pro tunc to correct clerical mistakes or omissions; and providing that OAH has jurisdiction to decide cases in which substantial prejudice is asserted due to alleged constitutional violations.

Referred to the Committee on the Judiciary.

**By Senators Carmichael, D. Hall, Nohe and Trump:**

**Senate Bill No. 539**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to rules and pleading; providing medical records and releases for medical information may be requested and required without court order in civil action when party's health condition is at issue; prohibiting unilateral restrictions on receipt or use of medical records; and providing right to object to request for records and effect of court order relating to use of records.

Referred to the Committee on the Judiciary.

**By Senators Plymale, Palumbo, Prezioso, Stollings, Unger, Facemire, D. Hall and Laird:**

**Senate Bill No. 540**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, §5-30-5, §5-30-6 and §5-30-7, all relating to early childhood development; creating Office of Early Childhood Collaboration; requiring appointment of executive director; establishing powers and duties; requiring submission of annual report to Governor and Joint Committee on Government and Finance; establishing priorities; continuing West Virginia Early Childhood Advisory Council; and creating Early Childhood Development Fund.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

Senator Blair offered the following resolution:

**Senate Concurrent Resolution No. 32**—Amending the Joint Rules of the Senate and House of Delegates relating to unfinished business at the end of the first regular session of the two-year Legislature.

*Resolved by the Legislature of West Virginia:*

That the Joint Rules of the Senate and House of Delegates be amended by adding thereto a new rule, designated Joint Rule No. 31, to read as follows:

### **Unfinished Business**

31. All business of the Legislature remaining unfinished at the end of the first regular session of the two-year Legislature shall resume at the commencement of the next regular session of the same Legislature in the same manner as if no adjournment had taken place.

Which, under the rules, lies over one day.

Senators Carmichael, M. Hall, Trump, Walters, Blair, Kessler, Laird, Miller, Unger, Facemire and Yost offered the following resolution:

**Senate Concurrent Resolution No. 33**—Requesting the Joint Committee on Government and Finance study a West Virginia state income tax credit program to protect our land and water resources by encouraging voluntary preservation and conservation of undeveloped land.

Whereas, West Virginia's waters are an invaluable public resource and protection of our waters for current and future West Virginians is a fundamental duty of the state; and

Whereas, Conservation of West Virginia's natural areas, forests, farms and other working lands, as defined in and consistent with W.Va. Code §20-12-3(a), is the most effective and affordable means by which to protect our land and waters; and

Whereas, In deference to the property rights of private landowners, voluntary conveyance of an interest in lands will afford

protection to the lands and waters of the state in the form of an enforceable conservation easement or fee simple title; and

Whereas, A private landowner donating some portion or all of an enforceable conservation easement or land in fee is entitled to compensation for a conveyance that protects in perpetuity land and water in our state; and

Whereas, The December 15, 2014, report of the Public Water System Supply Study Commission, made pursuant to W.Va. Code §22-31-12, includes a recommendation that, “the Legislature draft legislation for income tax credits for landowners for source water protection”; and

Whereas, Several other states have successfully enacted laws and fielded programs that award state income tax credits in exchange for the voluntary preservation of undeveloped land that will protect land and water resources; and

Whereas, In order to thoroughly consider and deliberate upon an income tax credit land conservation program, the Legislature requires that sufficient fact-based data, including impact of such a program upon tax revenues, be available; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study a West Virginia state income tax credit program to protect our land and water resources by encouraging voluntary preservation and conservation of undeveloped land; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance study the desirability, feasibility and cost of a conservation income tax credit program that would award West Virginia state tax credits to landowners who voluntarily donate all or a portion of land in fee or perpetual conservation easements that will protect the lands and waters of the state to the lasting benefit of our citizens; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2016, 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.

Which, under the rules, lies over one day.

On motion of Senator Carmichael, the Senate requested the return from the House of Delegates of

**Eng. Com. Sub. for Senate Bill No. 6**, Relating to medical professional liability.

Passed by the Senate on yesterday, Thursday, February 19, 2015,

The bill now being in the possession of the Senate,

On motion of Senator Carmichael, the Senate reconsidered the vote by which it adopted Senator Carmichael's motion that Engrossed Committee Substitute for Senate Bill No. 6 take effect from passage.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Carmichael's motion that the bill take effect from passage.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, his foregoing motion was withdrawn.

On motion of Senator Carmichael, the Senate reconsidered the vote as to the passage of the bill.

The vote thereon having been reconsidered,

The question again being on the passage of the bill, as amended.

On motion of Senator Carmichael, the Senate reconsidered its action by which it adopted Senator Carmichael's motion that the Senate concur in the House of Delegates amendments, as amended, to the bill (*shown in the Senate Journal of yesterday, Thursday, February 19, 2015, pages 735 through 756, inclusive*).

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Carmichael's motion that the Senate concur in the House of Delegates amendments, as amended, to the bill (Eng. Com. Sub. for S. B. No. 6).

Thereafter, at the request of Senator Carmichael, and by unanimous consent, his foregoing motion was withdrawn.

On motion of Senator Carmichael, the Senate reconsidered its action by which it adopted Senator Trump's amendment on page three, section two, subsection (b), subdivision (1), after the word "Medicare" by inserting the words "set aside".

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Trump's amendment to the House of Delegates amendments to the bill.

Thereafter, at the request of Senator Trump, unanimous consent being granted, Senator Trump's amendment to the House of Delegates amendments to the bill was withdrawn.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendments, as amended, to the bill (*shown in the Senate Journal of yesterday, Thursday, February 19, 2015, pages 735 through 756, inclusive*).



Engrossed Committee Substitute for Senate Bill No. 6, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Romano and Snyder—2.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 6) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Romano and Snyder—2.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 6) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

### **Petitions**

Senator Stollings presented a petition from Gary Hatfield and numerous West Virginia residents, supporting Senate Bill No. 35 (*Permitting carrying of concealed weapons without license*).

Referred to the Committee on Government Organization.

Senator Sypolt presented a petition from Janet Morgan and numerous West Virginia residents, supporting Senate Bill No. 35 (*Permitting carrying of concealed weapons without license*).

Referred to the Committee on Government Organization.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 31**, Authorizing meeting of Joint Select Committee on Tax Reform.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill No. 316**, Exempting new veteran-owned business from certain fees paid to Secretary of State.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder,

Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 316) 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 No. 344**, Relating to limitations on back and front pay and punitive damages.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 344 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—30.

The nays were: Kessler, Laird, Snyder and Yost—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 344) 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 No. 384**, Permitting wine sales by specialty shop located in dry county, magisterial district or municipality.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 384) passed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for Senate Bill No. 384**—A Bill to amend and reenact §60-8-3 of the Code of West Virginia, 1931, as amended, relating to the sale of wine; permitting sale of wine by wine specialty shops in resort areas in counties that have elected not to permit the sale of wine or alcohol beverages; and providing for \$25 fee for one-

day licenses for wine sales for artistic, athletic, charitable, educational or religious purposes.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 384) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 415**, Relating to circuit judges.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Carmichael, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Senate Bill No. 425**, Providing WVU, MU and WVSOM more authority to invest assets.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 425) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill No. 2010**, Requiring the elections of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan and by division.

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 No. 2010 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Miller—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2010) 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 No. 2010**—A Bill to amend and reenact §3-1-16 and §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-4 of said code; to amend said code by adding thereto four new sections, designated §3-5-6a, §3-5-6b, §3-5-6c and §3-5-6d; to amend and reenact §3-5-7, §3-5-13 and §3-5-13a of said code; to amend and reenact §3-10-3 of said code; to amend and reenact §3-12-3, §3-12-6, §3-12-10, §3-12-11, §3-12-12 and §3-12-14 of said code; to amend and reenact §6-5-1 of said code; to amend and reenact §50-1-1 and §50-1-6 of said code; to amend and reenact §51-1-1 of said code; and to amend and reenact §51-2A-5 of said code, all relating to electoral reforms of the West Virginia judiciary generally; requiring the election of justices of the Supreme Court of Appeals, circuit court judges, family court judges and magistrates be on a nonpartisan basis; requiring that elections to certain offices be on a division basis when more than one justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate is to be elected; providing for the timing and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that elections for justice of the Supreme Court of Appeals, circuit judge, family court judge or magistrate are to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing the procedures for the filling of vacancies in the offices of justices of the

Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing occasions for special elections to be held to fill vacancies; providing that unsuccessful nonpartisan candidates can be selected to fill ballot vacancies in a general election; providing the timing of commencement of the terms of offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; and providing for the continuing applicability of the West Virginia Supreme Court of Appeals Public Campaign Financing Program.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senator Trump regarding the passage of Engrossed Committee Substitute for House Bill No. 2010 were ordered printed in the Appendix to the Journal.

At the request of Senator Kessler, unanimous consent being granted, the remarks by Senators Woelfel and Romano regarding the passage of Engrossed Committee Substitute for House Bill No. 2010 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for House Bill No. 2234**, Requiring a court to permit a party in a divorce proceeding to resume using the name he or she used prior to the marriage.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.



The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2234) 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 No. 2234**—A Bill to amend and reenact §48-5-613 of the Code of West Virginia, 1931, as amended, relating to court ordered name changes in divorce cases; authorizing the issuance of certificates of divorce to reflect a name change; setting forth the contents of said certificate; requiring attestation by the clerk of the court of certificates; allowing use of certificates for all lawful purposes and expressly authorizing a certificate's use for drivers licensing and for obtaining a state-issued identification card.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Com. Sub. for Senate Bill No. 30**, Permitting shared animal ownership agreement to consume raw milk.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall,

M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Committee Substitute for Senate Bill No. 30 was then read a third time and put upon its passage.

Pending discussion,

Senator Plymale moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill No. 30.

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Trump, Walters, Williams and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Takubo, Unger, Woelfel and Yost—16.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 30) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 170**, Authorizing Bureau of Commerce promulgate legislative rules.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Senate Bill No. 170 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 170) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sybolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 170) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 182**, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano,

Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Senate Bill No. 182 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 182) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 182) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 192**, Authorizing Department of Transportation promulgate legislative rules.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Senate Bill No. 192 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 192) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 192) takes effect from passage.

*Ordered,* That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 334,** Relating to practice of medicine and surgery or podiatry.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Senate Bill No. 334 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 334) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 343**, Exempting chiropractors from continuing education requirement on mental health conditions common to veterans.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.



On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Senate Bill No. 343 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 343) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins,

Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 343) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Bill No. 350**, Establishing criminal penalties for assault or battery on utility workers.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Senate Bill No. 350 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Leonhardt—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 350) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Bill No. 364**, Exempting State Police Forensic Laboratory from state purchasing guidelines.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Senate Bill No. 364 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 364) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 390**, Authorizing PSC approve expedited cost recovery of natural gas utility infrastructure projects.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano,

Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Senate Bill No. 390 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 390) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Bill No. 398**, Extending expiration date for health care provider tax on eligible acute care hospitals.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Senate Bill No. 398 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 398) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2015.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 398) takes effect July 1, 2015.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 435**, Creating WV Sheriffs' Bureau of Professional Standards.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Engrossed Committee Substitute for Senate Bill No. 435 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall,

Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 435) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Bill No. 483**, Clarifying continuing election of municipal policemen's and firemen's pension and relief funds' trustees.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.



Engrossed Senate Bill No. 483 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 483) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill No. 2008**, Auditing the Division of Highways.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Carmichael, 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: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. No. 2008) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2008) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Beach—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2008) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill No. 2274**, Authorizing the Commissioner of Corrections to enter into mutual aid agreements.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Carmichael, 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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

Having been engrossed, the bill (Eng. H. B. No. 2274) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2274) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill No. 2274**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1-5a, relating to authorizing the Commissioner of Corrections to enter into mutual aid agreements with political subdivisions of this state, other states and the federal government for numerous salutary purposes.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

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:

**Senate Bill No. 89**, Providing Prosecuting Attorneys Institute's council establish Executive Director's salary.

**Senate Bill No. 283**, Relating to branch banking.

**Senate Bill No. 285**, Relating to primary and subordinate mortgage loans.

**Senate Bill No. 292**, Relating to licenses for business of currency exchange, transportation or transmission.

**Senate Bill No. 370**, Reorganizing Governor's Committee on Crime, Delinquency and Correction and its subcommittees.

And,

**Senate Bill No. 445**, Relating to investment of RJCFA excess funds.

The Senate proceeded to the eleventh order of business and the introduction of guests.

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Kessler.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until Monday, February 23, 2015, at 11 a.m.

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## MONDAY, FEBRUARY 23, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Friday, February 20, 2015,

On motion of Senator Blair, 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 concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill No. 255**, Eliminating certain boards, councils, committees, panels, task forces and commissions.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill No. 298**, Clarifying funds within Public Employees Retirement Fund.

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill No. 299**, Clarifying start date of State Police duty-related disability payments.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page eight, section ten, line thirty-two, after the word “jurisdiction” by changing the period to a colon and inserting the following proviso: *Provided*, That in no circumstance may the disability payments begin prior to termination of employment in order to avoid an in-service distribution.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill No. 299, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Miller, Mullins and Walters—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 299) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill No. 302**, Relating to state retirement plans.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill No. 378**, Relicensing electricians without retesting under certain circumstances.

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 No. 2054**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-6-31, relating to the right of the landlord of commercial premises to terminate the lease under certain circumstances and providing a process for the termination.

Referred 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. Com. Sub. for House Bill No. 2139**—A Bill to amend and reenact §18A-2-3 of the Code of West Virginia, 1931, as amended, relating to employment of retired teachers as substitutes in areas of critical need and shortage for substitutes; requiring days of retirement before instructional term employed as substitute; requiring electronic posting of vacancy; requiring preemployment submission of information to, and verification of compliance by, state board prior to submission to retirement board; resetting expiration date of provisions; and making other technical improvements.

Referred to the Committee on Pensions; and then to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2140**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to building governance and leadership capacity of county board during period



of state intervention; providing flexibility on strategic plans; authorizing removal, subject to reemployment, of will and pleasure employees of the county superintendent during intervention in operation of school system; requiring during periods of intervention, county board goals and action plans for improvement and sustained success to end intervention in not more than five years; specifying minimum components of goals and action plans; requiring annual assessment and report of readiness of county to accept return and sustain improvement; requiring public hearing if determination made at fifth annual assessment the county board not ready; continued intervention allowed only after hearing; requiring continued supports as needed for three years following end of intervention; and requiring public hearing for another intervention within this three years.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2187**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-6-17, relating to patriotic displays at public buildings; allowing for the national motto, ‘In God We Trust’, to be displayed on public buildings; allowing for the display of the POW-MIA flag at public buildings; and requiring the State Building Commission to develop guidelines for appropriate display of the motto and flag.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2272**—A Bill to repeal §16-5W-1, § 16-5W-2, §16-5W-3, §16-5W-4, §16-5W-5, §16-5W-6, §16-5W-7, and §16-5W-8, of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-5-7, of said code, relating the authority of the Board of Pharmacy to maintain an official prescription paper program; and allowing pharmacy interns to administer certain immunizations.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. House Bill No. 2274**, Authorizing the Commissioner of Corrections to enter into mutual aid agreements.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2432**—A Bill to amend and reenact §30-5-9 of the Code of West Virginia, 1931, as amended, relating to the licensure requirements to practice pharmacist care.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2461**—A Bill to amend and reenact §33-10-4 and §33-10-26 of the Code of West Virginia, 1931, as amended, all relating to delinquency proceedings of insurers; issuance of injunctions or orders following the commencement of a rehabilitation or liquidation proceeding of an insurer; and providing limitations on the avoidance of a transfer to a federal home loan

bank in a liquidation proceeding of an insurer-member of the federal home loan bank.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2492**—A Bill to repeal §29-5A-10 of the Code of West Virginia, 1931, as amended, relating to the authority of the State Athletic Commission.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2505**—A Bill to amend and reenact §5-10-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-5 of said code; to amend and reenact §8-22A-6 of said code; to amend and reenact §15-2A-3 of said code; to amend and reenact §16-5V-6 of said code; and to amend and reenact §18-7A-13 of said code, all relating to retirement system participation; clarifying that police officers and firefighters hired after a certain date are members of the West Virginia Municipal Police and Firefighters Retirement System; clarifying that members first employed in covered employment in the West Virginia Deputy Sheriffs Retirement System, West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia Emergency Medical Services Retirement System shall participate in only one retirement system administered by the Consolidated Public Retirement Board in which the member has the earliest date of hire; and specifying that members of the Public Employees Retirement System, the State Police Retirement System and the Teachers' Retirement System who are employed in an additional job that

requires membership in the West Virginia Deputy Sheriff Retirement System, the West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia Emergency Medical Services Retirement System shall abide by the concurrent employment provisions of said system and participate in only one system administered by the Consolidated Public Retirement Board.

Referred to the Committee on Pensions.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2507**—A Bill to amend and reenact §8-22A-2 and §8-22A-6 of the Code of West Virginia, 1931, as amended, all relating to membership provisions in the West Virginia Municipal Police and Firefighters Retirement System.

Referred to the Committee on Pensions.

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 No. 2545**—A Bill to amend and reenact §18A-4-2a of the Code of West Virginia, 1931, as amended, relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification; and requiring the submission of satisfactory evidence to the West Virginia Department of Education for reimbursement.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2598**—A Bill to amend and reenact §18-20-2 of the Code of West Virginia, 1931, as amended, relating to school accommodations for exceptional children; and requiring that teachers receive instruction relating to the school's plan of accommodations for students with disabilities.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2625**—A Bill to amend and reenact §22-18-22 of the Code of West Virginia, 1931, as amended, relating to the Hazardous Waste Management Fee Fund, by extending its sunset provision from June 30, 2015 to June 30, 2020.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2626**—A Bill to amend and reenact §22-2-4 of the Code of West Virginia, 1931, as amended, relating to use of the Abandoned Land Reclamation Fund.

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 July 1, 2015, and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2632**—A Bill to amend and reenact §5A-3-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-2E-7 of said code; and to amend and reenact §18-9A-10 of said code, all relating to procurement of instructional materials,

digital content resources, instructional technology, hardware, software, telecommunications and technical services for use in and in support of public schools; exempting procurement of these items from division of purchasing requirements; removing outdated language and updating name of state technology plan; requiring the State Board of Education to define “equitable distribution;” requiring certain technology tools to adhere to state contract prices; adding personalized learning as potential student use for technology; providing for technology system specialists; and removing expired transitional funding language and references to the twenty-first century.

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 No. 2646**—A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to legalizing and regulating the sale and use of fireworks; eliminating the prohibition on the sale, possession and explosion of fireworks; eliminating the requirement that the State Fire Marshal seize and destroy fireworks and combustibles illegally held; eliminating the prohibition on nonresidents without in-state legal counsel to obtain a permit for conducting of a pyrotechnic display; eliminating the sparkler and novelty registration fee; eliminating certain defined terms; eliminating exemptions; defining terms; creating standards for the production and transport of fireworks; establishing registration requirements for sales of sparklers, novelties and toy caps; creating a certification requirement for the sale of consumer fireworks; establishing permit requirements

for public fireworks displays; creating the West Virginia Veterans Program Fund to be administered by the Department of Veterans' Assistance; imposing a twenty percent fee on each dollar of a sale for the sale of fireworks and providing for the allocation of the fee collections between the West Virginia Veterans Program Fund for veterans programs, the Fire Protection Fund for volunteer fire departments, and the Fire Marshal Fees Fund; providing for public fireworks displays; providing for rules; authorizing seizures by the State Fire Marshal; providing exemptions; and providing for criminal penalties.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2663**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-10G-5a, relating to creating the Rehabilitation Services Vending Program Fund.

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 No. 2669**—A Bill to amend and reenact §16-3D-2 and §16-3D-3 of the Code of West Virginia, 1931, as amended, all relating to compulsory tuberculosis testing; defining terms; removing requirement for compulsory tuberculosis testing for school children transferring from outside this state; removing the requirement for recording test results, immediate evaluations by a physician of positive reactors, and X rays upon a positive test; omitting the requirement for all school personnel to have one tuberculin test at the time of employment; and eliminating the requirement that local health officers be responsible for arranging

follow-up of school personnel and students who are not able to get a physician evaluation for a positive tuberculin skin test.

At the request of Senator Sypolt, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2702**—A Bill to amend and reenact §18-5-18 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-8, §18A-4-8a and §18A-4-8b of said code, all relating to redefining service personnel class titles of early childhood classroom assistant teacher; protecting certain aides from reduction in force or transfer to create vacancy for less senior early childhood classroom assistant teacher; requiring aide who becomes employed as early childhood classroom assistant teacher to hold certain multiclassification status; and including early childhood assistant classroom assistant teacher in same classification category as aides.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2726**—A Bill to amend and reenact §55-8-16 of the Code of West Virginia, 1931, as amended, relating to choice of law in product liability actions.

Referred to the Committee on the Judiciary.



A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 4**—Requesting the Division of Highways to name the bridge on Route 14, bridge number 23-14-0.20 (23A369) latitude 37.81184, longitude -81.93115 in Logan County, locally known as Rum Creek CSX Overpass, the “U.S. Army PFC Clarence Allen Mooney Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 6**—Requesting the Division of Highways to name bridge number 39-7-26.83 (39A194), locally known as Corinth Railroad Overpass, carrying WV 7 over CSX RAILROAD in Preston county, the “U.S. Army Air Force SGT Everett Wayne “Bud” Sell Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 9**—Requesting the Division of Highways to name bridge number 55-54-1.44, locally known as the Winding Gulf Bridge, carrying WV Route 54 over Slab Fork in Wyoming County, the “U.S. Air Force Lt. Col. John Richard ‘Toots’ Wilcox Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 19**—Requesting the Division of Highways to name the Section of US Route 16 from the Donald J. Bragg Memorial Bridge to the intersection of County Route 14 in Logan County, the “U.S. Army SGT Bobby Ray Adkins Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 21**—Requesting the Division of Highways to name the bridge on U. S. Route 19 crossing Scott’s Run, bridge number 31-19-14.98, (39.66036, -80.00463), locally known as Osage Bridge, near Osage in Monongalia County, the “U. S. Army Air Corps PFC James Elwood Wickline Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 27**—Requesting the Division of Highways to name a future bridge with a design number of 10978, longitude 38.39933, latitude -81.57895, carrying future County Route 219/32 over the Elk River in Kanawha County the “West Virginia Air National Guard 167th Fighter Squadron Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 28**—Requesting the Division of Highways to name the bridge on County Route 32, Evergreen Road, in Upshur County, bridge number 49-32-8-16, as the “USMC Cpl Marple W. Landes and U.S. Army PV2 Margel S. Landes Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 32**—Requesting the Division of Highways to name the bridge on Upper Pinch Creek Road that carries County Route 52/2 over Pinch Creek in Kanawha County, bridge number 20-52/2-0.10 (20A331), latitude 38.41945, longitude -81.48488, as the “Lipscomb Brothers Veterans Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 35**—Requesting the Division of Highways name a section of United States Route 33 from the Ritchie Bridge in Ravenswood, Jackson County to its intersection with Interstate 79 at Exit 99 in Lewis County, and from where United States Routes 219 and 33 diverge just north of Elkins in Randolph County to the Randolph/Pendleton County line “The Historic Blue-Gray Highway”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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 No. 24**, Prohibiting public officials and employees from using public funds for self promotion.

And,

**Senate Bill No. 360**, Repealing code sections relating to book indexes and claims reports required by court clerks.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bills (S. B. Nos. 24 and 360) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 140**, Amending State Administrative Procedures Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 140** (originating in the Committee on the Judiciary)—A Bill to repeal §29A-2-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §29A-1-2 of said code; to amend said code by adding thereto two new sections, designated §29A-1-3a and §29A-1-3b; and to amend and reenact §29A-3-1a, §29A-3-4, §29A-3-8, §29A-3-13 and §29A-3-15 of said code, all relating generally to the State Administrative Procedures Act; defining “legislative exempt rule”; providing certain technical amendments; providing for nullification and voiding of rules; setting forth requirements for amendments to existing rules, proposed new rules and repeal of existing rules; establishing filing and adoption requirements for legislative exempt rules; making legislative rules effective upon filing; requiring agency to provide list of interested parties with emergency rules; and changing number of copies required when filing an emergency rule.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 140) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 Nos. 178, 179, 180, 181, 194, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 and 228,** Authorizing Board of Registration for Professional Engineers promulgate legislative rule relating to examination, licensure and practice.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 199** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by miscellaneous agencies and boards; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications; authorizing Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice for professional engineers; authorizing Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement training and certification standards; authorizing Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for registration and renewal of appraisal management companies; authorizing Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education and physician assistants;

authorizing Enterprise Resource Planning Board to promulgate a legislative rule relating to the enterprise resource planning system user fee; authorizing Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapists and physical therapist assistants; authorizing Board of Osteopathic Medicine to promulgate a legislative rule relating to fees for services rendered by the board; authorizing Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing Board of Pharmacy to promulgate a legislative rule relating to immunizations administered by pharmacists; authorizing Board of Pharmacy to promulgate a legislative rule relating to the registration of pharmacy technicians; authorizing Board of Pharmacy to promulgate a legislative rule relating to controlled substances monitoring; authorizing Board of Pharmacy to promulgate a legislative rule relating to licensure and the practice of pharmacy; authorizing Board of Dental Examiners to promulgate a legislative rule relating to formation and approval of professional limited liability companies; authorizing Board of Dental Examiners to promulgate a legislative rule relating to the board; authorizing Board of Dental Examiners to promulgate a legislative rule relating to dental recovery networks; authorizing Board of Dental Examiners to promulgate a legislative rule relating to the formation and approval of dental corporations and dental practice ownership; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to frozen desserts and imitation frozen desserts; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to fee structure for the Pesticide Control Act of 1990; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Plant Pest Act; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to inspection of meat and poultry; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to the West Virginia Spay Neuter Assistance Program; authorizing Commissioner of Agriculture to promulgate a legislative

rule relating to livestock care standards; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to equine rescue facilities; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to the Rural Rehabilitation Loan Program; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to aquaculture importation; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp; authorizing Commissioner of Agriculture to promulgate a legislative rule relating to dangerous wild animals; authorizing Secretary of State to promulgate a legislative rule relating to the procedures for recount of election results; authorizing Secretary of State to promulgate a legislative rule relating to the standards and guidelines for electronic notarization; authorizing Secretary of State to promulgate a legislative rule relating to notaries public; authorizing Secretary of State to promulgate a legislative rule relating to a schedule of fees for notaries public; authorizing Family Protection Services Board to promulgate a legislative rule relating to perpetrator intervention programs licensure; authorizing Family Protection Services Board to promulgate a legislative rule relating to domestic violence program licensure standards; authorizing Family Protection Services Board to promulgate a legislative rule relating to the Monitored Parenting and Exchange Program certification; authorizing Family Protection Services Board to promulgate a legislative rule relating to the operation of the board; and authorizing Family Protection Services Board to promulgate a legislative rule relating to perpetrator intervention programs licensure for correctional institutions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 199) contained in the



preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill No. 273** (originating in the Committee on Economic Development), Relating to brewer, resident brewer and brewpub licensing and operations.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 273** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §11-16-3, §11-16-6, §11-16-9 and §11-16-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §11-16-6a and §11-16-6b, all relating to brewer, resident brewer and brewpub licensing and operations; clarifying definitions; providing legislative findings; authorizing licensed brewers and resident brewers to offer complimentary nonintoxicating beer and nonintoxicating craft beer samples; authorizing licensed brewers and resident brewers to sell growlers with limitations; authorizing licensed brewpubs, Class A retail dealers, Class B retail dealers, private clubs, Class A retail licensees and Class B retail licensees to sell growlers with limitations; clarifying licensing and operational requirements for brewers, resident brewers and brewpubs; changing license fee schedule for certain brewers and resident brewers; decreasing license fee for brewpubs; requiring brewers and resident brewers to submit annual reports of production; and removing brewpub bonding requirements.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. No. 273) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 304**, Relating to farmers markets.

With an amendment from the Committee on Agriculture and Rural Development pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Agriculture and Rural Development to which the bill was first referred.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. No. 304) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 346**, Creating Mental Health, Veterans and Service Members Court Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 346** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §62-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12 and §62-16-13, all relating to establishing a Mental Health and Military Service Member Court program within Supreme Court of Appeals; defining terms; granting authority to oversee the court to Administrator of the Supreme Court of Appeals; setting forth structure of court; providing for written agreement to participate in court; setting forth incentives for successful participation; providing for sanctions for violation of provisions of court; setting out disposition on successful completion; providing for teams to function within court; setting forth eligibility requirements for participation; setting forth procedure to participate in court; allowing for mental health and drug treatment services for participants; providing for governance of court by Supreme Court of Appeals; setting forth information to be maintained on participants; providing for funding mechanisms which may include court fees; and providing for limitation of liability.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill (Com. Sub. for S. B. No. 346), under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 351**, Relating to charitable organization contribution levels requiring independent audit reports.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 351** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-19-5 of the Code of West Virginia, 1931, as amended, relating to contribution levels by charitable organizations necessary for submission of an audit report of the organization by an independent certified public accountant; and requiring additional information on registration statement.

And,

**Senate Bill No. 353**, Transferring motor vehicle inspection program to State Police Superintendent.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 353** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-16-4 of the Code of West Virginia, 1931, as amended, relating to designating the Superintendent of the West Virginia State Police as current administrator and enforcer of the motor vehicle inspection program.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bills (Com. Sub. for S. B. Nos. 351 and 353) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 373**, Allowing wireless communication image serve as proof of motor vehicle insurance.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 373** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17D-2A-4 of the Code of West Virginia, 1931, as amended, relating to allowing image displayed on a wireless communication device to serve as proof of insurance on a motor vehicle.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 373) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 399**, Relating to hospitals owned or operated by nonprofit corporations or associations or local governmental units.

And,

**Senate Bill No. 418**, Relating to trustee real estate sale under deed of trust.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bills (S. B. Nos. 399 and 418) contained in the

preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 456**, Relating to letters of merit in medical professional liability actions.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 456** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; allowing admissibility of letters of merit in actions against health care providers; and allowing testimony of a health care provider at trial or during a deposition upon issuing a letter of merit.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 456) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 484**, Relating to procedure for removal of certain county, school district and municipal officers.

And has amended same.

And,

**Senate Bill No. 489**, Imposing statute of limitations on civil actions derived from surveying of real property.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bills (S. B. Nos. 484 and 489) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 508**, Reorganizing Hatfield-McCoy Regional Recreation Authority.

And has amended same.



And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. No. 508) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Gaunch, from the Committee on Interstate Cooperation, submitted the following report, which was received:

Your Committee on Interstate Cooperation has had under consideration

**Senate Bill No. 510**, Amending Uniform Interstate Family Support Act.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

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 No. 523**, Creating Alcohol and Drug Overdose Prevention and Clemency Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 523** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-47-1, §16-47-2, §16-47-3, §16-47-4, §16-47-5 and §16-47-6, all relating to obtaining emergency medical assistance for persons who may be experiencing alcohol or drug overdose; establishing short title; stating legislative findings; defining terms; providing immunity from prosecution in limited circumstances for persons who call for emergency medical assistance for person who reasonably appears to be experiencing drug or alcohol overdose; specifying required actions to be eligible for immunity from prosecution for certain misdemeanor offenses; providing seeking emergency medical assistance may be raised as mitigating factor at sentencing in certain criminal proceedings; providing limited immunity does not preclude civil claims based on violations of exempted misdemeanor criminal statutes; providing option of limited immunity from prosecution; providing deferred prosecution, pretrial diversion, adjudication in drug court and other clemency options for the court to consider for persons who experienced drug or alcohol overdose for whom emergency medical assistance was sought; allowing persons to plead guilty to certain exempted criminal offenses if desired; and providing law-enforcement personnel limited civil immunity in arresting or issuing citations, except in cases of willful, wanton and reckless misconduct.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 523) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator 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 No. 532**, Relating to civil liability immunity for clinical practice plans and medical and dental school personnel.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 11:40 a.m. today:

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Carmichael, Blair and D. Hall:**

**Senate Bill No. 541**—A Bill to amend and reenact §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-5, §3-8-5a, §3-8-5b, §3-8-7, §3-8-8, §3-8-9, §3-8-10 and §3-8-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §3-8-9a, all relating generally to the regulation and control of elections; modifying what qualifies as a federal reporting exemption; requiring certain contributions be reported to State Election Commission within forty-eight hours of their receipt; deleting certain reports by membership organizations that raise funds for political purposes by payroll; permitting certain financial statements by mail or in person; requiring Secretary of State to maintain an online database; setting forth additional powers of State Election Commission; requiring Attorney General to provide assistance when requested; permitting a political committee to transfer funds to a national, state or local committee of a political party without limitation; permitting a candidate committee to contribute to another candidate committee for the purpose of retiring debt incurred during a prior election; permitting a political action committee to contribute to another political action committee; establishing expenditure limits by political party committees, political party caucuses and candidates; permitting candidates, after a general election, to transfer any unused contributions to state party executive committees, state party legislative caucus committees, local committees of a political party or any other candidate for public office without limitation; modifying and adding definitions; and creating criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators D. Hall, Carmichael, M. Hall, Gaunch, Trump, Blair and Nohe:**

**Senate Bill No. 542**—A Bill to amend and reenact §46A-2-121, §46A-2-122, §46A-2-125, §46A-2-126 and §46A-2-128 of the Code of West Virginia, 1931, as amended; to amend and reenact §46A-5-101 and §46A-5-106 of said code; and to amend said code by adding thereto a new section, designated §46A-5-107, all relating to unconscionability; defining “creditor”, “debt collector” and “person”; engaging any person in a telephone conversation; failure to disclose a caller’s identity; convenient time for communicating with a consumer; unreasonable publication by disclosure of caller’s identity; affirmation of an obligation pursuant to bankruptcy law; means of giving notice of a consumer’s representation by an attorney; a ringing phone not answered by the consumer does not constitute a prohibited communication; damages and penalties for violation; no action may be brought more than four years after the violation or excess charge occurred; allowing time after discovery to correct an error without liability; adjustment of damages for inflation; and venue of an action or proceeding brought by a consumer.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill No. 543**—A Bill to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended, all relating to transferring certain revenues derived from racetrack video lottery, lottery racetrack table games and lottery historic resort hotel gaming activities to the State Excess Lottery Revenue Fund for appropriation.

Referred to the Committee on Finance.

**By Senators Sypolt, Stollings and D. Hall:**

**Senate Bill No. 544**—A Bill to amend and reenact §18-2-7a of the Code of West Virginia, 1931, as amended, relating to procedures for body mass index screening in schools; establishing legislative

findings; providing physical education and physical activity requirements for physical education classes in schools; establishing procedures for collecting body mass index data of students; allowing for the contracting for collecting body mass index of students; permitting or requiring parents and guardians of students to obtain body mass index data from a provider selected by the parent or guardian and to submit the results to the appropriate authority; requiring board to provide to parents information about the body mass index screening program; requiring board, in certain circumstances, to provide to parents and guardians a list of providers and information about screening services available in the community for parents and guardians who cannot afford a private provider; requiring that students not be subjected to body mass screening when parents or guardians do not wish for their children to be subjected to the same; requiring that prior written consent be obtained before any student is subjected to body mass screening; requiring that parents be advised of risks associated with body mass index screening and that parents or guardians be provided with information about appropriately addressing the risks; and requiring that the confidentiality of each student be maintained and that each student's privacy is protected by ensuring that each student is screened alone and not in the presence of other students or staff.

Referred to the Committee on Education; and then to the Committee on Finance.

**By Senators Nohe, Walters, Palumbo and Gaunch:**

**Senate Bill No. 545**—A Bill to amend and reenact §31A-4-26 of the Code of West Virginia, 1931, as amended, relating to removing requirement of prior approval of overdrafts made by a director or executive officer of a banking institution under certain conditions.

Referred to the Committee on Finance.

**By Senators Carmichael, Kessler and D. Hall:**

**Senate Bill No. 546**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§16-8A-1, §16-8A-2, §16-8A-3, §16-8A-4, §16-8A-5, §16-8A-6, §16-8A-7, §16-8A-8, §16-8A-9, §16-8A-10, §16-8A-11, §16-8A-12, §16-8A-13, §16-8A-14, §16-8A-15, §16-8A-16, §16-8A-17, §16-8A-18, §16-8A-19, §16-8A-20, §16-8A-21, §16-8A-22, §16-8A-23 and §16-8A-24, all relating to creating the Compassionate Use Act for Medical Cannabis; providing for protections for the medical use of cannabis; limitations of article; prohibiting discrimination; authorizing addition of debilitating medical conditions; registration of qualifying patients and designated caregivers; issuance of registry identification cards; affirmative defense and dismissal for medical marijuana; providing misdemeanor offense and criminal penalties for disclosing certain information; and otherwise providing for the enforcement of this article.

Referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary.

**By Senators Stollings and D. Hall:**

**Senate Bill No. 547**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-24A-1, §19-24A-2, §19-24A-3, §19-24A-4, §19-24A-5, §19-24A-6, §19-24A-7 and §19-24A-8, all relating to creating the West Virginia Greyhound Racing Cessation Program; legislative findings and definitions; creating West Virginia Greyhound Racing Cessation Fund; and providing formulas for pay outs to greyhound racing entities and termination of the program and fund following verification that all pay outs have been made.

Referred to the Committee on Finance.

**By Senators Blair, Karnes and Leonhardt:**

**Senate Bill No. 548**—A Bill to amend and reenact §3-10-1, §3-10-3 and §3-10-4 of the Code of West Virginia, 1931, as amended, all relating to filling of vacancies in elected offices; and setting forth procedures for filling vacancies in office of United States Senator.

Referred to the Committee on the Judiciary.

**By Senators M. Hall, Blair, Kessler, Unger and D. Hall:**

**Senate Bill No. 549**—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to classifying civilian positions within West Virginia State Police forensic laboratory; establishing salaries; and requiring a manual.

Referred to the Committee on Finance.

**By Senators Kirkendoll, Kessler, Stollings and Unger:**

**Senate Bill No. 550**—A Bill to amend and reenact §7-1-3ff of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-12-16 of said code, all relating to authorizing county commissions and municipalities to cooperate and enter into agreements removing or demolishing dwellings or buildings unfit for human habitation.

Referred to the Committee on Government Organization.

**By Senators D. Hall, Kirkendoll, Leonhardt, Palumbo, Romano, Unger and Sypolt:**

**Senate Bill No. 551**—A Bill to amend and reenact §5-10-15 of the Code of West Virginia, 1931, as amended, relating to availability of military service credit for members of the West Virginia Public Employees Retirement System; clarifying that active service under Title 10 and Title 32 of the United States Code and active state service in the West Virginia National Guard qualify for military service credit; clarifying the methodology for awarding military service credit; clarifying the prohibition on use of military service to obtain military service credit in more than one retirement system administered by the board; clarifying applicability of liberality clause to the board's decisions to grant or deny requests for military service credit; and making other technical clarifications and corrections.

Referred to the Committee on Finance.



**By Senator D. Hall:**

**Senate Bill No. 552**—A Bill to amend and reenact §5B-2-12 of the Code of West Virginia, 1931, as amended, relating to providing funds for Tourism Promotion Fund; requiring annual deposits from general revenue into Tourism Promotion Fund; creating subaccount of Tourism Promotion Fund; setting parameters for spending money in subaccount; detailing certain transfers of funds; and requiring Division of Tourism to conduct a study.

Referred to the Committee on Finance.

**By Senators Sypolt, Blair, Karnes and Takubo:**

**Senate Bill No. 553**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-2-13, relating to establishing English language as official language of the state; requiring all state activities and records to be in English; defining a term; and providing exceptions.

Referred to the Committee on the Judiciary.

**By Senator Walters:**

**Senate Bill No. 554**—A Bill to amend and reenact §46A-6-102 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §46A-6-111, all relating to limiting termination fee a provider of broadband/Internet service may impose.

Referred to the Committee on Finance.

**By Senators Ferns, Blair and D. Hall:**

**Senate Bill No. 555**—A Bill to amend and reenact §16-4C-3, §16-4C-4, §16-4C-5 and §16-4C-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §16-4C-4a, §16-4C-4b and §16-4C-5a, all relating to emergency medical services; continuing Office of Emergency Medical Services as an independent office within Department of Military Affairs and Public Safety; updating

definitions; creating positions of Executive Director, Medical Director and Administrative Director for the office; establishing and clarifying powers and duties of directors; establishing Emergency Medical Services Commission with nine members; and requirements for state medical protocols.

Referred to the Committee on Government Organization.

**By Senators M. Hall and Ferns:**

**Senate Bill No. 556**—A Bill to amend and reenact §30-30-16 of the Code of West Virginia, 1931, as amended, relating to requirements for provisional social worker licenses.

Referred to the Committee on Government Organization.

**By Senators D. Hall and Takubo:**

**Senate Bill No. 557**—A Bill to amend and reenact §30-20A-1, §30-20A-2, §30-20A-3, §30-20A-4, §30-20A-5, §30-20A-6 and §30-20A-7 of the Code of West Virginia, 1931, as amended; and to amend said article by adding thereto nine new sections, designated §30-20A-8, §30-20A-9, §30-20A-10, §30-20A-11, §30-20A-12, §30-20A-13, §30-20A-14, §30-20A-15 and §30-20A-16, all relating to licensing practice of athletic training; and providing criminal penalties.

Referred to the Committee on Health and Human Resources.

**By Senators Trump, Blair and D. Hall:**

**Senate Bill No. 558**—A Bill to amend and reenact §19-21A-8 of the Code of West Virginia, 1931, as amended, relating to powers and duties of a conservation district; and permitting conservation districts to award scholarships in limited amounts under certain circumstances.

Referred to the Committee on Finance.

**By Senators M. Hall and Ferns:**

**Senate Bill No. 559**—A Bill to amend and reenact §30-30-18 of the Code of West Virginia, 1931, as amended, relating to exemptions from the social work licensing requirements of this article.

Referred to the Committee on Government Organization.

**By Senators Trump and D. Hall:**

**Senate Bill No. 560**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-1-22, relating to establishing a new special revenue fund for the purpose of collecting and remitting moneys to the State Treasury for use of certain advanced technology provided by Supreme Court of Appeals.

Referred to the Committee on Finance.

**By Senators Laird and Kessler:**

**Senate Bill No. 561**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-20-1, §18B-20-2 and §18B-20-3, all relating to establishment of an Economic Adjustment Evaluation Task Force to study the impact of the closure or substantial change in the scope of operation of any campus of a state two- or four-year institution of higher learning; composition of task force; and report of task force to Joint Committee on Government and Finance.

Referred to the Committee on Finance.

**By Senators Yost and Kessler:**

**Senate Bill No. 562**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to requiring the Department of Health and Human Resources review rates paid to health care providers.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators D. Hall and Kessler:**

**Senate Bill No. 563**—A Bill to amend and reenact §29-22A-7, §29-22A-8, §29-22A-9 and §29-22A-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22C-7 and §29-22C-29 of said code, all relating to eliminating the requirement that racetracks have agreements with the representatives of local horse owners trainers, pari-mutuel clerks, breeders and kennel owners to have a video lottery license; eliminating prohibition against having automated teller machines in gaming area; allowing video lottery play on days when live or televised racing not conducted at racetrack; eliminating procedure for local option election to eliminate video lottery; eliminating procedure for local option election to eliminate table games; and allowing persons under twenty-one who are accompanied by an adult to cross gaming area on path approved by commission to access food service areas.

Referred to the Committee on Finance.

**By Senators Trump and Nohe:**

**Senate Bill No. 564**—A Bill to amend and reenact §22C-8-8 of the Code of West Virginia, 1931, as amended, relating to spacing of shallow horizontal wells on multiple well pads; and authorizing Shallow Gas Well Review Board grant waivers of minimum distance requirements for shallow wells.

Referred to the Committee on Energy, Industry and Mining; and then to the Committee on the Judiciary.

**By Senators Walters, D. Hall, Miller and Sypolt:**

**Senate Bill No. 565**—A Bill to amend and reenact §11-10-11 of the Code of West Virginia, 1931, as amended, relating to authorizing Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from Auditor and other state, county, district or municipal officers and agents; requiring Auditor and other state, county, district or municipal officers and agents to certify to Tax Commissioner identity of payees prior to first payment and prior to any subsequent payments; authorizing Tax Commissioner to identify payees not in good

standing with Tax Department; requiring Auditor or issuing officer or agent to forward to Tax Commissioner lesser of amount owed or remaining amount of payment; requiring Auditor or issuing officer or agent to notify vendor or contractor of amount being withheld; requiring payment be withheld until vendor or contractor is in good standing with Tax Department; specifying that, for contracts which are subject to county or municipal business and occupation tax, payments are withheld until released by county or municipality after all business and occupation taxes have been paid, including any authorized transaction fee, additions to tax, interest and penalty; defining terms; excluding employees of this state, or any county, district or political subdivision thereof who receive no nonemployee compensation from treatment as vendors and contractors for purposes of specified provisions; authorizing Tax Commissioner to enter into agreements to comply with mandates of the provision and to protect taxpayer information; authorizing Tax Commissioner and Auditor propose legislative rules; and specifying effective date.

Referred to the Committee on Finance.

**By Senator Takubo:**

**Senate Bill No. 566**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6, §11-13DD-7, §11-13DD-8, §11-13DD-9 and §11-13DD-10, all relating to establishing Hotel and Restaurant Renovation Tax Credit Act; legislative findings; defining terms; establishing credit amount; requiring application for certification of project; requiring application fee; directing credit to offset sales tax generated by project in excess of baseline sales tax amount; claiming credit; promulgating rules; and effective date.

Referred to the Committee on Finance.

**By Senators Takubo, Leonhardt, Maynard, Nohe and Karnes:**

**Senate Bill No. 567**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to Medicaid managed care expansion.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senator Takubo:**

**Senate Bill No. 568**—A Bill to amend and reenact §9-7-1 and §9-7-6 of the Code of West Virginia, 1931, as amended, all relating to Medicaid fraud and abuse; transferring the duties of the fraud control unit in the Department of Health and Human Resources to the Medicaid Fraud Control Unit of the Attorney General’s office after July 1, 2016; and allowing the Attorney General to use contract attorneys to bring civil suits for Medicaid fraud.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Maynard, Karnes and Leonhardt:**

**Senate Bill No. 569**—A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to removing provision prohibiting bear hunting with outfitters.

Referred to the Committee on Natural Resources.

**By Senator Walters:**

**Senate Bill No. 570**—A Bill to amend and reenact §24-6-12 of the Code of West Virginia, 1931, as amended, relating to dispatching of towing services for emergency towing of vehicles.

Referred to the Committee on Government Organization.

**By Senator Maynard:**

**Senate Bill No. 571**—A Bill to amend and reenact §7-1-3cc of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-6-4 of said code, all relating to requiring all “911” calls to be put on a log call sheet for verification.

Referred to the Committee on Government Organization.

**By Senators Walters, Unger and Karnes:**

**Senate Bill No. 572**—A Bill to amend and reenact §5B-2-12 of the Code of West Virginia, 1931, as amended, relating generally to Tourism Promotion Fund; and distribution of funds.

Referred to the Committee on Finance.

Senators Woelfel, Miller, Laird, Unger and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 34**—Requesting the Division of Highways name bridge number 13-64-165.87 on Interstate 64 near Lewisburg, Greenbrier County, the “Army Air Corps LT William H. Corkerean, Jr., Memorial Bridge”.

Whereas, William H. Corkerean, Jr., was born on June 7, 1922, in Ronceverte, Greenbrier County. He lived in Ronceverte and was educated in Greenbrier County schools. He joined the West Virginia National Guard at age 15 in 1939 with his father’s permission. He was employed by the Hecht Co. before entering military service in 1941. In the military, he was a B-17 pilot assigned to 390th BG 570th BS. On May 11, 1944, while piloting the 42-31971 “Twenty-One or Bust” on his twenty-third mission, the aircraft was hit by flak and crashed at Gilz-Rijer, Belgium. It was reported that he remained with the plane until it crashed; and

Whereas, William H. Corkerean, Jr., died defending the principals of freedom upon which his country, state and community were established; and

Whereas, Naming bridge number 13-64-165.87 on Interstate 64 near Lewisburg, Greenbrier County, the “Army Air Corps LT William H. Corkerean, Jr., Memorial Bridge” is an appropriate recognition of his contributions and his supreme sacrifice to his country, state, community and Greenbrier County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 13-64-165.87 on Interstate 64 near Lewisburg, Greenbrier County, the “Army Air Corps LT William H. Corkerean, Jr., Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Army Air Corps LT William H. Corkerean, Jr., Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and the surviving relatives of William H. Corkerean, Jr.

Which, under the rules, lies over one day.

Senators Stollings and Unger offered the following resolution:

**Senate Concurrent Resolution No. 35**—Requesting the Division of Highways name bridge number 24-13-0.01 (24A089), locally known as Gary Bridge, carrying County Route 13 over the Tug Fork of the Big Sandy River in McDowell County the “U. S. Army CPL Zane Joseph Gero and U. S. Marine Cpl John Anthony ‘Tony’ Gero Memorial Bridge”.

Whereas, Zane Joseph Gero was born January 26, 1911, in Thorpe, McDowell County, into a coal-mining family of immigrant ancestors; and

Whereas, While attending Gary High School, Zane Joseph Gero led the Gary Coaldigger football team to many victories and received an honorable mention as a state football player/quarterback; and

Whereas, While attending Gary High School, Zane Joseph Gero was also the band drum-major and at half time would lead the band in its performance; and



Whereas, As a high school senior, Zane Joseph Gero won the title of state drum-major in a statewide competition; and

Whereas, Following high school, Zane Joseph Gero earned a bachelor's degree from Concord College qualifying him to teach social studies; and

Whereas, Concord College had no band at the time he enrolled there, so Zane Joseph Gero gained approval to start a band, now known as the Concord Commanders, and was the band leader; and

Whereas, Following college, as the emergency services chief for the U. S. Coal and Coke Company, Zane Joseph Gero taught volunteers to be well qualified in emergency responses, including fire and ambulance. He taught how to provide first response in mine accidents. In a partly segregated community Zane Joseph Gero was welcomed by all ethnic and racial groups. He spoke numerous languages and at times acted as an interpreter; and

Whereas, The coal company allowed Zane Joseph Gero to enlist in the U. S. Army and, following training, he was attached to General Joseph Patton's 3rd Army with a specialization in demolitions, land mine, bridge and highway issues, serving in 1944 and 1945; and

Whereas, Zane Joseph Gero reached the rank of corporal and served with Company C, 314th Battalion, 89th Infantry Division, 3rd Army; and

Whereas, Corporal Gero's knowledge of several European languages helped him serve often as an interpreter. He led a squad which, under fire, helped put the first bridge across the Rhine River; and

Whereas, Corporal Gero's squad, on a mission April 4, 1945, to find and clear a route for advancing troops, was moving through a wooded area near Ohrdruf, Germany, when they encountered a

lightly guarded facility containing piles of corpses, ovens with human remains, a terrible stench and a few surviving internees. The unit had come across the first concentration camp to be liberated by United States troops. It was part of the Buchenwald Concentration Camp network; and

Whereas, Corporal Gero later became a social studies teacher at Berwind Middle School, was the Big Creek High School Band Director and was honored with the Freedom's Foundation at Valley Forge Classroom Teacher's Medal for, through his life and work, having made a significant contribution to a better understanding of the American way of life; and

Whereas, Corporal Gero died October 23, 1968, in Welch, West Virginia; and

Whereas, John Anthony "Tony" Gero, son of Zane Joseph Gero, was born August 22, 1947, in Welch, McDowell County; and

Whereas, John Anthony Gero was named for his father's friend, David Anthony, of New Martinsville, West Virginia, fulfilling a promise made by the senior Gero to his friend while the two were serving in Europe during World War II, to name any future son after him; and

Whereas, Members of the Gero family have served in the military as early as the American Revolution; and

Whereas, Marine Corporal John Anthony Gero was a sniper in the 1st Platoon, Company G, 2nd Battalion, 3rd Marines, 3rd Marine Division; and

Whereas, Marine Corporal John Anthony Gero was mortally wounded by friendly fire in combat in Vietnam and died on the U. S. Hospital Ship, USS Sanctuary, June 29, 1968; and

Whereas, Marine Corporal John Anthony Gero was buried with honors at Fort Rosecrans Military Cemetery in San Diego, California; and

Whereas, Marine Corporal John Anthony Gero was a late-discovered qualifying West Virginian to have his name on the State Capitol military monument and his name is on a list to be added to the monument in the future; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 24-13-0.01 (24A089), locally known as Gary Bridge, carrying County Route 13 over the Tug Fork of the Big Sandy River in McDowell County the “U. S. Army CPL Zane Joseph Gero and U. S. Marine Cpl John Anthony ‘Tony’ Gero Memorial Bridge”; and, be it

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL Zane Joseph Gero and U. S. Marine Cpl John Anthony ‘Tony’ Gero Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senator Maynard offered the following resolution:

**Senate Concurrent Resolution No. 36**—Requesting the Division of Highways name the bridge on County Route 5/3, bridge number 24-5/3-3.10 (1030), crossing the Tug River in McDowell County the “Homer Hopkins Bridge”.

Whereas, Homer Allen Hopkins was born March 6, 1944, in Bradshaw, West Virginia, growing up in the time of the Depression with five other siblings. At age one, his family moved to Garland, a distance of 8.1 miles north from his birthplace. He has always been known locally for his hard working habits, even in his childhood days. He graduated high school in 1962 and enrolled at Nashville Auto Diesel College (now known as Lincoln College of Technology). He returned to Garland and in 1963 he married his wife, Joyce. After a brief move to Alexandria, Virginia, with wife and daughter, he returned to Garland, where he and his wife raised four children. In July 1975, he left his employment and opened up his own mining business. It seems that he would always find himself as a business owner creating jobs and new opportunities for everyone in and around the community of Garland. Besides the coal industry, he has also owned his own construction business as well as becoming a certified contractor and septic system installer. During his lifetime he has owned approximately 30 coal mines, with 500 employees. His construction career has resulted in building a total of eleven Dollar General stores throughout West Virginia, with three being in his home county. In 1985 he built a convenient store / gas station 2.6 miles from the residents of Garland family owned and operated as “Hopkins’ Best-Way”. In 1987, he built and opened “Hoppy’s Skating Rink” on the outskirts of Bradshaw, bringing a new activity and recreational option for the families of the area and all around McDowell County. Later in 1989, he opened “Bradshaw Auto Parts” and became the only automotive business in the area. He was also responsible for construction the Marquee Cinemas in Welch, McDowell County Ambulance Authority, Panther Fire Department, Jaeger City Hall, Jaeger High School announcement booth and the reconstruction of the high school’s football field after the flood in 2002; and

Whereas, Homer Hopkins has unselfishly spent his lifetime working for the betterment of his community and county and serving the needs of the people, whether it be charitable acts of kindness or continuing to work for the people in his community. He is now 71 years of age and still lives in the home he built board by board as a

newlywed on his childhood stomping grounds. Homer loves nothing more than spending time with his family. He has four children and five grandchildren who all live within 10 minutes of his home, making it a very close-knit family; and

Whereas, Naming the bridge on County Route 5/3, bridge number 24-5/3-3.10 (1030), crossing the Tug River in McDowell County the “Homer Hopkins Bridge” is an appropriate recognition of his contributions to his state, community and McDowell County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on County Route 5/3, bridge number 24-5/3-3.10 (1030), crossing the Tug River in McDowell County the “Homer Hopkins Bridge”; and, be it

*Further Resolved,* That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Homer Hopkins Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and Homer Hopkins and his family.

Which, under the rules, lies over one day.

Senators Stollings, Unger, Kessler and D. Hall offered the following resolution:

**Senate Resolution No. 39**—Recognizing the town of Whitesville, West Virginia, for its designation as a Turn This Town Around community.

Whereas, Community development is a key mechanism to growing and improving communities across the state; and

Whereas, Whitesville has taken great strides to create a robust and engaged community; and

Whereas, The town of Whitesville showed great leadership in its application and selection as a Turn This Town Around 2015 community, with more than sixty applications and over four thousand votes; and

Whereas, Turn This Town Around, a program coordinated by West Virginia Focus Magazine, the West Virginia Community Development Hub and West Virginia Public Broadcasting, will work with the Town of Whitesville to provide financial resources, technical assistance, training and coaching to “turn the town around”; and

Whereas, The town of Whitesville is dedicated to community improvement and has demonstrated that commitment already through community development planning and will continue to exercise that commitment through multiple community improvement and engagement projects led by town leaders and local volunteers; and

Whereas, Whitesville hopes to utilize the Turn the Town Around opportunity to bring increased investment into the city and to grow community engagement in improving the town; and

Whereas, Whitesville has already taken great strides towards turning the town around and expects to see great success in the coming year; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the town of Whitesville, West Virginia, for its designation as a Turn This Town Around community; and, be it

*Further Resolved*, That the Senate recognizes the value and importance of local community leadership that promotes community development and revitalization; and, be it

*Further Resolved*, That the Senate commends Turn This Town Around Whitesville and the West Virginia Development Hub, West Virginia Focus Magazine and West Virginia Public Broadcasting for their dedication to improving the City of Whitesville and the collaborative community-driven development that will continue to grow and revitalize the Whitesville community over the coming years; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Turn This Town Around Whitesville and the West Virginia Community Development Hub.

At the request of Senator Stollings, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Woelfel, Plymale, Unger and Stollings offered the following resolution:

**Senate Resolution No. 40**—Celebrating the achievements and contributions of the 2014 Barboursville Intermediate Little League All-Stars team to the town of Barboursville, Cabell County and the citizens of the great State of West Virginia.

Whereas, The Barboursville Little League team won the West Virginia District 1 Championship before winning the West Virginia State Championship; and

Whereas, In the Southeast Regional series, played in Apopka, Florida, the Barboursville Little League team showed it meant business from the outset when it thumped host Florida, 18-4, in the opening game. They went 5-0 and outscored their opponents, 84-36. The closest call was an 11-9 win over South Carolina in the semifinal; and

Whereas, On July 20, 2014, the Barboursville Little League team pounded the ball from start to finish on that Sunday, capped by an 18-7 victory over Fort Myers American Team from Florida to capture the Southeast Regional Championship and secure a spot in the Little League World Series; and

Whereas, The Barboursville Little League team finished with a 12-2 record, placing them sixth in the World Series that was played in Livermore, California; and

Whereas, The Barboursville Little League team outscored opponents 193-69, had a batting average of .438, hit 25 home runs during the Southeast Regional and stole 22 bases in the World Series, one shy of the record; and

Whereas, The Barboursville Little League team beat state champions from North Carolina, Georgia, South Carolina and Florida to win the Southeast Region, beat teams from California and Michigan during the World Series and lost to eventual World Series Champions from Arizona; and

Whereas, The Barboursville Little League team players, Griffin Adkins, Kristian Gerwig, Brody Aliff, Jayce Gould, Brett Armbruster, Camron Lewis, Hogan Carter, Austin Petry, Trey Chapman, Ivan Vaughn, Luke Ellis and Peyton Weekly, Manager Coach Dell Adkins and coaches Randy Coyle and Pat Carter should be congratulated on their accomplishments; therefore, be it

*Resolved by the Senate:*



That the Senate hereby celebrates the achievements and contributions of the 2014 Barboursville Intermediate Little League All-Stars team to its town, Cabell County and the citizens of the great State of West Virginia; and, be it

*Further Resolved*, That the Clerk is directed to forward a copy of this resolution to the Barboursville Little League team.

At the request of Senator Woelfel, 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 Sypolt, and by unanimous consent, the remarks by Senators Woelfel and Plymale regarding the adoption of Senate Resolution No. 40 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Carmichael, Unger, Stollings and D. Hall offered the following resolution:

**Senate Resolution No. 41**—Recognizing the city of Ripley, West Virginia, for its designation as a Turn This Town Around community.

Whereas, Community development and economic development guided by local leadership and implemented through community volunteerism is a significant benefit to all the communities in the state; and

Whereas, Ripley has taken great strides to create a robust and engaged community; and

Whereas, The City of Ripley showed great leadership in its application and election as a Turn This Town Around 2015 community; and

Whereas, Turn This Town Around, a program coordinated by West Virginia Focus Magazine, the West Virginia Community Development Hub and West Virginia Public Broadcasting, will work with the City of Ripley to provide financial resources, technical assistance, training and coaching to “turn the town around”; and

Whereas, The City of Ripley is dedicated to community improvement and has demonstrated that commitment already through community development planning and will continue to exercise that commitment through multiple community improvement and engagement projects led by town leaders and local volunteers; and

Whereas, Ripley hopes to utilize the Turn the Town Around opportunity to bring increased investment into the city and to grow community engagement in improving the town; and

Whereas, Ripley has taken great strides towards turning the town around and expects to see great success in the coming year; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the city of Ripley, West Virginia, for its designation as a Turn This Town Around community; and, be it

*Further Resolved,* That the Senate recognizes the value and importance of local community leadership that promotes community development and revitalization; and, be it

*Further Resolved*, That the Senate commends Turn This Town Around Ripley and the West Virginia Development Hub, West Virginia Focus Magazine and West Virginia Public Broadcasting for their dedication to improving the City of Ripley and the collaborative community-driven development that will continue to grow and revitalize the Ripley community over the coming years; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Turn This Town Around Ripley and the West Virginia Community Development Hub.

At the request of Senator Carmichael, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

### **Petitions**

Senators Blair, Boso, Gaunch, D. Hall, Nohe, Sypolt and Walters, respectively, presented petitions from numerous West Virginia residents, supporting Senate Bill No. 35 (*Permitting carrying of concealed weapons without license*).

Referred to the Committee on Government Organization.

At the request of Senator Carmichael, and by unanimous consent, the Senate returned to the fourth order of business.

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 No. 573** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended, relating to the number of magistrates to be seated in each county of the state; and providing for the election thereof.

And reports the same back with the recommendation that it do pass; but with further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Trump, unanimous consent being granted, the bill (S. B. No. 573) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration.

On motion of Senator Trump, the bill was referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 32**, Amending Joint Rules of Senate and House of Delegates by adding Joint Rule 31, Unfinished Business.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

**Senate Concurrent Resolution No. 33**, Requesting Joint Committee on Government and Finance study undeveloped land preservation and conservation tax credit program.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Finance; and then to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill No. 415**, Relating to circuit judges.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: None.

Absent: Miller, Mullins and Walters—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 415) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

**Senate Bill No. 89**, Providing Prosecuting Attorneys Institute's council establish Executive Director's salary.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 283**, Relating to branch banking.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 285**, Relating to primary and subordinate mortgage loans.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Banking and Insurance, were reported by the Clerk and considered simultaneously:

On page four, section one, after line fifty-seven, by inserting a new subdivision, designated subdivision (h), to read as follows:

“(h) ‘Consumer credit sale’ means a consumer credit sale as defined in subdivision (13), section one hundred two, article one, chapter forty-six-a of this code;”;

And by relettering the remaining subdivisions;

On page sixteen, section eight, line two hundred, by striking out the words “and continuing until January 1, 2015,”;

And,

On page seventeen, section eight, line two hundred two, by striking out the words “with and in” and inserting in lieu thereof the word “and”.

Senators Trump and Gaunch, respectively, moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motions prevailed.

The question being on the adoption of the Banking and Insurance committee amendments to the bill, the same was put and prevailed.

The bill (S. B. No. 285), as amended, was then ordered to engrossment and third reading.

**Senate Bill No. 292**, Relating to licenses for business of currency exchange, transportation or transmission.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 370**, Reorganizing Governor's Committee on Crime, Delinquency and Correction and its subcommittees.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 445**, Relating to investment of RJCFA excess funds.

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 No. 88**, Creating WV Clearance for Access: Registry and Employment Screening Act.

**Com. Sub. for Com. Sub. for Senate Bill No. 109**, Relating to local indoor smoking prohibitions.

**Senate Bill No. 403**, Increasing period during which motor vehicle lien is valid.

**Senate Bill No. 424**, Eliminating compulsory tuberculosis testing for certain school children and school personnel.

**Senate Bill No. 463**, Making supplementary appropriation to DHHR, DHS, Health Care Provider Tax, Medicaid State Share Fund.

**Senate Bill No. 466**, Making supplementary appropriation of federal funds to Department of Commerce.

**Senate Bill No. 467**, Making supplementary appropriation of federal funds to Department of Agriculture, State Conservation Committee.

**Senate Bill No. 469**, Making supplementary appropriation of federal funds to DEP, Division of Environmental Protection.

**Senate Bill No. 471**, Making supplementary appropriation of federal funds to DHHR, Human Rights Commission, and DHHR, DHS.

**Senate Bill No. 472**, Making supplementary appropriation to DOT, DMV, Motor Vehicle Fees Fund.

**Senate Bill No. 473**, Making supplementary appropriation of federal funds to DMAPS, WV State Police.

**Senate Bill No. 475**, Making supplementary appropriation to DMAPS, Division of Corrections, Parolee Supervision Fees, and WV State Police, Motor Vehicle Inspection Fund.

**Senate Bill No. 476**, Making supplementary appropriation to Department of Administration, Division of Purchasing, Purchasing Improvement Fund.

**Senate Bill No. 477**, Supplementing, amending, decreasing and increasing appropriation from State Road Fund to DOH.



**Senate Bill No. 498**, Clarifying tax map rules apply to paper and electronic documents.

**Senate Bill No. 507**, Relating to monitoring inmates' electronic communications.

**Eng. House Bill No. 2212**, Changing the amount of severance tax revenue annually dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund.

**Eng. House Bill No. 2213**, Reducing the distributions to the West Virginia Infrastructure Fund.

And,

**Eng. Com. Sub. for House Bill No. 2568**, The Pain-Capable Unborn Child Protection Act.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Carmichael.

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senator Carmichael were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the respective requests of Senators Kirkendoll and Woelfel, the names of Senators Kirkendoll and Woelfel were removed as sponsors of **Senate Concurrent Resolution No. 21** (*Urging Congress call convention for proposal of constitutional amendments imposing fiscal restraints, limiting jurisdiction and setting term limits*).

On motion of Senator Carmichael, leaves of absence for the day were granted Senators Miller, Mullins and Walters.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Tuesday, February 24, 2015, at 11 a.m.

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## TUESDAY, FEBRUARY 24, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Chaplain Jim Mitchell, Director of Chaplaincy, West Virginia State Police, Institute, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ronald F. Miller, a senator from the tenth district.

Pending the reading of the Journal of Monday, February 23, 2015,

On motion of Senator Carmichael, 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 concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, with its House of Delegates amended title, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill No. 6**, Relating to medical professional liability.

A message from The Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

Whereupon, Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for House Bill No. 2002**, Predicating actions for damages upon principles of comparative fault.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill No. 2002 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House of Delegates agree to the amendment of the Senate to the bill striking out everything after the enacting clause;

That both houses agree to the following amendments to the Senate amendment as follows:

On page three, section thirteen-c, line two, by striking out the words "equal to or";

On page six, section thirteen-d, line eight, after the word "act" by changing the period to a colon and inserting the following proviso: *Provided*, That the plaintiff has been convicted of such felony, or if deceased, the jury makes a finding that the decedent committed such felony.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for House Bill No. 2002**—A Bill to repeal §55-7-13 and §55-7-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §55-7-13a, §55-7-13b, §55-7-13c and §55-7-13d, all generally relating to predicating actions for damages upon principles of comparative fault; establishing the comparative fault standard; abolishing joint liability and implementing several liability; establishing how to consider the fault of parties and nonparties to a civil action; establishing how to consider the fault of, and the amounts paid by, settling parties; establishing how to reallocate any portion of a judgment a plaintiff is unable to collect; providing for the use of special interrogatories; establishing certain exceptions to several liability; clarifying fault may be imputed to another person who was acting as an agent or servant of another; establishing limits on liability where a plaintiff is involved in a felony criminal act; providing for the burden of proof and limitations; and defining terms.

Respectfully submitted,

John Shott, *Chair*, John B. McCuskey, Dana L. Lynch,  
*Conferees on the part of the House of Delegates.*

Charles S. Trump IV, *Chair*, Mitch Carmichael, Corey Palumbo,  
*Conferees on the part of the Senate.*

Senator Trump, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Trump, the report was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill No. 2002, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Facemire, Kessler, Laird, Miller, Romano and Yost—6.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2002) passed with its conference amended title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill No. 2010**, Requiring the elections of justices of the West Virginia Supreme Court of Appeals, circuit court judges, family court judges and magistrates be nonpartisan and by division.

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 No. 2562**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new

section, designated §7-22-7a, relating to sales tax increment financing; authorizing recalculation of the base tax revenue amount, subject to specified limitations; specifying that, upon written request of the county commission, filed not later than April 30, 2015, with the Development Office, base tax revenue amounts greater than \$1 million for a given district may be recalculated; specifying limitations on changes to the base tax revenue amount; specifying that the recalculated base tax revenue amount shall be used to determine the net annual district tax revenue amount for the district beginning on July 1, 2015; specifying that decrease to base tax revenue amount upon recalculation is limited to \$1 million dollars; specifying that no adjustment, refund, payment or repayment of special district excise tax, or consumers sales and service tax and use tax, or net annual district tax revenue amount, or accrual thereof, attributable to periods prior to July 1, 2015, shall change the base tax revenue amount as recalculated; providing for the sharing of certain information respecting the district; defining terms; specifying that, if tax revenues in a sales tax increment financing district are deficient, such that the amount withheld in any month is insufficient to fully recover the base tax revenue amount attributable to that month, that such deficit shall be carried forward to subsequent months until the base tax revenue amount deficit is paid; and specifying that any unpaid deficit carried forward shall be discharged and set at zero on the first day of each fiscal year.

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. Com. Sub. for House Bill No. 2755**—A Bill to amend and reenact §18-5-11a of the Code of West Virginia, 1931, as amended, relating to service and professional employee positions at jointly established schools.

Referred to the Committee on Education.

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 No. 2770**—A Bill making a supplementary appropriation from the State Fund, State Excess Lottery Revenue Fund, to the Division of Human Services, fund 5365, fiscal year 2015, organization 0511, by supplementing and amending the appropriation for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 83**—Requesting the Joint Committee on Government and Finance to study the needs, challenges, and issues facing municipalities in this state as to the funding of their police and firefighter pension plans.

Referred to the Committee on Pensions; and then to the Committee on Rules.

The Senate proceeded to the fourth order of business.

Senator Nohe, 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 No. 289**, Prohibiting insurance plans from charging higher copays, deductibles or coinsurance for certain cancer treatments.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 289** (originating in the Committee on Banking and Insurance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4l; to amend said code by adding thereto a new section, designated §33-16-3x; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8j; and to amend said code by adding thereto a new section, designated §33-25A-8l, all relating to anti-cancer medications; providing accident and sickness insurance cover anti-cancer medications; providing direct health care services that cover anti-cancer medications; prohibiting certain copayments, deductibles or coinsurance for orally administered anti-cancer medications; prohibiting certain acts to comply with the requirements; defining terms; providing an effective date; and allowing cost containment measures.

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,

David Nohe,  
*Chair.*

The bill (Com. Sub. for S. B. No. 289), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 No. 291**, Clarifying power of Attorney General to contract for outside legal services.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 291** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of assistants to the Attorney General; establishing competitive bidding process for the use of private attorneys in certain matters by the Attorney General; requiring reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Nohe, 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 No. 366**, Creating Patient Protection and Transparency Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 366** (originating in the Committee on Banking and Insurance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-50-1, §33-50-2 and §33-50-3, all relating to the West Virginia Health Benefit Exchange; providing for publishing online information to assist consumers in making informed decisions concerning the purchase of a qualified health plan; and permitting rulemaking.

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,

David Nohe,  
*Chair.*

The bill (Com. Sub. for S. B. No. 366), under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 377**, Limiting civil liability of pharmaceutical manufacturers or sellers providing warning to learned intermediary.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 377** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27,

relating generally to manufacturers and sellers of prescription drugs and medical devices and liability of those entities for alleged inadequate warning or instruction; and adopting the learned intermediary doctrine as defense to civil action based upon inadequate warnings or instructions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 393**, Reforming juvenile justice system.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 393** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §49-1-206 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-2-907, §49-2-1002 and §49-2-1003 of said code; to amend said code by adding thereto two new sections, designated §49-2-912 and §49-2-913; to amend and reenact §49-4-403, §49-4-406, §49-4-409, §49-4-702, §49-4-711, §49-4-712, §49-4-714, §49-4-718 and §49-4-719 of said code; to amend said code by adding thereto four new sections, designated §49-4-413, §49-4-702a, §49-4-724 and §49-4-725; to amend and reenact §49-5-103 of said code; and to amend said code by adding thereto a new section, designated §49-5-106, all relating generally to juvenile justice reform; defining terms; providing that juveniles may only be transferred to juvenile diagnostic centers under certain circumstances; requiring dedication

of a percentage of funding for community services to evidence-based practices; establishing criteria for transition to juvenile's home setting following out-of-home placement; providing for cooperative agreements solely between the Department of Health and Human Resources and private agencies to house status offenders; establishing community-based youth reporting centers; establishing Juvenile Justice Reform Oversight Committee; providing for multidisciplinary team meetings; establishing members of multidisciplinary team; providing that multidisciplinary team shall advise court on treatment and rehabilitation plans for juvenile; providing that multidisciplinary team shall monitor juvenile's progress; requiring aftercare plan for all juvenile out-of-home placements; providing prepetition diversion process for juveniles who commit truancy offenses, status offenses and nonviolent misdemeanor offenses, effective July 1, 2016; providing requirements for prepetition diversion programs; authorizing probation officers to participate in prepetition diversion programs; allowing truancy or treatment programs existing in a judicial circuit as of January 1, 2015, to continue to operate notwithstanding new requirements; establishing prepetition review team; requiring court to consider results of risk and needs assessment of the juvenile prior to dispositional proceedings; requiring inclusion of accepted treatment and rehabilitation plan for juveniles in certain findings of fact; providing that a juvenile adjudicated as a status offender may not be placed in out-of-home placement in certain circumstances; prohibiting placement of a juvenile adjudicated as a status offender within a Division of Juvenile Services facility on or after January 1, 2016; providing that a juvenile adjudicated delinquent for a nonviolent misdemeanor offense may not be placed in out-of-home placement in certain circumstances; providing that time served by a juvenile in a detention center pending adjudication, disposition or transfer be taken into account during sentencing; requiring court to issue certain findings of fact if a juvenile is to be placed in a residential facility; providing for standardized screener to conduct an evaluation of the juvenile in certain circumstances; permitting court to include reasonable and relevant orders to parents in its disposition order for a juvenile; establishing review and

modification procedures for probation dispositional orders; authorizing Supreme Court of Appeals to develop community-based juvenile probation sanctions and incentives; establishing individualized case planning; providing that a juvenile may be referred to a truancy diversion specialist prior to filing of petition; providing for prepetition counsel and advice; providing for adoption of risk and needs assessment and validation; authorizing creation of restorative justice programs; providing for disclosure of juvenile records to Department of Health and Human Resources and Division of Juvenile Services for case planning; providing for data collection related to juvenile justice outcomes and disproportional minority contact; and making technical revisions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 413**, Relating to pesticide control licensing requirements.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 413** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend and reenact §19-16A-12 of the Code of West Virginia, 1931, as amended, relating to pesticide control; and requiring certain additional requirements for commercial applicators.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Agriculture and Rural Development.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 416**, Relating to hotel occupancy tax.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 416** (originating in the Committee on Finance)—A Bill to repeal §7-18-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-18-1 and §7-18-3 of said code, all relating to eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; redefining certain terms; exempting certain hotel rooms occupied by federal or state officials on official business; and exempting complimentary hotel rooms provided without charge to guests.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 434**, Relating to horse racing.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator D. Hall, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill No. 527**, Eliminating certain qualification requirements of Commissioner of Agriculture.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Daniel J. Hall,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 532**, Relating to civil liability immunity for clinical practice plans and medical and dental school personnel.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Nohe, 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 Concurrent Resolution No. 37** (originating in the Committee on Banking and Insurance)—Requesting Joint Committee on Government and Finance study future legislation relating to the pharmaceutical benefits management industry in the State of West Virginia.



Whereas, In most areas of West Virginia, the complexities of prescription drug programs administered by pharmacy benefit managers (PBM) are impacting pharmacies; and

Whereas, PBMs influence and impact consumers' purchases of prescription drugs; and

Whereas, PBMs contract with out-of-state prescription drug manufacturers for the purpose of selling prescription drugs to West Virginia consumers; and

Whereas, The State uses PBMs to administer several prescription drug programs for its employees, retirees and beneficiaries of Medicaid; and

Whereas, PBMs can be a vital benefit to consumers, pharmacies and state agencies; and

Whereas, There may be a need for oversight or regulation of PBMs, including, but not limited to, establishing criteria for contracts between PBMs and pharmacies and criteria for provider manuals that pharmacies are required to comply with by the PBMs, timely adjustments with reimbursements to pharmacies, pricing of prescriptions, auditing and appeal processes and the impact on consumer selection, consumption and cost of prescriptions; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the pharmaceutical benefits management industry in the State of West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the Legislature on the first day of the regular session, 2016, 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.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

David Nohe,  
*Chair.*

At the request of Senator Nohe, unanimous consent being granted, the resolution (S. C. R. No. 37) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration.

On motion of Senator Nohe, the resolution was referred to the Committee on Rules.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Bill No. 2523**, Creating a special revenue account to offset costs for the West Virginia State Police 100th Anniversary in 2019.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. House Bill No. 2576**, Creating new code sections which separate the executive departments.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Walters and Stollings offered the following resolution:

**Senate Resolution No. 42**—Congratulating the Famous Superstars Cheerleading Team for winning the 2013-2014 Universal Spirit National Championship and the COA National Championship.

Whereas, The Famous Superstars completed an amazing 2013-2014 cheerleading season, finishing as Champions in the Universal Spirit and the COA National Championship; and

Whereas, The Famous Superstars are led by owners and coaches Brian Gravely and Amara Green, coach Ashley Sommer and gymnastics instructors Jon Thomas, Carolyn Taylor, Tyheim Ford and Tyler Counts; and

Whereas, The Famous Superstars team of cheerleaders competed and won the Universal Spirit National Championship in the Small Coed Level 4 category and the COA National Championship in the Small Junior 3 category; and

Whereas, The Famous Superstars are a shining example of what can be accomplished with hard work, dedication and commitment; and

Whereas, The Famous Superstars accomplished this outstanding athletic feat for the past two years and have won in eight different categories while competing in seven separate championships over the span of four years; and

Whereas, The Famous Superstars displayed their strong will and fierce determination for an entire season and will be remembered as one of the best cheerleading teams in West Virginia history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Famous Superstars Cheerleading Team for winning the 2013-2014 Universal Spirit National Championship and the COA National Championship; and, be it

*Further Resolved,* That the Senate acknowledges the dedication and commitment of each individual coach and athlete which resulted in the Famous Superstars winning championship season; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Famous Superstars Cheerleading Team.

At the request of Senator Walters, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Walters, Yost, Stollings and Plymale offered the following resolution:

**Senate Resolution No. 43**—Congratulating the Linsly School hockey team for winning its third consecutive West Virginia State Hockey Championship.

Whereas, The Linsly School hockey team finished its 2014-15 season winning its third consecutive West Virginia State Hockey Championship; and

Whereas, The Linsly School hockey team earned the 11th Annual Bob Otten Trophy after defeating Wheeling Park with a score of 7-3; and

Whereas, The Bob Otten trophy was established to honor the dedication and vision of Mr. Bob Otten, who co-founded the Wheeling Amateur Hockey Association; and

Whereas, Captain Kaden Cook acquired the Most Valuable Player award during the championship game; and

Whereas, The Linsly hockey program offers a development program for players of all ages and all skill levels while offering a competitive schedule which includes an annual tournament, a conference championship tournament and a chance to compete for the state championship; and

Whereas, The hockey team is led by head coach Stefan Brannare and assistant coaches C. J. Willcox and Brad Wilson, and includes team members Cameron Cook, Kaden Cook, David Coram, Lukas

Krukovski, Tomas Krukovski, Tyler Kurtz, Charles Machiko, Michael Machiko, Bryan McKenzie, Gian Oliver, Jordan Patrick, Clemens Raitmayr, Seth Storch, Andrew Vargo, Logan Welch and Mitchel Williams; and

Whereas, The Linsly hockey team is a shining example of what can be accomplished with hard work, dedication and team work, and for its efforts, will be remembered as one of the best hockey teams ever assembled in West Virginia high school history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Linsly School hockey team for winning its third consecutive West Virginia State Hockey Championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Linsly School hockey team.

At the request of Senator Walters, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senator Carmichael moved that the Senate Committee on Finance be discharged from further consideration of

**Com. Sub. for Senate Bill No. 14,** Creating Public Charter Schools Act of 2015.

Senator M. Hall then moved the previous question, which motion prevailed.

Senator Kessler arose to a point of order that on yesterday, Monday, February 23, 2015, Committee Substitute for Senate Bill No. 14 was postponed indefinitely in the Committee on Finance and that under Jefferson's Rule No. 443, which states in part, ". . . if they wish to suppress it for the whole of that session, they postpone it indefinitely"; therefore, no further action can be considered.

Which point of order, the President ruled not well taken.

Senator Kessler then appealed the ruling of the Chair, and on this question, Senator Kessler demanded the yeas and nays.

Senator Carmichael moved the previous question, which motion prevailed.

Following a point of inquiry to the President, with resultant response thereto,

The question being "Shall the Chair be sustained?"

The roll being taken, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the Chair sustained.

The question now being on the adoption of Senator Carmichael's motion that the Committee on Finance be discharged from further consideration of Committee Substitute for Senate Bill No. 14, the same was put.

The result of the voice vote being inconclusive, Senator Kessler demanded a division of the vote.

A standing vote being taken, there were eighteen “yeas” and sixteen “nays”.

Whereupon, the President declared Senator Carmichael’s aforestated motion had prevailed.

Thereafter, the bill was placed on the Senate first reading calendar.

### **Petitions**

Senator Nohe presented a petition from K. A. Hammons and two Pleasants County residents, opposing Senate Bill No. 35 (*Permitting carrying of concealed weapons without license*).

Referred to the Committee on Government Organization.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 34**, Requesting DOH name bridge in Greenbrier County “Army Air Corps LT William H. Corkerean, Jr., Memorial Bridge”.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution No. 35**, Requesting DOH name bridge in McDowell County “U. S. Army CPL Zane Joseph Gero and U. S. Marine Cpl John Anthony ‘Tony’ Gero Memorial Bridge”.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.



**Senate Concurrent Resolution No. 36**, Requesting DOH name bridge in McDowell County “Homer Hopkins 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.

**Eng. Senate Bill No. 89**, Providing Prosecuting Attorneys Institute’s council establish Executive Director’s salary.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 89) 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 No. 283**, Relating to branch banking.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Trump moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motion prevailed.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Walters, Williams, Woelfel and Cole (Mr. President)—26.

The nays were: Facemire, Kessler, Laird, Miller, Romano, Unger and Yost—7.

Absent: None.

Excused from voting: Trump—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 283) 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 No. 285**, Relating to primary and subordinate mortgage loans.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Trump moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motion prevailed.

Following a point of inquiry to the President, with resultant response thereto,

The question being “Shall Engrossed Senate Bill No. 285 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—28.

The nays were: Facemire, Kessler, Miller, Romano and Yost—5.

Absent: None.

Excused from voting: Trump—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 285) passed.

At the request of Senator Nohe, as chair of the Committee on Banking and Insurance, and by unanimous consent, the unreported Banking and Insurance committee amendment to the title of the bill was withdrawn.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Senate Bill No. 285**—A Bill to amend and reenact §31-17-1 and §31-17-8 of the Code of West Virginia, 1931, as amended, all relating to mortgage loans subject to the West Virginia Residential Mortgage Lender, Broker and Servicer Act; including consumer credit sales that are secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate in the definitions of “primary mortgage loan” and “subordinate mortgage loan”; defining “consumer credit sale”; providing an exception to the prohibition of balloon payments; providing an exception to the prohibition on requiring terms of repayment which do not result in continuous monthly reduction of

the original principal amount of the loan; and further extending the exception to the ban on loans greater than one hundred percent LTV for loan modifications or refinancing loans done through and in compliance with government programs or litigation settlements.

*Ordered,* That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

On motion of Senator Carmichael, the Senate recessed until 1 p.m. today.

Upon expiration of the recess, the Senate reconvened and resumed consideration of its third reading calendar, the next bill coming up in numerical sequence being

**Eng. Senate Bill No. 292**, Relating to licenses for business of currency exchange, transportation or transmission.

On third reading, coming up in regular order, was reported by the Clerk.

Senator Beach requested that the bill be read fully and distinctly.

The question being “Shall Engrossed Senate Bill No. 292 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 292) 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 No. 370**, Reorganizing Governor's Committee on Crime, Delinquency and Correction and its subcommittees.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 370) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Senate Bill No. 370**—A Bill to amend and reenact §15-9-1, §15-9-2, §15-9-3 and §15-9-5 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §15-9-6; to amend and reenact §15-9A-1, §15-9A-2 and §15-9A-3 of said code; to amend and reenact §15-9B-1 and §15-9B-2 of said code; to amend and reenact §30-29-2, §30-29-3, §30-29-4,

§30-29-5, §30-29-6 and §30-29-7 of said code; and to amend and reenact §62-11C-2, §62-11C-3, §62-11C-4, §62-11C-6 and §62-11C-8 of said code, all relating to codifying provisions relating to the Governor's Committee on Crime, Delinquency and Correction and its subcommittees; reorganizing the committee and certain subcommittees; continuing the Governor's Committee on Crime, Delinquency and Correction and providing for membership, terms and authority of the chair; requiring facility inspection in accordance with the Prison Rape Elimination Act; granting authority to the Governor's Committee on Crime, Delinquency and Correction to establish bylaws, policies and procedures; establishing responsibilities of the Governor's Committee on Crime, Delinquency and Correction; stating legislative findings; designating a staffing agency for the Governor's Committee on Crime, Delinquency and Correction and providing authority and responsibilities; establishing duties of the Director of the Governor's Committee on Crime, Delinquency and Correction; establishing membership criteria and subcommittee status of the Sexual Assault Forensic Examination Commission; establishing powers and duties of the Sexual Assault Forensic Examination Commission; establishing membership criteria and subcommittee status of the Law-Enforcement Professional Standards Subcommittee; establishing powers and duties of the Law-Enforcement Professional Standards Subcommittee; providing for uses of fees collected for the Law-Enforcement Professional Standards Subcommittee and authorizing adjustments of such fees by legislative rule; establishing the Community Corrections Subcommittee, membership and authority; and making technical edits.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 445**, Relating to investment of RJCFA excess funds.

On third reading, coming up in regular order, was reported by the Clerk.

Senator Beach requested that the bill be read fully and distinctly.

The question being “Shall Engrossed Senate Bill No. 445 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 445) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

**Senate Bill No. 24**, Prohibiting public officials and employees from using public funds for self promotion.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill No. 88**, Creating WV Clearance for Access: Registry and Employment Screening Act.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Ferns, the following amendment to the bill was reported by the Clerk and adopted:

On page thirteen, section five, line three, by striking out the words “section three” and inserting in lieu thereof the word “four”.

The bill (Com. Sub. for Com. Sub. for S. B. No. 88), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill No. 109**, Relating to local indoor smoking prohibitions.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Carmichael, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill No. 140**, Amending State Administrative Procedures Act.

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 No. 199**, Authorizing miscellaneous agencies and boards promulgate legislative rules.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill No. 273**, Relating to brewer, resident brewer and brewpub licensing and operations.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 304**, Relating to farmers markets.

On second reading, coming up in regular order, was read a second time.



The following amendment to the bill, from the Committee on Agriculture and Rural Development, was reported by the Clerk and adopted:

On page four, section three, line eight, by striking out the words “\$25 and is valid for a period of two years” and inserting in lieu thereof the words “\$15 annually”.

The bill (S. B. No. 304), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill No. 351**, Relating to charitable organization contribution levels requiring independent audit reports.

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 No. 353**, Designating State Police Superintendent administrator and enforcer of motor vehicle inspection program.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 360**, Repealing code sections relating to book indexes and claims reports required by court clerks.

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 No. 373**, Allowing wireless communication image serve as proof of motor vehicle insurance.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 399**, Relating to hospitals owned or operated by nonprofit corporations or associations or local governmental units.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 403**, Increasing period during which motor vehicle lien is valid.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 418**, Relating to trustee real estate sale under deed of trust.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Romano, the following amendment to the bill was reported by the Clerk:

On page two, section seven, after line sixteen, by inserting a new subsection, designated subsection (c), to read as follows:

(c) If owner-occupied residential real property is sold at a trustee's sale under a deed of trust, and the real property is purchased at the sale by the secured lender or an affiliate of the secured lender, and thereafter the purchaser sells the real property to a subsequent purchaser for more than the price paid at the trustee's sale, then the excess amount realized by the purchaser, after deduction of expenses of holding, preparing for sale and selling the property, above the amount realized at the trustee's sale, shall be applied to reduce the deficiency balance, if any, owed to the secured lender. If the deficiency balance is paid in full, the purchaser may retain the remaining proceeds of the sale of the property.

Senator Trump moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motion prevailed.

The question being on the adoption of Senator Romano's amendment to the bill (S. B. No. 418), the same was put.

The result of the voice vote being inconclusive, Senator Romano demanded a division of the vote.

A standing vote being taken, there were fourteen "yeas" and seventeen "nays".

Whereupon, Senator Cole (Mr. President) declared Senator Romano's amendment to the bill rejected.

The bill (S. B. No. 418) was then ordered to engrossment and third reading.

**Senate Bill No. 424**, Eliminating compulsory tuberculosis testing for certain school children and school personnel.

On second reading, coming up in regular order, was reported by the Clerk.

On motion of Senator Sypolt, the bill was recommitted to the Committee on Education.

**Com. Sub. for Senate Bill No. 456**, Relating to letters of merit in medical professional liability actions.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 463**, Making supplementary appropriation to DHHR, DHS, Health Care Provider Tax, Medicaid State Share Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 466**, Making supplementary appropriation of federal funds to Department of Commerce.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 467**, Making supplementary appropriation of federal funds to Department of Agriculture, State Conservation Committee.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 469**, Making supplementary appropriation of federal funds to DEP, Division of Environmental Protection.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 471**, Making supplementary appropriation of federal funds to DHHR, Human Rights Commission, and DHHR, DHS.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 472**, Making supplementary appropriation to DOT, DMV, Motor Vehicle Fees Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 473**, Making supplementary appropriation of federal funds to DMAPS, WV State Police.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 475**, Making supplementary appropriation to DMAPS, Division of Corrections, Parolee Supervision Fees, and WV State Police, Motor Vehicle Inspection Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 476**, Making supplementary appropriation to Department of Administration, Division of Purchasing, Purchasing Improvement Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 477**, Supplementing, amending, decreasing and increasing appropriation from State Road Fund to DOH.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 484**, Relating to procedure for removal of certain county, school district and municipal officers.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 489**, Imposing statute of limitations on civil actions derived from surveying of real property.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 498**, Clarifying tax map rules apply to paper and electronic documents.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 507**, Relating to monitoring inmates' electronic communications.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 508**, Reorganizing Hatfield-McCoy Regional Recreation Authority.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on the Judiciary, were reported by the Clerk, considered simultaneously, and adopted:

On page thirteen, section three, lines eleven and twelve, by striking out the words "or who is associated with a mining, logging, natural gas or other resource-extraction industry or who is a licensed land surveyor or licensed professional engineer";

And,

On page thirteen, section three, line fifteen, after the word "county" by inserting the following: "or who is associated with a mining, logging, natural gas or other resource-extraction industry or who is a licensed land surveyor or licensed professional engineer".

The bill (S. B. No. 508), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill No. 523**, Creating Alcohol and Drug Overdose Prevention and Clemency Act.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Eng. House Bill No. 2212**, Changing the amount of severance tax revenue annually dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill No. 2213**, Reducing the distributions to the West Virginia Infrastructure Fund.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Carmichael, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill No. 2568**, The Pain-Capable Unborn Child Protection Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Carmichael, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. House Bill No. 2669**, Relating to compulsory tuberculosis testing.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill No. 14**, Creating Public Charter Schools Act of 2015.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

Pending announcement of meetings of standing committees of the Senate, including majority and minority party caucuses,

On motion of Senator Carmichael, the Senate recessed until 5 p.m. today.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

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 No. 63**, Redefining facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.



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 No. 347**, Creating Firearms Act of 2015.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 347** (originating in the Committee on the Judiciary)—A Bill to repeal §61-7-3 and §61-7-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §20-2-5 and §20-2-6a of said code; and to amend and reenact §61-7-4 of said code, all relating to creating the West Virginia Firearms Act of 2015; removing requirement one must have a license to carry a concealed handgun; repealing exceptions section of said code to prohibitions against carrying concealed handguns without a license and removing exemptions from licensing fees; authorizing carrying a handgun for purposes of self defense while in the woods of this state whether concealed or not; providing that if findings of fact and conclusions of law of the court fail to uphold denial of a license, the applicant is entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued denial; defining who is prohibited from possessing firearms and retaining criminal penalties for violations; and establishing procedure for sheriff in determining eligibility for license when license holder changes home county.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator D. Hall, from the Committee on Labor, submitted the following report, which was received:

Your Committee on Labor has had under consideration

**Senate Bill No. 409**, Creating Fair and Open Competition in Governmental Construction Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 409** (originating in the Committee on Labor)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-3, relating to establishing the Fair and Open Competition in Governmental Construction Act; providing legislative findings; defining terms; prohibiting project labor agreements from being part of the competitive bid process on governmental construction projects; prohibiting project labor agreements from being a condition for receiving a grant, tax abatement or tax credit for construction projects; providing exclusions; and establishing a process for an exemption.

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,

Daniel J. Hall,  
*Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Labor.

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 No. 411**, Creating Asbestos Bankruptcy Trust Claims Transparency Act and Asbestos and Silica Claims Priorities Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 411** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7E-1, §55-7E-2, §55-7E-3, §55-7E-4, §55-7E-5, §55-7E-6, §55-7E-7, §55-7E-8, §55-7E-9, §55-7E-10 and §55-7E-11; and that said code be amended by adding thereto a new article, designated §55-7F-1, §55-7F-2, §55-7F-3, §55-7F-4, §55-7F-5, §55-7F-6, §55-7F-7, §55-7F-8, §55-7F-9 and §55-7F-10, all relating to procedures for determining liability for exposures to asbestos or silica; setting forth findings and purposes; setting forth definitions; requiring disclosures of existing and potential asbestos bankruptcy trust claims; establishing legal standards and procedures for the handling of certain asbestos and silica claims; providing for sanctions; establishing procedures for set offs and credits; establishing medical criteria procedures for certain asbestos and silica claims; providing for statute of limitations standards and other limitations on liability; and providing for applicability future asbestos and silica claims.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 486**, Exempting WV Wing of Civil Air Patrol vehicles from displaying WV State Car license plate.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 486** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17A-3-23 of the Code of West Virginia, 1931, as amended, relating to removing requirement for vehicles operated by West Virginia Wing of the Civil Air Patrol to display front license plates with white lettering on a green background bearing the words “West Virginia” in one line and the words “State Car” in another line; authorizing special license plates for Civil Air Patrol vehicles; and establishing fee to be paid per special license plate.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chris Walters,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 503**, Permitting sheriff hire outside attorneys for tax collection assistance.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 518**, Permitting county and municipal economic development authorities invest certain funds.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 537**, Changing mandatory school instructional time from days to minutes.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 537** (originating in the Committee on Education)—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to school calendar; and changing mandatory instructional days from one hundred eighty days to minutes based upon minimum amount of hours of instruction offered to students provided by state board rules.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 559**, Relating to social work licensing exemptions.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution No. 6**, Requesting DOH name bridge in Raleigh County “John Thomas Scott II Memorial Bridge”.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution No. 14**, Requesting DOH erect signs in Marion County designated “Home of Francis H. Pierpont”.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution No. 14** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways erect signs along Interstate 79 at locations entering Marion County on the borders of Harrison and Monongalia counties and the signs shall respectively exhibit “Home of Francis H. Pierpont – Father of West Virginia and Governor of Restored Virginia”.

Whereas, Francis H. Pierpont was one of the Delegates to the Great Railroad Convention to develop a strategy to bring the Baltimore and Ohio Railroad into Marion County; and

Whereas, Francis H. Pierpont, working along with James Otis Watson, opened the first rail-shipping bituminous coal mine west of the Allegheny Mountains; and

Whereas, May 13, 1861, Francis H. Pierpont became Delegate of the First Wheeling Convention; and

Whereas, June 20, 1861, Francis H. Pierpont was elected Provisional Governor of Restored Virginia by a unanimous 77 votes; and

Whereas, May 13, 1862, Francis H. Pierpont called a special session of the Restored Virginia General Assembly which granted counties in Northwestern Virginia permission for their separation from the remainder of Virginia and the formation of a new state into the Union: West Virginia; and

Whereas, May 22, 1862, Francis H. Pierpont was elected Governor of the Restored Virginia; and

Whereas, June 1863, Francis H. Pierpont declined to be Governor of West Virginia - remaining Governor of Restored Virginia until April 4, 1868; and

Whereas, In 1869, Francis H. Pierpont was elected to the West Virginia Legislature; and

Whereas, Francis H. Pierpont established the first local school for African Americans; and

Whereas, April 30, 1910, a statue honoring Francis H. Pierpont as the "Father of West Virginia" was accepted by the Capitol Building in Washington, D. C., one of only two statues representing West Virginia in Statuary Hall in the United States Capitol Building; and

Whereas, Stephen B. Elkins, former Secretary of War, on the day of the statue dedication proclaimed, "He (Francis H. Pierpont) founded a state whose people will love and bless his memory as the sun rolls on."; therefore, be it



*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to erect signs along Interstate 79 at locations entering Marion County on the borders of Harrison and Monongalia counties and the signs shall respectively exhibit “Home of Francis H. Pierpont – Father of West Virginia and Governor of Restored Virginia”; and, be it

*Further Resolved,* That the Division of Highways is to have made and be placed brown-colored signs along Interstate 79 at locations entering Marion County on the borders of Harrison and Monongalia counties and said signs shall respectively exhibit “Home of Francis H. Pierpont – Father of West Virginia and Governor of Restored Virginia”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Marion County Commission and the Marion County Historical Society.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution No. 18,** Requesting DOH name bridge in Wetzel County “U. S. Army COL William L. Glover Memorial Bridge”.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution No. 18** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name the bridge on WV Route 20 over Fishing Creek, South Fork, in Wetzel County, locally known as the Pine Grove Bridge, bridge number 52-20-16.04, as the “U. S. Army COL William L. Glover Memorial Bridge”.

Whereas, Colonel Glover was born in Pine Grove, West Virginia, on May 27, 1939, the son of Herdman and Merle Glover, and graduated from Pine Grove High School in 1957; and

Whereas, Colonel Glover attended West Virginia University and was a member of the ROTC program. He graduated in 1961 with a degree in business and entered the United States Army as a Second Lieutenant; and

Whereas, During his distinguished military career, Colonel Glover was stationed in France and Korea before serving a tour of duty in Vietnam, where he was awarded the Bronze Star for his service; and

Whereas, Colonel Glover was commissioned a Colonel in 1982 with the United States Army, retired in 1991 with 30 years of honorable military service to his country and afterward he resided in Massachusetts where he worked as a computer consultant; and

Whereas, After a brief stint in Arizona, Colonel Glover moved back to West Virginia and in 1997 married his beloved wife Nelda E. Kocher, a fellow graduate of Pine Grove High School; and

Whereas, Colonel Glover loved to sing, which lead him to record as a teenager and later in life he was a prominent voice in his church choir and performed in musicals; and

Whereas, Sadly, Colonel Glover passed away on July 20, 2012, leaving behind his wife Nelda, sister Beulah, a daughter, two sons, a stepdaughter, six grandchildren, three step-grandchildren and three step-great grandsons, and a legacy of dedicated public and military service to his country and to his family and friends; and

Whereas, As it was his wish, Colonel Glover was buried on January 25, 2013, in his final resting place, Arlington National Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate a native son who so ably served his state and his country by naming the bridge on WV Route 20 over Fishing Creek, South Fork, in Wetzel County, locally known as the Pine Grove Bridge, bridge number 52-20-16.04, as the “U. S. Army Colonel William L. Glover Memorial Bridge”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on WV Route 20 over Fishing Creek, South Fork, in Wetzel County, locally known as the Pine Grove Bridge, bridge number 52-20-16.04, as the “U. S. Army COL William L. Glover Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army COL William L. Glover Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and to Colonel Glover’s widow, Nelda E. Glover.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution No. 19**, Requesting DOH name stretch of road in Wayne County “Darrell W. Sanders Memorial Highway”.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution No. 19** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name that stretch of WV Route 37 beginning at the Town of Wayne, mile post 16.0, and running to the Lincoln County line in Wayne County, mile post 38.0, the “Darrell W. Sanders Memorial Highway”.

Whereas, Darrell W. Sanders was born in Wayne, West Virginia, on October 6, 1945, where he grew up and was educated in the local schools. He held the rank of SP4 in the United States Army when he was killed in Vietnam on November 17, 1965, at the age of 20; and

Whereas, His service and ultimate sacrifice to his country, state and county should not go unnoticed; and

Whereas, Naming that stretch of WV Route 37 in Wayne County the “Darrell W. Sanders Memorial Highway” is an appropriate recognition of his service and sacrifice; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name that stretch of WV Route 37 beginning at the Town of Wayne, mile post 16.0, and running to the Lincoln County line in Wayne County, mile post 38.0, the “Darrell W. Sanders Memorial Highway”; and, be it

*Further Resolved,* That the Division of Highways is requested to have made and be placed signs identifying the road as the “Darrell W. Sanders Memorial Highway”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and the surviving family of Darrell W. Sanders.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Chris Walters,  
*Chair.*

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Beach.

The Senate then proceeded to the thirteenth order of business.

At the request of Senator Kessler, the name of Senator Kessler was removed as a sponsor of **Senate Bill No. 563** (*Relating to racetrack video lottery and table games*).

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules and majority and minority party caucuses,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, February 25, 2015, at 11 a.m.

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## WEDNESDAY, FEBRUARY 25, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Pastor B. J. Roberts, Kingdom Life Fellowship Church, Nitro, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Jack Yost, a senator from the first district.

Pending the reading of the Journal of Tuesday, February 24, 2015,

Senator M. Hall requested unanimous consent that the Journal be approved.

Which consent was not granted, Senator Unger objecting.

On motion of Senator Carmichael, 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 adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility.

Whereupon, Senator Nohe, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for House Bill No. 2025**, Prohibiting certain sex offenders from loitering within one thousand feet of a school or child care facility,

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill No. 2025 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-8-29; and that §62-12-26 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

### **ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.**

#### **§61-8-29. Criminal loitering by persons on supervised release.**

(a) Any person serving a period of supervised release of ten years or more pursuant to the provision of section twenty-six, article twelve, chapter sixty-two of this code who loiters within one thousand feet of the property line of the residence or workplace of a victim of a sexually violent offense for which the person was convicted shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than thirty days.

(b) Any person serving a period of supervised release of ten years or more pursuant to the provisions of section twenty-six, article twelve, chapter sixty-two of this code for an offense where the victim was a minor who loiters within one thousand feet of the property line of a facility or business the principal purpose of which is the education, entertainment or care of minor children, playground, athletic facility or school bus stop shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not more than thirty days.

(c) A person does not violate the provisions of subsection (a) or (b) of this section unless he or she has previously been asked to leave the proscribed location by an authorized person and thereafter refuses to leave or leaves and thereafter returns to the proscribed location.

(d) As used in this section:

(1) "Authorized person" means:

(A) A law-enforcement officer acting in his or her official capacity;

(B) A security officer employed by a business or facility to protect persons or property acting in his or her employment capacity;

(C) An owner, manager or employee of a facility or business having a principal purpose the caring for, education or entertainment of minors;

(D) A victim or parent, guardian or lawful temporary or permanent custodian thereof;

(E) An employee of a county board of education acting in his or her employment capacity.



(2) “Facility or business, the principal purpose of which is the education, entertainment or care of minor children” means:

(A) A pre-school, primary, intermediate, middle or high school, either public or private;

(B) A child care facility;

(C) A park;

(D) An athletic facility used by minors;

(E) A school bus stop.

(3) “Loitering” means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose.

(e) Nothing in this section shall be construed to prohibit or limit a person’s presence within one thousand feet of a location or facility referenced in this section if the person is there present for the purposes of supervision, counseling or other activity in which the person is directed to participate as a condition of supervision or where the person has the express permission of his supervising officer to be present.

## **CHAPTER 62. CRIMINAL PROCEDURE.**

### **ARTICLE 12. PROBATION AND PAROLE.**

#### **§62-12-26. Extended supervision for certain sex offenders; sentencing; conditions; supervision provisions; supervision fee.**

(a) Notwithstanding any other provision of this code to the contrary, any defendant convicted after the effective date of this section of a violation of section twelve, article eight, chapter sixty-one of this code or a felony violation of the provisions of article eight-b, eight-c or eight-d of said chapter shall, as part of the

sentence imposed at final disposition, be required to serve, in addition to any other penalty or condition imposed by the court, a period of supervised release of up to fifty years: *Provided*, That the period of supervised release imposed by the court pursuant to this section for a defendant convicted after the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, of a violation of section three or seven, article eight-b, chapter sixty-one of this code and sentenced pursuant to section nine-a of said article, shall be no less than ten years: *Provided, however*, That a defendant designated after the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, as a sexually violent predator pursuant to the provisions of section two-a, article twelve, chapter fifteen of this code shall be subject, in addition to any other penalty or condition imposed by the court, to supervised release for life: *Provided further*, That pursuant to the provisions of subsection (g) of this section, a court may modify, terminate or revoke any term of supervised release imposed pursuant to subsection (a) of this section.

(b) Any person required to be on supervised release ~~for a~~ between the minimum term of ten years and life pursuant to the provisos of subsection (a) of this section also shall be further prohibited from:

(1) Establishing a residence or accepting employment within one thousand feet of a school or child care facility or within one thousand feet of the residence of a victim or victims of any sexually violent offenses for which the person was convicted;

(2) Loitering within one thousand feet of a school or child care facility or within one thousand feet of the residence of a victim or victims of any sexually violent offenses for which the person was convicted: *Provided*, That the imposition of this prohibition shall apply to a defendant convicted after the effective date of this section as amended and reenacted during the regular session of the Legislature, 2015: *Provided, however*, That as used herein "loitering" means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on

that property beyond the time necessary to fulfill that purpose: *Provided further*, That nothing in this subdivision shall be construed to prohibit or limit a person's presence within one thousand feet of a location or facility referenced in this subdivision if the person is present for the purposes of supervision, counseling or other activity in which the person is directed to participate as a condition of supervision or where the person has the express permission of his supervising officer to be present;

(2) (3) Establishing a residence or any other living accommodation in a household in which a child under sixteen resides if the person has been convicted of a sexually violent offense against a child, unless the person is one of the following:

(i) The child's parent;

(ii) The child's grandparent; or

(iii) The child's stepparent and the person was the stepparent of the child prior to being convicted of a sexually violent offense, the person's parental rights to any children in the home have not been terminated, the child is not a victim of a sexually violent offense perpetrated by the person, and the court determines that the person is not likely to cause harm to the child or children with whom such person will reside: *Provided*, That nothing in this subsection shall preclude a court from imposing residency or employment restrictions as a condition of supervised release on defendants other than those subject to the provision of this subsection.

(c) The period of supervised release imposed by the provisions of this section shall begin upon the expiration of any period of probation, the expiration of any sentence of incarceration or the expiration of any period of parole supervision imposed or required of the person so convicted, whichever expires later.

(d) Any person sentenced to a period of supervised release pursuant to the provisions of this section shall be supervised by a multijudicial circuit probation officer, if available. Until such time

as a multijudicial circuit probation officer is available, the offender shall be supervised by the probation office of the sentencing court or of the circuit in which he or she resides.

(e) A defendant sentenced to a period of supervised release shall be subject to any or all of the conditions applicable to a person placed upon probation pursuant to the provisions of section nine of this article: *Provided*, That any defendant sentenced to a period of supervised release pursuant to this section shall be required to participate in appropriate offender treatment programs or counseling during the period of supervised release unless the court deems the offender treatment programs or counseling to no longer be appropriate or necessary and makes express findings in support thereof.

Within ninety days of the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, the Secretary of the Department of Health and Human Resources shall propose rules and emergency rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code establishing qualifications for sex offender treatment programs and counselors based on accepted treatment protocols among licensed mental health professionals.

(f) The sentencing court may, based upon defendant's ability to pay, impose a supervision fee to offset the cost of supervision. Said fee shall not exceed \$50 per month. Said fee may be modified periodically based upon the defendant's ability to pay.

(g) *Modification of conditions or revocation.* – The court may:

(1) Terminate a term of supervised release and discharge the defendant released at any time after the expiration of two years of supervised release, pursuant to the provisions of the West Virginia Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interests of justice;

(2) Extend a period of supervised release if less than the maximum authorized period was previously imposed or modify, reduce or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, consistent with the provisions of the West Virginia Rules of Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the terms and conditions of post-release supervision;

(3) Revoke a term of supervised release and require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on supervised release if the court, pursuant to the West Virginia Rules of Criminal Procedure applicable to revocation of probation, finds by clear and convincing evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this subdivision may not be required to serve more than the period of supervised release;

(4) Order the defendant to remain at his or her place of residence during nonworking hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices, except that an order under this paragraph may be imposed only as an alternative to incarceration.

(h) *Written statement of conditions.* – The court shall direct that the probation officer provide the defendant with a written statement at the defendant’s sentencing hearing that sets forth all the conditions to which the term of supervised release is subject and that it is sufficiently clear and specific to serve as a guide for the defendant’s conduct and for such supervision as is required.

(i) *Supervised release following revocation.* – When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of supervised release authorized under subsection (a) of this section, the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such

term of supervised release shall not exceed the term of supervised release authorized by this section less any term of imprisonment that was imposed upon revocation of supervised release.

(j) *Delayed revocation.* – The power of the court to revoke a term of supervised release for violation of a condition of supervised release and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (i) of this section, a further term of supervised release extends beyond the expiration of the term of supervised release for any period necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for House Bill No. 2025**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-29; and to amend and reenact §62-12-26 of said code, all relating to creating the offense of criminal loitering by persons on supervised release; prohibiting loitering by such persons within one thousand feet of a victim’s home, schools and facilities providing care and entertainment for children; defining terms; establishing penalties; and prohibiting certain sex offenders on supervised release from loitering within one thousand feet of a school, child care facility or victim.

Respectfully Submitted,

Patrick Lane, *Chair*, Dana L. Lynch, Ryan Weld, *Conferees on the part of the House of Delegates.*

David Nohe, *Chair*, C. Edward Gaunch, Bob Williams, *Conferees on the part of the Senate.*

On motions of Senator Nohe, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill No. 2025, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2025) passed with its conference amended title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill No. 2234**, Requiring a court to permit a party in a divorce proceeding to resume using the name he or she used prior to the marriage.

On motion of Senator Trump, the message on the bill was taken up for immediate consideration.

On further motion of Senator Trump, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

Engrossed Committee Substitute for House Bill No. 2234, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sybolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2234) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2457**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §6B-2-5c, relating to prohibiting the use of the name or likeness of a public official on publicly-owned vehicles; prohibiting a public official from placing his or her name or likeness on trinkets paid for with public funds; prohibiting a public official from using public funds to distribute certain advertising materials bearing his or her name or likeness; prohibiting a public official from using public funds or public employees for entertainment purposes within forty-five days of a primary, general, or special election in which the public official is a candidate; defining terms; making exceptions; and permitting the Ethics Commission to promulgate rules.



At the request of Senator Carmichael, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2493**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4l; to amend said code by adding thereto a new section, designated §33-16-3x; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8j; and to amend said code by adding thereto a new section, designated §33-25A-8l, all relating to anti-cancer medications; providing accident and sickness insurance cover anti-cancer medications; providing direct health care services that cover anti-cancer medications; prohibiting certain copayments, deductibles or coinsurance for orally administered anti-cancer medications; prohibiting certain acts to comply with the requirements; defining terms; providing an effective date; and allowing cost containment measures.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2615**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §32-5-501, §32-5-502, §32-5-503, §32-5-504, §32-5-505 and §32-5-506, all relating to creating the West Virginia Small Business Capital Act; exempting the offer and sale of certain securities from the Uniform Securities Act; and applying to exempt issuers the Uniform Securities Act's misleading filing provisions, its criminal penalty provisions, its civil liability provisions and its fraud provisions.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2648**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-46-1, §16-46-2, §16-46-3, §16-46-4 and §16-46-5, all relating to availability and use of epinephrine auto-injectors; providing definitions; providing for legislative rules; providing for training; providing prescriptive authority to health care practitioners in certain circumstances; providing authority to pharmacists to dispense epinephrine auto-injectors in certain circumstances; providing for the storage and emergency use of epinephrine auto-injectors; providing that in certain circumstances the use of epinephrine auto-injectors is not the practice of medicine; providing that in certain circumstances one authorized to prescribe, possess or train regarding epinephrine auto-injectors are not liable for civil damages; and further providing that certain individuals who administer an epinephrine auto-injector to a person is immune from liability for civil action unless the act or omission was grossly negligent or willful misconduct.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2662**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-8a-1, §30-8a-2, §30-8a-3, §30-8a-4 and §30-8a-5, all relating to the practice of optometry; defining certain terms; providing that contact lenses require a prescription that must be performed by a licensee; providing that spectacles require a prescription that must be performed by a licensee; requiring certain actions to be taken with regard to prescriptions; prohibiting the dissemination of contact lenses without a prescription from a

licensee; prohibiting the dissemination of spectacles without a prescription from a licensee; providing the board to enforce this article; allowing the board to promulgate rules; and providing criminal penalties.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2733**—A Bill to amend and reenact §60A-2-208 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-9-3, §60A-9-4, §60A-9-4a and §60A-9-5 of said code; and to amend and reenact §60A-10-16 of said code, all relating to removing certain combinations of drugs containing hydrocodone from Schedule III of the controlled substances law; updating the controlled substances monitoring law and extending the expiration date of provisions relating to the Multi-/State Real-Time Tracking System.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2879**— A Bill to amend and reenact §12-1-5 of the Code of West Virginia, 1931, as amended, relating to certain limitations on amount of state funds on deposit in any depository; and requiring that the amount of state funds on deposit in excess of the amount insured by an agency of the federal government be secured by certain securities in an amount of at least one hundred two percent of the amount on deposit.

Referred to the Committee on Banking and Insurance.

**Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 24, 2015, he had approved **Enr. Committee Substitute for Senate Bill No. 7.**

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. No. 13)**, Reinstating open and obvious doctrine for premises liability.

And,

**(S. B. No. 262)**, Transferring CHIP and Children's Health Insurance Agency from Department of Administration to DHHR.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Steve Westfall,  
*Vice Chair, House Committee.*

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of February, 2015, presented to

His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. No. 389)**, Relating to Board of Registration for Professional Engineers license renewals and reinstatements.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill No. 248**, Requiring certain insurance and owner information be provided following car accident.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill No. 278** (originating in the Committee on Natural Resources), Relating to lawful and unlawful methods of hunting.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 278** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §20-2-5, §20-2-5g, §20-2-22a and §20-2-42w of the Code of West Virginia, 1931, as amended, all relating to lawful and unlawful methods of hunting and fishing; prohibiting hunting with night vision technology, drone or other unmanned aircraft; clarifying when a person may carry certain firearms; permitting a person to carry a gun for self defense while in the woods; permitting hunting with crossbows with certain limitations; clarifying bear laws and Class Y permits; and making certain technical corrections.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 336**, Relating to powers and duties of Health Care Authority.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 336** (originating in the Committee on Government Organization)—A Bill to amend §16-29B-19 of the Code of West Virginia, 1931, as amended, relating generally to

powers and duties of Health Care Authority; and eliminating authority of Health Care Authority to apply penalties or penalties held in abeyance to any future rate applications filed with the authority.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. No. 336), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 No. 423**, Amending Aboveground Storage Tank Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 423** (originating in the Committee on the Judiciary)—A Bill to repeal §22-31-3, §22-31-4, §22-31-5, §22-31-6, §22-31-7, §22-31-8, §22-31-9, §22-31-10, §22-31-11 and §22-31-12 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-1-9f; to amend and reenact §22-30-2, §22-30-3, §22-30-4, §22-30-5, §22-30-6, §22-30-7, §22-30-8, §22-30-9, §22-30-10, §22-30-11, §22-30-12, §22-30-13, §22-30-14, §22-30-15, §22-30-16, §22-30-17, §22-30-18, §22-30-19, §22-30-21, §22-30-22, §22-30-24

and §22-30-25 of said code; to amend said code by adding thereto a new section, designated §22-30-26; and to amend and reenact §22-31-2 of said code, all relating to protection of water resources and public health generally; amending the Aboveground Storage Tank Act; defining terms; requiring secretary to compile inventory of aboveground storage tanks in the state; requiring registration; authorizing certain fees; authorizing the Secretary of the Department of Environmental Protection to propose emergency and legislative rules; creating alternative regulatory program to allow permitted and otherwise regulated entities to compel permits and plans to accomplish tank and secondary containment standards under existing programs; requiring secretary to develop regulatory program for tanks; creating a zone of peripheral concern for some; creating certain exemptions to regulation; providing factors to be considered in a program; requiring inspection and certification of tanks; requiring evidence of financial responsibility; requiring corrective action and plans; requiring spill prevention response plans; requiring notice of type and quantity of fluids stored in tanks to local water utilities and governments; requiring posting of signs at or near tanks; creating an administrative fund; creating Protect Our Water Fund; authorizing public access to certain information; authorizing inspections, monitoring and testing by secretary; authorizing secretary to issue administrative orders and seek injunctive relief; providing for civil and criminal penalties; allowing appeals to Environmental Quality Board; prohibiting duplicative enforcement; requiring interagency coordination; establishing duties of secretary upon imminent and substantial danger; providing additional duties and powers of secretary generally; providing for waiver of certain requirements; authorizing secretary to require individual NPDES permits; authorizing Secretary of Department of Health and Human Resources to inventory potential sources of significant contamination; membership of study commission; scope of study; and establishing reporting requirements.

With the recommendation that the committee substitute do pass.



Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 520**, Creating Local Energy Efficiency Partnership Act.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Craig Blair,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution No. 38** (originating in the Committee on the Judiciary)—Requesting the United States Environmental Protection Agency transfer the State of West Virginia from Environmental Protection Agency Region III to Environmental Protection Agency Region IV.

Whereas, The United States Environmental Protection Agency (EPA) is a federal agency charged with enforcing numerous federal statutes, including, but not limited to, the Clean Water Act and the Clean Air Act; and

Whereas, The EPA organized the agency into 10 geographic regional offices and corresponding regional administrators; and

Whereas, Regional administrators are granted authority to, among other things, conduct effective regional enforcement and compliance programs and exercise approval authority for proposed state standards and implementation plans; and

Whereas, West Virginia is included in the EPA Regional Office designated as “Region III”, the regional headquarters of which is located in Philadelphia, Pennsylvania, and which region also includes the states of Delaware, Maryland, Pennsylvania, Virginia and the District of Columbia; and

Whereas, Pursuant to 40 C. F. R. 1.7, the EPA has designated a Regional Office, “Region IV”, the regional headquarters of which is located in Atlanta, Georgia, which region includes the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee; and

Whereas, The coal industry is an industry of great economic importance to the State of West Virginia; and

Whereas, The EPA’s interpretation and enforcement of the Clean Air Act and Clean Water Act, as administered by the regional administrator for Region III, particularly during recent years, has had a substantial negative impact on West Virginia’s coal industry and, therefore, a negative impact on West Virginia’s economy; and

Whereas, Taking into consideration: (1) That the EPA presumably organizes its administration into regions such that, in administering the various federal laws under its purview, it can take into account, among other things, the similar demographic and economic characteristics of

the states in each region when implementing regulatory and enforcement policies for each region; (2) that the demographic and economic characteristics of West Virginia, and particularly the southern coal producing regions of West Virginia, align much more with the demographic and economic characteristics of the states in EPA Region IV in contrast to the states in EPA Region III; (3) that Kentucky, the third largest coal-producing state in the United States, is in Region IV, while West Virginia, the second largest coal-producing state in the United States, is in Region III; and (4) that the primary industry that the EPA regulates in West Virginia is the coal industry, it would be appropriate that West Virginia be transferred from EPA Region III to EPA Region IV; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the United States Environmental Protection Agency transfer the State of West Virginia from Environmental Protection Agency Region III to Environmental Protection Agency Region IV; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to Gina McCarthy, Administrator of the United States Environmental Protection Agency and to each member of West Virginia's congressional delegation.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill No. 2099**, Extending the time of meetings of local levying bodies when meetings are delayed.

. And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Leonhardt, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Eng. House Bill No. 2224**, Providing that historical reenactors are not violating the provision prohibiting unlawful military organizations.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Kent Leonhardt,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

Senators Carmichael, M. Hall, Nohe, Plymale and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 39**—Requesting the Joint Committee on Government and Finance study how Cedar Lakes

Camp and Conference Center and its facilities are currently being used and how they may best be utilized in the future, including possible transfer from the West Virginia Board of Education to a private, nonstock, not-for-profit corporation.

Whereas, Over the decades, Cedar Lakes has fulfilled this purpose and has become an integral part of the local economy and the Jackson County community; and

Whereas, The Legislature recognizes the economic and social value of Cedar Lakes and that its continued viability depends on it becoming an independent, self-sustaining entity; and

Whereas, The Legislature desires to review and study on how Cedar Lakes Camp and Conference Center may best fulfill its purpose of developing competent leadership, developing character, training for useful citizenship, fostering patriotism and of providing and encouraging the development of organized recreational activities for Future Farmers of America, Future Homemakers of America members, and other youth and adult groups; and

Whereas, A private, not-for-profit structure may be the best means of assuring prudent financial management and, in turn, fulfilling the purposes of Cedar Lakes and serving the local economy, the Jackson County community and the state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Joint Committee on Government and Finance study how Cedar Lakes Camp and Conference Center and its facilities are currently being used and how they may best be utilized in the future, including possible transfer to a private, nonstock, not-for-profit corporation; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2016, 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.

Which, under the rules, lies over one day.

Senators M. Hall and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 40**—Requesting the Division of Highways name the bridge in Putnam County, bridge number 40-35-9.68(40A157) northbound and bridge number 40-35-9.68(40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the “U. S. Army Sgt. Deforest Lee Talbert Memorial Bridge”.

Whereas, Sgt. Deforest Lee Talbert was born January 24, 1982, in Alexandria, Virginia, the son of Gloria Nesbitt and Benjamin Dickens. He graduated from T. C. Williams High School. He moved to West Virginia to attend West Virginia State University where he majored in communications. He enlisted in the West Virginia Army National Guard at Dunbar, West Virginia, and was assigned to Bravo Company 1/150 AR in 2001; and

Whereas, Sgt. Deforest Lee Talbert was mobilized as part of Operation Iraqi Freedom on October 1, 2003, and was reassigned to Charlie Company 1/150 AR. His company was deployed to the Iraqi Theater of Operations along with the 1-150th Armor Battalion and the 30th Brigade Team on February 29, 2004. He served as an assistant gunner with the First Platoon, Charlie 12 gun truck. While patrolling on the evening of July 27, 2004, Sgt. Talbert’s convoy was the target of an enemy attack using an improvised explosive device. Three of his fellow soldiers were injured, but Sgt. Talbert absorbed the brunt of the explosion and was instantly killed. Sgt. Deforest Lee Talbert received the Army Service Ribbon, the Sharpshooter Marksmanship Badge

(Pistol), the Expert Marksmanship Badge (Grenade), SSI/FWS for the 30th Brigade Combat Team and the 1st Infantry Division and, posthumously, a Purple Heart and a Bronze Star with V Device; and

Whereas, Sgt. Deforest Lee Talbert made the ultimate sacrifice for his country and in doing so represented West Virginia and his country with the highest levels of honor and courage and his sacrifice should not go unnoticed. Naming this bridge in Putnam County for him is an appropriate recognition of his ultimate sacrifice for state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge in Putnam County, bridge number 40-35-9.68(40A157) northbound and bridge number 40-35-9.68(40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the “U. S. Army Sgt. Deforest Lee Talbert Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army Sgt. Deforest Lee Talbert Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and the surviving family members of Sgt. Deforest Lee Talbert: Mother, Gloria Nesbitt; father, Benjamin Dickens; sisters, Tawanna Talbert-Loving, Latasha Marble and Chiquita Talbert; brother, James Talbert; and his devoted friend, Frances Hamlet.

Which, under the rules, lies over one day.

Senators Blair, Trump and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 41**— Requesting the Division of Highways name bridge number 2-9-4.81 (2A022) on Route 9 over Back Creek in Berkeley County the “W. C. Honaker and Clyde Spies Memorial Bridge”.

Whereas, Tomahawk’s Ruritan Club members W. C. Honaker and Clyde Spies circulated a petition among the fine folks of Back Creek Valley, Cherry Run and Hedgesville over twenty-five years ago to have the bridge spanning Back Creek replaced as it posed a hazard to worried travelers, including public school students from Berkeley and Morgan counties; and

Whereas, After W. C. Honaker and Clyde Spies brought the unsafe bridge to the attention of then Delegates Patrick Murphy and Vicki Douglas, the Honorable Gaston Caperton, then Governor, approved the construction of a new bridge; and

Whereas, W. C. Honaker and Clyde Spies were honored for their noble efforts by being the first individuals to cross the newly replaced bridge at its grand opening; and

Whereas, W. C. Honaker and Clyde Spies lived a few more years and passed on to Heaven’s embrace as both were fine and honored Christian men, loved by many and missed by all; and

Whereas, On May 20, 2014, the Berkeley County Association of Retired School Employees passed a resolution urging the Legislature to name the bridge for W. C. Honaker and Clyde Spies; and

Whereas, It is only fitting and proper that W. C. Honaker and Clyde Spies and their good deeds for family, schools and the community be recognized and remembered; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 2-9-4.81 (2A022) on Route 9 over Back Creek in



Berkeley County the “W. C. Honaker and Clyde Spies Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs at both ends of the bridge identifying it as the “W. C. Honaker and Clyde Spies Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways, to the families of W. C. Honaker and Clyde Spies, to Patrick Murphy and to the Berkeley County Association of Retired School Employees.

Which, under the rules, lies over one day.

Senators Walters, Beach, Stollings, Prezioso, Williams and Plymale offered the following resolution:

**Senate Resolution No. 44**—Recognizing the contributions of West Virginia women who served their nation as “Rosie the Riveters” during World War II.

Whereas, During World War II, with most of America’s men serving in the armed forces on battlefields around the globe, millions of women around the nation rallied to the call to help keep our nation’s industrial productivity operational; and

Whereas, These women, officially called “Women Ordinance Workers”, filled the industrial void to produce such products as airplanes, ships and vehicles; and

Whereas, Women Ordinance Workers worked on assembly lines in our nation’s industries as riveters, welders and machinists served as health care and laboratory personnel, and also as record keepers, writers and bookkeepers; and

Whereas, The Women Ordinance Workers, later nicknamed “Rosie the Riveters”, were dedicated, patriotic women who were performing many tasks considered as men’s work as their husbands, brothers and sons served in the armed forces and battled the enemy on foreign soil; and

Whereas, Many women from West Virginia are documented to have worked not only in their home state, but were deployed to other parts of the nation; and

Whereas, As these women rallied to the call of a nation at war, they did so at a great personal sacrifice, many leaving their children with family members at a time when communications around the nation were limited; and

Whereas, While popular songs and movies have immortalized their actions, they remain unrecognized heroes for their efforts in helping to gain victory and maintain freedom around the world; and

Whereas, Many communities in West Virginia welcomed these women and are beginning to recognize their efforts. The city of St. Albans has been the first to designate their community as a “Rosie the Riveters Community” in tribute to the service of Women Ordinance Workers; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the contributions of West Virginia women who served their nation as “Rosie the Riveters” during World War II; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation to all West Virginia women who unselfishly served their nation by keeping the nation’s industrial production lines functioning during World War II; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of “Rosie the Riveters”.

At the request of Senator Walters, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, and on this question, Senator Walters demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the resolution (S. R. No. 44) adopted.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senators Walters and Leonhardt regarding the adoption of Senate Resolution No. 44 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Ferns, Boley, Carmichael, Snyder, Unger, D. Hall, Yost, Leonhardt, Stollings, Beach and Williams offered the following resolution:

**Senate Resolution No. 45**—Designating Wednesday, February 25, 2015, as West Virginia Nurses Unity Day.

Whereas, One in forty-three West Virginians is a nurse; and

Whereas, Nurses make a significant contribution of time, energy, heart and care toward the healing of our residents who are ill and suffering; and

Whereas, Nurses are powerful advocates for the health and well-being of all West Virginians, providing education, screening, nursing intervention, evaluation and research to improve the health of West Virginia residents throughout the life span from pre-birth to the end of life; and

Whereas, Nurses meet the health needs of West Virginians not only in hospitals and long-term care facilities, but conveniently in their homes, at school, at work, at church, in community health centers, on the phone and on the internet; and

Whereas, The Institute of Medicine recognizes nurses as key to solving our current rising cost of chronic illness through their expanding leadership as coordinators and collaborators of interdisciplinary health care teams; and

Whereas, The expanding roles of Advanced Practice Registered Nurses as Nurse Anesthetists, Nurse Midwives and Certified Nurse Practitioners in a variety of specialties provide improved cost-effective access to health services in our rural state; and

Whereas, The American public has voted to acknowledge nurses as the “Most Trusted Professional” for twelve years; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates Wednesday, February 25, 2015, as West Virginia Nurses Unity Day; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of West Virginia Nurses Unity Day.

At the request of Senator Ferns, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator D. Hall, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

### **Petitions**

Senator Gaunch presented a petition from Justin Williams and numerous West Virginia residents, opposing Senate Bill No. 337 (*Creating workplace freedom act*), Engrossed Committee Substitute for Senate Bill No. 361 (*Eliminating prevailing hourly wage requirement for construction of public improvements*) and Committee Substitute for Senate Bill No. 14 (*Creating Public Charter Schools Act of 2015*).

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 6**, Requesting DOH name bridge in Raleigh County “John Thomas Scott II Memorial Bridge”.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Concurrent Resolution No. 14**, Requesting DOH erect signs in Marion County designated “Home of Francis H. Pierpont, Father of West Virginia and Governor of Restored Virginia”.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Concurrent Resolution No. 18**, Requesting DOH name bridge in Wetzel County “U. S. Army COL William L. Glover Memorial Bridge”.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Concurrent Resolution No. 19,** Requesting DOH name stretch of road in Wayne County “Darrell W. Sanders Memorial Highway”.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered,* That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Carmichael announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with rule number seventeen of the Rules of the Senate, had removed from the Senate third reading calendar, **Engrossed Committee Substitute for Senate Bill No. 456**; and from the Senate second reading calendar, **Engrossed House Bill No. 2213**.

Following a point of inquiry to the President, with resultant response thereto,

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill No. 24,** Prohibiting public officials and employees from using public funds for self promotion.

On third reading, coming up in regular order was reported by the Clerk.

On motion of Senator Carmichael, the bill was recommitted to the Committee on the Judiciary.

**Eng. Com. Sub. for Com. Sub. for Senate Bill No. 88,** Creating WV Clearance for Access: Registry and Employment Screening Act.

On third reading, coming up in regular order, was reported by the Clerk.

Senator Beach requested that the bill be read fully and distinctly.

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill No. 88 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 88) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Com. Sub. for Senate Bill No. 109**, Relating to local indoor smoking prohibitions.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 24, 2015, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Stollings, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:



On page thirteen, section eleven, line ten, after the word “health” by changing the period to a comma and inserting the following: as long as the area where smoking is permitted is restricted to persons age 18 years or older: *Provided*, That each entrance to the facility shall have posted a sign of no less than eighteen inches by twenty-four inches, which says “DANGER: THIS PREMISES CONTAINS TOBACCO SMOKE.”;

On page fifteen, section sixteen, line six, by striking out the word “and”;

On page fifteen, section sixteen, line eight, after the word “area”, by changing the period to a semicolon and inserting the word “and”;

And,

On page fifteen, section sixteen, after line eight, by inserting a new subdivision, designated subdivision (5), to read as follows:

(5) Each entrance to the facility shall have posted a sign of no less than eighteen inches by twenty-four inches, which says “DANGER: THIS PREMISES CONTAINS TOBACCO SMOKE”.

On motion of Senator Stollings, the following amendments to the bill (Com. Sub. for Com. Sub. for S. B. No. 109) were next reported by the Clerk and considered simultaneously:

On page thirteen, section eleven, line ten, after the word “health.”, by adding the following: Any veterans’ organization that chooses to permit smoking under the provisions of this subsection shall ensure that at least seventy-three percent of all indoor space be designated as smoke free and that smoking be prohibited in those areas.;

And,

On page fifteen, section sixteen, line seven, by striking out the word “ten” and inserting in lieu thereof the word “seventy-three”.

The question being on the adoption of the amendments offered by Senator Stollings to the bill, the same was put and did not prevail.

On motion of Senator Stollings, the following amendment to the bill (Com. Sub. for Com. Sub. for S. B. No. 109) was next reported by the Clerk and adopted:

On page sixteen, section sixteen, line six, after the word "exemption" by inserting a comma and the words "only after a public hearing on the proposed exemption is held,".

On motion of Senator Stollings, the following amendment to the bill (Com. Sub. for Com. Sub. for S. B. No. 109) was next reported by the Clerk:

On page fifteen, section sixteen, line thirteen, after the words "to the local board of health" by inserting the words "and paying an application fee equal to two dollars per square foot of the area for which the exemption is sought".

The question being on the adoption of the amendment offered by Senator Stollings to the bill, the same was put and did not prevail.

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Committee Substitute for Senate Bill No. 109 was then read a third time and put upon its passage.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill No. 109 pass?"

On the passage of the bill, the yeas were: Blair, Boley, Carmichael, Facemire, Ferns, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Nohe, Romano,

Snyder, Sypolt, Trump, Williams, Yost and Cole (Mr. President)–22.

The nays were: Beach, Boso, Gaunch, Mullins, Palumbo, Plymale, Prezioso, Stollings, Takubo, Unger, Walters and Woelfel–12.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 109) 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 No. 140**, Amending State Administrative Procedures Act.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 140) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 140) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill No. 199**, Authorizing miscellaneous agencies and boards promulgate legislative rules.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 199) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 199) 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 Com. Sub. for Senate Bill No. 273**, Relating to brewer, resident brewer and brewpub licensing and operations.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Romano and Snyder—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. No. 273) 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 No. 304**, Relating to farmers markets.

On third reading, coming up in regular order, was read a third time.

Pending discussion,

Senator Facemire requested unanimous consent that the bill lie over one day, retaining its place on the calendar.

Which consent was not granted, Senator Williams objecting.

The question now being “Shall Engrossed Senate Bill No. 304 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)--33.

The nays were: Facemire--1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 304) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Kessler requested unanimous consent that the remarks by Senators Facemire, Trump and Blair regarding the passage of Engrossed Senate Bill No. 304 be ordered printed in the Appendix to the Journal.

Which consent was not granted, Senator D. Hall objecting.

On motion of Senator Carmichael, the Senate recessed until 2 p.m.

Upon expiration of the recess, the Senate reconvened.

At the request of Senator Plymale, and by unanimous consent, Senator Plymale addressed the Senate.

The Senate then stood in observance of a moment of silence in recognition of the passing of Mike Perry, a community leader in Huntington, West Virginia.

Thereafter, at the request of Senator Romano, and by unanimous consent, the remarks by Senator Plymale were ordered printed in the Appendix to the Journal.

The Senate then resumed consideration of its third reading calendar, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for Senate Bill No. 351**, Relating to charitable organization contribution levels requiring independent audit reports.

On third reading, coming up in regular order, was reported by the Clerk.

Senator Beach requested that the bill be read fully and distinctly.

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 351 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 351) 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 No. 353**, Designating State Police Superintendent administrator and enforcer of motor vehicle inspection program.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 353) 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 No. 360**, Repealing code sections relating to book indexes and claims reports required by court clerks.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 360) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 360) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for Senate Bill No. 373**, Allowing wireless communication image serve as proof of motor vehicle insurance.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)– 32.

The nays were: Miller and Sypolt–2 .

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 373) passed with its title.

On motion of Senator Carmichael, the Senate reconsidered the vote by which it immediately hereinbefore passed

**Eng. Com. Sub. for Senate Bill No. 373**, Allowing wireless communication image serve as proof of motor vehicle insurance.

The vote thereon having been reconsidered,

The question again being on the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 373) 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 No. 399**, Relating to hospitals owned or operated by nonprofit corporations or associations or local governmental units.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 399) 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 No. 403**, Increasing period during which motor vehicle lien is valid.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 403) 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 No. 418**, Relating to trustee real estate sale under deed of trust.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Trump moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motion prevailed.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Kessler and Romano—2.

Absent: None.

Excused from voting: Trump—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 418) 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 No. 456**, Relating to letters of merit in medical professional liability actions.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Senate Bill No. 463**, Making supplementary appropriation to DHHR, DHS, Health Care Provider Tax, Medicaid State Share Fund.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 463) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 463) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 466**, Making supplementary appropriation of federal funds to Department of Commerce.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 466) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 466) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 467**, Making supplementary appropriation of federal funds to Department of Agriculture, State Conservation Committee.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 467) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 467) takes effect from passage.



*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 469**, Making supplementary appropriation of federal funds to DEP, Division of Environmental Protection.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 469) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 469) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 471**, Making supplementary appropriation of federal funds to DHHR, Human Rights Commission, and DHHR, DHS.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 471) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 471) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 472**, Making supplementary appropriation to DOT, DMV, Motor Vehicle Fees Fund.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 472) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins,

Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 472) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 473**, Making supplementary appropriation of federal funds to DMAPS, WV State Police.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 473) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 473) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 475**, Making supplementary appropriation to DMAPS, Division of Corrections, Parolee Supervision Fees, and WV State Police, Motor Vehicle Inspection Fund.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 475) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 475) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 476**, Making supplementary appropriation to Department of Administration, Division of Purchasing, Purchasing Improvement Fund.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 476) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 476) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 477**, Supplementing, amending, decreasing and increasing appropriation from State Road Fund to DOH.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 477) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 477) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 484**, Relating to procedure for removal of certain county, school district and municipal officers.

On third reading, coming up in regular order, was read a third time and put upon its passage.



Pending discussion,

The question being “Shall Engrossed Senate Bill No. 484 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 484) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Senate Bill No. 484**—A Bill to amend and reenact §6-6-7 of the Code of West Virginia, 1931, as amended, relating to removal of certain public officials; changing the threshold for the number of petitioners required to prefer charges against officeholders whose removal is sought; permitting the designation of a voters’ representative in certain instances; clarifying the provisions of a petition for removal; and providing for procedural rules in removal actions.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 489**, Imposing statute of limitations on civil actions derived from surveying of real property.

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: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—27.

The nays were: Facemire, Kessler, Miller, Palumbo, Plymale, Romano and Unger—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 489) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Senate Bill No. 489**—A Bill amend and reenact §55-2-6a of the Code of West Virginia, 1931, as amended, relating to extending certain existing limits on the filing of civil actions to those actions arising from the actual surveying of real property.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 498**, Clarifying tax map rules apply to paper and electronic documents.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall,

Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 498) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 498) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 507**, Relating to monitoring inmates' electronic communications.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 507) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 507) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Senate Bill No. 508**, Reorganizing Hatfield-McCoy Regional Recreation Authority.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 508) 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 No. 523**, Creating Alcohol and Drug Overdose Prevention and Clemency Act.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 523) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill No. 2212**, Changing the amount of severance tax revenue annually dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)–34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2212) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes,

Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2212) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

**Eng. Com. Sub. for House Bill No. 2568**, The Pain-Capable Unborn Child Protection Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 24, 2015, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Palumbo, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page three, section one, line five, by striking out the word “twenty” and inserting in lieu thereof the word “twenty-two”;

On page four, section one, lines twenty through thirty, by striking out all of subdivision (6);

And by renumbering the remaining subdivisions;

On page seven, section two, line thirty-three, by striking out the word “twenty-two” and inserting in lieu thereof the words “the point

that the fetus reaches viability, which is currently associated with approximately twenty-four”;

And,

On page seven, section two, line thirty-six, by striking out the word “twenty” and inserting in lieu thereof the word “twenty-two”.

Following discussion,

The question being on the adoption of Senator Palumbo’s amendments to the bill, and on this question, Senator Karnes demanded the yeas and nays.

To which demand, Senator Beach objected.

Thereafter, the demand for a roll call by Senator Karnes was sustained.

The roll being taken, the yeas were: Facemire, Miller, Palumbo, Romano, Snyder and Stollings—6.

The nays were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—28.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Palumbo’s amendments to the bill rejected.

On motion of Senator Snyder, the following amendment to the bill (Eng. Com. Sub. for H. B. No. 2568) was next reported by the Clerk:



On page nine, section four, line eighteen, after the word “function”, by changing the period to a colon and inserting the following proviso: *Provided*, That it is not a violation of this subsection to perform an abortion where the pregnancy is the result of rape or incest.

Senator Romano then moved that Senator Snyder’s amendment to the bill be tabled.

Following points of inquiry to the President, with resultant responses thereto,

The question being on the adoption of Senator Romano’s aforestated motion, the same was put and did not prevail.

The question now being on the adoption of Senator Snyder’s amendment to the bill, the same was put and did not prevail.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. No. 2568) was then read a third time and put upon its passage.

Pending discussion,

Senator Plymale moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for House Bill No. 2568.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—29.

The nays were: Facemire, Miller, Palumbo, Romano and Snyder-5.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. No. 2568) passed.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill No. 2568**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2M-1, §16-2M-2, §16-2M-3, §16-2M-4, §16-2M-5, §16-2M-6 and §16-2M-7, all relating to prohibiting certain abortions; stating legislative findings; defining terms; requiring a calculation of gestational age before an abortion is performed or attempted, except in certain cases; prohibiting abortions when the gestational age of the fetus reaches pain capable gestational age; creating certain exceptions to that prohibition; requiring a physician performing an abortion of a fetus that has reached pain capable gestational age to use the process most likely to allow the fetus to survive, with certain exceptions; requiring reporting of all completed abortions and that the reports contain certain information regarding the abortion; requiring an annual public report that provides statistics of the abortions while keeping the identities of the persons involved confidential; deeming violations by physicians and other licensed medical practitioners to be a breach of the standard of care and outside the scope of practice that is permitted by law; allowing for discipline from the applicable licensure board for that conduct, including, but not limited to, loss of professional license to practice for violation; constituting violations for nonphysician and nonlicensed medical practitioners as unauthorized practice of medicine and subject to criminal penalties; preserving existing legal remedies for violations; clarifying that no penalty may be assessed against a patient; and making provisions severable.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. House Bill No. 2669**, Relating to compulsory tuberculosis testing.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2669) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 14**, Creating Public Charter Schools Act of 2015.

On second reading, coming up in regular order, was read a second time.

Senator Kessler moved that consideration of the bill be postponed indefinitely, and on this question, Senator Kessler demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

The nays were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Leonhardt, Maynard, Mullins, Nohe, Sybolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Kessler's aforesaid motion had not prevailed.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the bill (Com. Sub. for S. B. No. 14) was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. House Bill No. 2213**, Reducing the distributions to the West Virginia Infrastructure Fund.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

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:

**Senate Bill No. 63**, Redefining facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

**Com. Sub. for Senate Bill No. 291**, Clarifying power of Attorney General to contract for outside legal services.

**Com. Sub. for Senate Bill No. 347**, Creating Firearms Act of 2015.

**Com. Sub. for Senate Bill No. 377**, Limiting civil liability of pharmaceutical manufacturers or sellers providing warning to learned intermediary.

**Com. Sub. for Senate Bill No. 393**, Reforming juvenile justice system.

**Com. Sub. for Senate Bill No. 409**, Establishing Fair and Open Competition in Governmental Construction Act.

**Com. Sub. for Senate Bill No. 411**, Creating Asbestos Bankruptcy Trust Claims Transparency Act and Asbestos and Silica Claims Priorities Act.

**Com. Sub. for Senate Bill No. 413**, Relating to commercial pesticide control licensing requirements.

**Com. Sub. for Senate Bill No. 416**, Relating to hotel occupancy tax.

**Senate Bill No. 434**, Relating to horse racing.

**Com. Sub. for Senate Bill No. 486**, Authorizing special license plates for Civil Air Patrol vehicles.

**Senate Bill No. 518**, Permitting county and municipal economic development authorities invest certain funds.

**Senate Bill No. 532**, Relating to civil liability immunity for clinical practice plans and medical and dental school personnel.

**Com. Sub. for Senate Bill No. 537**, Changing mandatory school instructional time from days to minutes.

**Senate Bill No. 559**, Relating to social work licensing exemptions.

**Eng. House Bill No. 2523**, Creating a special revenue account to offset costs for the West Virginia State Police 100th Anniversary in 2019.

And,

**Eng. House Bill No. 2576**, Creating new code sections which separate the executive departments.

At the request of Senator Carmichael, and by unanimous consent, the Senate returned to the fourth order of business.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill No. 94**, Establishing driver's license restoration program.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 502**, Relating to eligibility for certain reclamation or remediation tax credit.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mike Hall,  
*Chair.*

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, February 26, 2015, at 11 a.m.

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## THURSDAY, FEBRUARY 26, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Pastor Mike Harper, North Hills Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert D. Beach, a senator from the thirteenth district.

Appalachian Children's Chorus, Charleston, West Virginia, proceeded in the singing of "West Virginia Hills", "Take Me Home, Country Roads" and "My Home Among the Hills", accompanied by Olga Young on the piano.

Pending the reading of the Journal of Wednesday, February 25, 2015,

On motion of Senator Sypolt, 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 Clerk presented a communication from the Court of Claims, submitting its Crime Victims Compensation Fund report as required by chapter fourteen, article two-a, section twenty-one of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate then proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill No. 238**, Limiting certain county board of education liability arising from unorganized recreation.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2240**—A Bill to amend and reenact §61-2-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8B-1 and §61-8B-3 of said code, all relating to crimes against the person; providing that strangling is an aggravated felony offense; defining strangling; providing that a sexual offense by strangling is an aggravated felony offense; and providing criminal penalties.

Referred 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. Com. Sub. for House Bill No. 2283**—A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Environmental Protection; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements for operating permits; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the awarding of WV Stream Partners Program Grants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the hazardous waste management system; authorizing the Department of Environmental Protection to

promulgate a legislative rule relating to requirements governing water quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the WV/NPDES rule for coal mining facilities; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to waste management.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, with its Senate amended title, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

**Eng. Com. Sub. for House Bill No. 2568**, The Pain-Capable Unborn Child Protection Act.

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 No. 2627**—A Bill to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating to prohibiting damage to property of railroads, public utilities and certain production storage and distribution facilities; adding waste management facilities, storage facilities and timber operations to the protected parties; prohibiting destruction, damage or removal of property resulting in impairment to the normal, safe operation of those facilities; and providing criminal penalties.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2628**—A Bill to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to filing announcements of candidacies; and changing the date of announcement to the first Monday after January 1.

Referred 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. Com. Sub. for House Bill No. 2674**—A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to making home schooled students eligible for a PROMISE scholarship without taking the GED test.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2778**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all relating to transportation funding; authorizing West Virginia Division of Highways to enter into cooperative agreements with United States Secretary of Transportation to establish infrastructure revolving funds; creating the State Transportation Infrastructure Fund Program; creating State Transportation Infrastructure Fund; and permitting Commissioner of the Division of Highways to propose rules for legislative approval.

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 No. 2820**—A Bill to amend and reenact §38-2-21 and §38-2-34 of the Code of West Virginia, 1931, as amended, all relating to affirmative defenses against mechanics' liens; and providing that property owners of single family dwellings or residences are not entitled to affirmative defenses to mechanics' liens if notice is timely given of the liability for unpaid bills for work performed of materials supplied.

Referred to the Committee on the Judiciary.

### **Executive Communications**

The Clerk then presented communications from His Excellency, the Governor, advising that on February 25, 2015, he had approved **Enr. Committee Substitute for Senate Bill No. 237, Enr. Senate Bill No. 262, Enr. Committee Substitute for House Bill No. 2008, Enr. House Bill No. 2114, Enr. House Bill No. 2115 and Enr. House Bill No. 2274.**

Senator Cole (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

February 24, 2015

The Honorable William P. Cole III  
President, West Virginia Senate  
State Capitol  
Charleston, West Virginia

Dear President Cole:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 335.

This bill was introduced at my request, and I support it wholeheartedly. However, the bill's final version contains three technical issues I believe the Legislature should repair. First and foremost, the bill's definition of "opioid overdose prevention and treatment training program" references the wrong state government agency. *See* §16-46-2, page 3, lines 31-34. The Office of Emergency *Medical* Services should be referenced on page 3, line 33, rather than the separate and independent Office of Emergency Services.

Second, the bill's §16-46-4(a)(1) references a training program to be established, as "required by subsection (b), section six of this article". *See* §16-46-4(a)(1), page 5, lines 6-8. Although the separate §16-46-6(b) authorizes the Office of Emergency Medical Services to establish training programs through legislative rulemaking, the authorization is explicitly limited to implementing the provisions of section six. *See* §16-46-6, page 8, lines 48-56. The authorization needs to apply more broadly to the entire article. Accordingly, the word "section" should be revised to read "article" on page 8, line 48.

Third, the deadline "by March 1" in the bill's §16-46-6(a)(3) is imprecise without additional language indicating whether it is an annual or one-time deadline. *See* page 7, line 43. This deadline could be amended to include the "and annually thereafter" or the "of each calendar year" language found elsewhere in section six. *See e.g.*, §16-46-6, page 6, line 1 and page 7, lines 28-29.

I urge the Legislature to amend these technical issues and to return the bill to my desk. I look forward to signing this important piece of legislation.

Sincerely,

Earl Ray Tomblin,  
*Governor.*

cc: The Honorable Tim Armstead  
The Honorable Natalie E. Tennant

Senator Carmichael moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

**Enr. Com. Sub. for Senate Bill No. 335**, Creating Access to Opioid Antagonists Act.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled Committee Substitute for Senate Bill No. 335, the same was put and prevailed.

On motion of Senator Ferns, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page three, section two, line thirty-three, after the word "Emergency" by inserting the word "Medical";

On page seven, section six, line forty-three, after the words "March 1" by inserting the words "and annually thereafter";

And,

On page eight, section six, line forty-eight, by striking out the word "section" and inserting in lieu thereof the word "article".

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for S. B. No. 335) passed with its title, as amended, as a result of the objections of the Governor.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for H. B. No. 2004)**, Providing a procedure for the development of a state plan under section 111(d) of the Clean Air Act.

**(Com. Sub. for H. B. No. 2008)**, Auditing the Division of Highways.

**(H. B. No. 2114)**, Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act.

**(H. B. No. 2115)**, Updating the meaning of the term “federal taxable income” and certain other terms used in the West Virginia Corporation Net Income Tax Act.

And,

**(H. B. No. 2274)**, Authorizing the Commissioner of Corrections to enter into mutual aid agreements.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Karnes, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill No. 17**, Regulating unlicensed off-road motorcycles within Hatfield-McCoy Recreation Area.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 17** (originating in the Committee on Natural Resources)—A Bill to amend and reenact §17F-1-1 and §17F-1-9 of the Code of West Virginia, 1931, as amended, all relating to regulation of all-terrain vehicles; permitting all-terrain vehicles to drive as far to the right as possible when there is little or no shoulder; and defining off-road motorcycles.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Government Organization.



Respectfully submitted,

Robert Karnes,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Natural Resources.

Senator Gaunch, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Bill No. 254**, Relating to Fire, EMS and Law-Enforcement Officer Survivor Benefit Act.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 254** (originating in the Committee on Pensions)—A Bill to amend and reenact §5H-1-1 and §5H-1-2 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Fire, EMS and Law-Enforcement Officer Survivor Benefit Act; clarifying process for payment of survivor benefit; defining terms; limiting eligibility for survivor benefit to beneficiaries designated in writing by applicable public safety officer; clarifying circumstances for eligibility of survivor benefit; transferring responsibility for determination of eligibility for survivor benefit from Governor's office to Department of Military Affairs and Public Safety, Office of the Secretary; setting forth required information for certified request for survivor benefit; requiring fire, emergency medical service and law-enforcement programs to provide notice of survivor benefit and obtain written designations of beneficiaries from eligible public safety officers; requiring Department of Military Affairs and Public Safety, Office of the Secretary, to prepare a form for written designation of

beneficiary; providing exclusions for availability of survivor benefit; providing that payments for survivor benefit be made from general revenue; and authorizing the Department of Military Affairs and Public Safety, Office of the Secretary, to propose rules for legislative approval.

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. No. 254), under the original double committee reference, was then referred to the Committee on Finance.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 332**, Relating to administrative fees for Tax Division, Department of Revenue.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill No. 342**, Clarifying scope, application and requirements for error corrections by CPRB.

**Senate Bill No. 481**, Relating to municipal policemen's and firemen's pension and relief funds' investment.

**Senate Bill No. 514**, Relating to investments of local policemen's and firemen's pension and relief funds.

**Senate Bill No. 515**, Allowing Municipal Pensions Oversight Board invest funds with Investment Management Board or Board of Treasury Investments.

And,

**Senate Bill No. 530**, Extending income tax exemption for retirees receiving pensions from certain defined pension plans.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill No. 455** (originating in the Committee on Education), Relating to public higher education procurement and payment of expenses.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 455** (originating in the Committee on Finance)—A Bill to amend and reenact §12-3A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-5-4, §18B-5-6 and §18B-5-7 of said code; and to amend said code by adding thereto a new section, designated §18B-5-4a, all relating to public higher education procurement and payment generally; receipting of electronic commerce purchases; purchase or acquisition of materials, supplies, equipment, services and printing at institutions of higher education; construction projects at Marshall University and West Virginia University; design-build procurement at institutions of higher education; and disposition of obsolete and unusable equipment, surplus supplies and other needed materials at institutions of higher education.

With the recommendation that the committee substitute for committee substitute 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 No. 510**, Amending Uniform Interstate Family Support Act.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 545**, Removing certain prior bank overdraft approval by director or executive officer.

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 No. 548**, Changing procedure for filling U. S. Senator vacancies.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 548** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-10-1, §3-10-3 and §3-10-4 of the Code of West Virginia, 1931, as amended, all relating to filling of vacancies in elected offices; requiring Governor to call a special election in the event of a vacancy in the office of United

States Senator except in certain instances; providing for nominees to be appointed by state executive parties; requiring Governor to fill vacancy in United States Senator by appointment; and allowing appointee to serve until successor is elected and certified to fill the unexpired term.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 574** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §60-3A-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-4-3 and §60-4-3a of said code, all relating to sales of liquor by distilleries and mini-distilleries.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 575** (originating in the Committee on the Judiciary)—A Bill to repeal §30-18-1, §30-18-2, §30-18-3, §30-18-4, §30-18-5, §30-18-6, §30-18-7, §30-18-8, §30-18-9, §30-18-10, §30-18-11, §30-18-12 and §30-18-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10, §15-14-11, §15-14-12 and §15-14-13, all relating to licensure of private investigative and security services; transferring private investigative and security services from Secretary of State to West Virginia State Police; providing for funds collected for application fees be deposited in a nonappropriated special revenue account; and expanding authority of the State Police to conduct criminal background checks.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Trump, unanimous consent being granted, the bill (S. B. No. 575) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration.

On motion of Senator Trump, the bill was referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. House Bill No. 2726**, Clarifying choice of laws issues in product's liability actions.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Laird, Miller, Carmichael and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 42**—Requesting the Division of Highways name bridge number 10-77-63.83 (10A222), on I-77 near mile marker 63, 2.31 miles south of the Mahan exit in Fayette County, the “Tygrett Brothers Seven Veterans Bridge”.

Whereas, Charles R. Tygrett, John D. Tygrett, Harold M. Tygrett, Paul A. Tygrett, R. G. Tygrett, Tommy E. Tygrett and Reginald D. Tygrett are the seven sons of Marion A. and June O. Tygrett. The seven Tygrett brothers served in the armed forces during World War II and the Korean War; and

Whereas, The seven brothers’ primary units and areas of service included: CPL Charles R. Tygrett, WWII, 302 AAF, Algeria, French Morocco and Tunisia; CPL John D. Tygrett, WWII, U. S. Army Medical Det.; PFC Harold M. Tygrett, WWII, U. S. Army 577th Ambulance Co., Normandy, Northern France, Ardennes; SSGT Paul A. Tygrett, WWII, 47th Armored Artillery, Northern France, Ardennes, Rhineland; PFC R. G. Tygrett, WWII, 127th Anti-Aircraft Battalion, Ardennes, Central Europe; PFC Tommy E. Tygrett, U. S. Army 21st AFA and 1st Infantry (Big Red One), Germany; and SSGT Reginald D. Tygrett, Korean War, U. S. Air Force, 19th Supply Squadron; and



Whereas, At a Veterans Day Ceremony on November 9, 2001, American Legion Post 149 of Fayetteville, West Virginia, honored the seven brothers for their selfless service and commitment to the United States military and a grateful nation; and

Whereas, It is only fitting and proper that CPL Charles R. Tygrett, CPL John D. Tygrett, PFC Harold M. Tygrett, SSGT Paul A. Tygrett, PFC R. G. Tygrett, PFC Tommy E. Tygrett and SSGT Reginald D. Tygrett be remembered and acknowledged for their dedicated service on behalf of their country, state and communities; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 10-77-63.83 (10A222), on I-77 near mile marker 63, 2.31 miles south of the Mahan exit in Fayette County, the “Tygrett Brothers Seven Veterans Bridge”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Tygrett Brothers Seven Veterans Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways, to Tommy Tygrett, the sole surviving Tygrett brother, and to the families of the remaining Tygrett brothers.

Which, under the rules, lies over one day.

Senators Boso and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 43**—Requesting the Division of Highways name the bridge carrying County Route 13 over Hominy Creek in Nicholas County, bridge number 34-13-11.85 (34A017), latitude 38.14543, longitude -80.71810, the “U. S. Army SPC Richard Nesselrotte Bridge”.

Whereas, U. S. Army Specialist Richard Nesselrotte served in the Vietnam War as a Specialist Four and Squad Leader with Company B, 2nd Battalion, 8th Infantry, 4th Infantry Division; and

Whereas, U. S. Army Specialist Richard Nesselrotte was awarded the Silver Star Medal for his bravery on February 4, 1968, when he led his squad in a dismounted assault against an entrenched North Vietnamese Army Company. On that day, Specialist Nesselrotte continuously exposed himself to enemy fire, which he countered with his M-60 machine gun, grenaded several enemy positions, and led three of his men across the enemy's front to bring a heavy volume of effective fire against the insurgents. As a result of Specialist Nesselrotte's brave actions, the enemy was ultimately routed and defeated; and

Whereas, It is only fitting that an appropriate landmark be named to honor U. S. Army Specialist Richard Nesselrotte's outstanding courage and exemplary devotion to duty in defending his country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge carrying County Route 13 over Hominy Creek in Nicholas County, bridge number 34-13-11.85 (34A017), latitude 38.14543, longitude -80.71810, the "U. S. Army SPC Richard Nesselrotte Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SPC Richard Nesselrotte Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and to U. S. Army SPC Richard Nesselrotte.

Which, under the rules, lies over one day.

Senators Boso and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 44**—Requesting the Division of Highways name the bridge on U. S. Route 219 crossing Files Creek, bridge number 42-219-33.10 (42A137) 38.83753, -79.87568, near Beverly, Randolph County, the “U. S. Navy PO2 Robert Paul Laderach Memorial Bridge”.

Whereas, Robert Paul Laderach was born May 8, 1917, in Beverly, Randolph County, the son of Ernest and Mary Agnes Adams Laderach. His family lived on a farm on Dotson Run and he was educated in Beverly, attending Beverly High School. He joined the Navy in October 1937. Robert was serving on board the U.S.S. Arizona in Hawaii on December 7, 1941, when that ship was attacked and sunk without provocation by the Japanese Navy on the “Date that Shall Live in Infamy”. Robert and five other West Virginians were killed that day and he and 102 of his shipmates are still entombed and are on ‘Eternal Patrol’ in the U. S. S. Arizona in Pearl Harbor. He received the posthumous awards of Purple Heart, WWII Victory Award Ribbon Bar, Asiatic Pacific Medal and Campaign Medal and U.S.S. Arizona BB-39 Pearl Harbor Patch. Robert was survived by his parents and sisters Anna Pauline Laderach and Margaret Virginia Laderach; and

Whereas, Naming the bridge on U. S. Route 219 crossing Files Creek, bridge number 42-219-33.10 (42A137) 38.83753, -79.87568, near Beverly in Randolph County, the “U. S. Navy PO2 Robert Paul Laderach Memorial Bridge” is an appropriate recognition of his ultimate sacrifice to his country, state, community and Randolph County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the bridge on U. S. Route 219 crossing Files Creek, bridge number 42-

219-33.10 (42A137) 38.83753, -79.87568, near Beverly, Randolph County, the “U. S. Navy PO2 Robert Paul Laderach Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Navy PO2 Robert Paul Laderach Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and the surviving relatives of Robert Paul Laderach.

Which, under the rules, lies over one day.

Senators Carmichael and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 45**—Requesting the Division of Highways name bridge number 18-68-0.44 (18A006) Lat/Long 38.94633, -81.76020, locally known as Ravenswood Town BR, carrying WV 68 over Sandy Creek near Ravenswood, Jackson County, the “James P. Spano, Jr. Memorial Bridge”.

Whereas, James P. Spano, Jr. was born May 13, 1929, in Chattaroy, Mingo County. His parents were James Spano, Sr. and Mica Panzera Spano. He was one of eight siblings. He grew up in Chattaroy and was a star athlete and star basketball player for Chattaroy High School where he was the leading scorer at point guard. His basketball skills allowed him to earn a scholarship to Morris Harvey College in Charleston, West Virginia, being the only member of his family to attend college. Jim was encouraged by the late Eddie King to go out for football. He did and ended up playing all four years under the basketball scholarship that he had earned. Jim was a four-year letterman, starter and was noted as a superior blocker. Jim also started at nose guard, the position for which he was known best. He played in three bowl games while at Morris Harvey

College, most notably the Tangerine Bowl in Orlando Florida. He was captain of the team his senior season in 1950 when the team was 11-0. He studied history and physical education while at Morris Harvey College. After college Jim joined the Navy and continued to play football and became a coach for the Naval Training Camp team. In 1951, Jim married Mary Winter from Fairplain, West Virginia. He was hired as head coach of the Ravenswood High School football and basketball teams in 1954. He also coached the baseball team, started the little league baseball program and the summer basketball league and wrote the Ravenswood High School fight song that is still used today. In 1957 he led Ravenswood High School to its first ever state championship, beating Rupert High School. Jim also coached the Little Kanawha Conference bowl game three times. In 1959 Jim led Ravenswood High School to its second state championship; and

Whereas, Students who played for him remember Jim as a supreme motivator, getting the best out of each player. Jim Spano was a community service mentor as he started all of the youth programs, worked with the community and was instrumental in getting the current Ravenswood High School built. On June 27, 1962, James Spano died of a massive heart attack at the young age of 33 after coaching summer basketball games. He left the small community in shock and is still revered today 53 years after his passing. Jim left two sons, James P. Spano III and Joseph H. Spano, Sr., who carried on his rich football tradition. Coach Spano was inducted into the Mid-Ohio Valley Hall of Fame in 2002; and

Whereas, Naming bridge number 18-68-0.44 (18A006) Lat/Long 38.94633, -81.76020, locally known as Ravenswood Town BR, carrying WV 68 over Sandy Creek near Ravenswood Jackson County, the “James P. Spano, Jr. Memorial Bridge” is an appropriate recognition of his contributions to his country, state, community and Jackson County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 18-68-0.44 (18A006) Lat/Long 38.94633, -81.76020, locally known as Ravenswood Town BR, carrying WV 68 over Sandy Creek near Ravenswood, Jackson County, the “James P. Spano, Jr. Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “James P. Spano, Jr. Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and the surviving relatives of James P. Spano, Jr.

Which, under the rules, lies over one day.

Senators D. Hall and Stollings offered the following resolution:

**Senate Concurrent Resolution No. 46**—Requesting the Division of Highways name bridge, known as Artie Bridge Number 2, 37 degrees 55’ 58.13” N. 81 degrees 21’ 36.75” W, located in Artie, Raleigh County, the “U. S. Army PFC Shelby Dean Stover Memorial Bridge”.

Whereas, Shelby Dean Stover was born on July 15, 1948, in Ameagle, West Virginia. He served West Virginia and his country as an infantryman in the U. S. Army. He was killed in Vietnam by enemy forces on September 23, 1969, the only member of his community to die in action; and

Whereas, Shelby Dean Stover represented the best of his community, being a friend to others, a good athlete and most of all willing to serve his country without hesitation; and

Whereas, It is fitting to honor Shelby Dean Stover for his commitment, dedication and service to his country and to his state, having given the ultimate sacrifice; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge, known as Artie Bridge Number 2, 37 degrees 55' 58.13" N. 81 degrees 21' 36.75" W, located in Artie, Raleigh County, the "U. S. Army PFC Shelby Dean Stover Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army PFC Shelby Dean Stover Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation, Dennis Williams and the family of U. S. Army Private First Class Shelby Dean Stover.

Which, under the rules, lies over one day.

Senators Kessler, Prezioso, Williams, Yost, Stollings and Plymale offered the following resolution:

**Senate Resolution No. 46**—Reaffirming the Senate of West Virginia's commitment to the strong and deepening relationship between Taiwan and West Virginia.

Whereas, Taiwan and United States are long-standing friends with a shared historical relationship and dearly cherished values of freedom, democracy and human rights; and

Whereas, August 4, 2015, will mark the thirty-fifth anniversary of the sister state relationship between West Virginia and Taiwan; and

Whereas, For the past thirty-five years, the sister state relationship with Taiwan has been strengthened, through the efforts of the Taipei Economic and Cultural Representative Office (TECRO) resulting in better mutual understanding; and

Whereas, In 2014, West Virginia exported more than \$41 million to Taiwan, making it our twenty-sixth largest export market in the world. Taiwan is not only a friendly sister state of West Virginia but also a key trading partner; and

Whereas, Bilateral trade between the United States and Taiwan reached \$63 billion in 2014, making Taiwan the United States' twelfth largest trading partner in the world. The United States is Taiwan's third largest trading partner; and

Whereas, By working together with Taiwan, West Virginia welcomes all opportunities for an even closer economic partnership, such as the signing of a US-Taiwan Bilateral Investment Agreement and a Free Trade Agreement in order to enhance the special sister state bond between West Virginia and Taiwan and to encourage further cultural, educational and business exchanges between our citizens; and

Whereas, The United States and eleven other countries are negotiating the Trans-Pacific Partnership (TPP), a twenty-first century trade agreement which will boost all members economic growth; Taiwan's inclusion in the TPP will further strengthen bilateral economic relations and enhance the welfare of the United States and benefit all TPP partners; and

Whereas, Taiwan is an active member in the international community with a long history of commitment to international health and humanitarian aid; Taiwan's meaningful participation in the World Health Organization (WHO) will benefit the other countries in the world; and

Whereas, The Taoyuan International Airport is a key air transport hub in the Asia-Pacific region, ranked the world's fifteenth largest by cargo volume in 2013, and more than four hundred eleven thousand Americans traveled to Taiwan in 2013, Taiwan's meaningful participation in the International Civil Aviation



Organization (ICAO) will enhance the safety and services of the air transportation in the world; therefore, be it

*Resolved by the Senate:*

That the Senate hereby reaffirms West Virginia's commitment to the strong and deepening relationship between Taiwan and West Virginia; and, be it

*Further Resolved,* That the Senate reaffirms the sister state relationship between the state of West Virginia and Taiwan, strengthening bilateral trade relations and affirms to support Taiwan's meaningful participation in the World Health Organization and the International Civil Aviation Organization; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Dr. Lyushun Shen, the Representative of the Taipei Economic and Cultural Representative Office in the United States.

At the request of Senator Kessler, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

### **Petitions**

Senator Sypolt presented a petition from Wanda Lea Moore and ten West Virginia residents, supporting Senate Bill No. 35 (*Permitting carrying of concealed weapons without license*).

Referred to the Committee on Government Organization.

Senator Sypolt presented a petition from William Wade Wright and numerous West Virginia residents, opposing Senate Bill No. 337 (*Creating workplace freedom act*), Engrossed Committee Substitute for Senate Bill No. 361 (*Eliminating prevailing hourly wage requirement for construction of public improvements*) and Committee Substitute for Senate Bill No. 14 (*Creating Public Charter Schools Act of 2015*).

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 38**, Requesting transfer of WV from EPA Region III to EPA Region IV.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Concurrent Resolution No. 39**, Requesting Joint Committee on Government and Finance study Cedar Lakes Camp and Conference Center.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

**Senate Concurrent Resolution No. 40**, Requesting DOH name bridge in Putnam County “U. S. Army Sgt. Deforest Lee Talbert Memorial Bridge”.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution No. 41**, Requesting DOH name bridge in Berkeley County “W. C. Honaker and Clyde Spies 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 No. 14**, Creating Public Charter Schools Act of 2015.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, February 25, 2015, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Sypolt, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, and with the right for amendments to be considered on third reading remaining in effect.

The Senate proceeded to the ninth order of business.

**Senate Bill No. 63**, Redefining facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

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 No. 291**, Clarifying power of Attorney General to contract for outside legal services.

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 No. 347**, Creating Firearms Act of 2015.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Trump, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill No. 377**, Limiting civil liability of pharmaceutical manufacturers or sellers providing warning to learned intermediary.

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 No. 393**, Reforming juvenile justice system.

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 No. 409**, Establishing Fair and Open Competition in Governmental Construction Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Carmichael, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill No. 411**, Creating Asbestos Bankruptcy Trust Claims Transparency Act and Asbestos and Silica Claims Priorities Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Trump, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Com. Sub. for Senate Bill No. 413**, Relating to commercial pesticide control licensing requirements.

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 No. 416**, Relating to hotel occupancy tax.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 434**, Relating to horse racing.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page five, section twelve-b, line six, by striking out "\$1,250,000" and inserting in lieu thereof "\$1,250".

The bill (S. B. No. 434), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill No. 486**, Authorizing special license plates for Civil Air Patrol vehicles.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 518**, Permitting county and municipal economic development authorities invest certain funds.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 532**, Relating to civil liability immunity for clinical practice plans and medical and dental school personnel.

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 No. 537**, Changing mandatory school instructional time from days to minutes.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 559**, Relating to social work licensing exemptions.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Carmichael, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill No. 2457**, Prohibiting the use of the name or likeness of elected or appointed officials on publicly-owned vehicles.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill No. 2523**, Creating a special revenue account to offset costs for the West Virginia State Police 100th Anniversary in 2019.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill No. 2576**, Creating new code sections which separate the executive departments.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Blair, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for Senate Bill No. 94**, Establishing driver's license restoration program.

**Com. Sub. for Senate Bill No. 248**, Requiring certain insurance and owner information be provided following car accident.

**Com. Sub. for Com. Sub. for Senate Bill No. 278**, Relating to lawful and unlawful methods of hunting.

**Com. Sub. for Senate Bill No. 423**, Amending Aboveground Storage Tank Act.

**Senate Bill No. 502**, Relating to eligibility for certain reclamation or remediation tax credit.

And,

**Eng. Com. Sub. for House Bill No. 2099**, Extending the time of meetings of local levying bodies when meetings are delayed.

At the request of Senator Kessler, unanimous consent being granted, Senator Kessler addressed the Senate regarding House Bill No. 2881 (*West Virginia Intrastate Commerce Improvement Act*).

Thereafter, at the request of Senator Carmichael, and by unanimous consent, the remarks by Senator Kessler were ordered printed in the Appendix to the Journal.

At the request of Senator Miller, unanimous consent being granted, Senator Miller addressed the Senate regarding the importance of the arts community.

At the request of Senator Snyder, and by unanimous consent, Senator Snyder addressed the Senate regarding casino permits in border counties.

At the request of Senator Kirkendoll, unanimous consent being granted, Senator Kirkendoll addressed the Senate regarding Man High School's baseball team winning the 2014 Class A Championship.

Thereafter, at the request of Senator Kessler, and by unanimous consent, the remarks by Senators Miller, Snyder and Kirkendoll were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Carmichael, the Senate recessed until 5 p.m. today.



Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 122**, Adopting federal definition for disabled veterans' preference in civil service hiring and state contract vendor bidding.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. No. 122) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 404**, Requiring routine audits of major information technology projects.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 404** (originating in the Committee on Government Organization)—A Bill to amend and reenact §5A-6-4c of the Code of West Virginia, 1931, as amended, relating to audits of certain government contracts; requiring Chief Technology Officer to ensure routine audits are made of all major information technology projects approved; requiring change orders be supported by certain documentation; requiring a post-audit review be conducted on certain major information technology projects; requiring certain contract terms for major information technology projects with a cost in excess of \$1 million; and requiring amounts not paid under a retainage agreement or collected under a performance bond be returned to the agency or agencies paying for the project or deposited in the state's general revenue account.

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,

Craig Blair,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 404) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Finance.

Senator 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 No. 454**, Criminalizing trademark counterfeiting.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. No. 454) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 488**, Reestablishing and modifying Broadband Deployment Council.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 488** (originating in the Committee on Government Organization)—A Bill to repeal §31-15C-10, §31-15C-11 and §31-15C-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15C-2, §31-15C-3, §31-15C-4, §31-15C-5, §31-15C-7 and §31-15C-9 of said code, all relating to modifying Broadband Deployment Council.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (Com. Sub. for S. B. No. 488) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Walters, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill No. 499**, Creating Tourist-Oriented Directional Signs Program.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Chris Walters,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. No. 499) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration, read a first time, ordered to second reading and, under the original double committee reference, was then referred to the Committee on Government Organization.

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 No. 503**, Permitting sheriff hire outside attorneys for tax collection assistance.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. No. 503) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 576** (originating in the Committee on Government Organization)—A Bill to amend and reenact §24-2-1 of the Code of West Virginia, 1931, as amended, relating to internet protocol-enabled service and voice over internet protocol-enabled service; prohibiting Public Service Commission jurisdiction of internet protocol-enabled service and voice over internet protocol-enabled service; and limiting Public Service Commission jurisdiction of certain telephone company transactions.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Carmichael, unanimous consent being granted, the bill (S. B. No. 576) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time and ordered to second reading.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 27, 2015, at 11 a.m.

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## FRIDAY, FEBRUARY 27, 2015

The Senate met at 11 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by Pastor Matthew Santen, River Ridge Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Bob Williams, a senator from the fourteenth district.

Pending the reading of the Journal of Thursday, February 26, 2015,

On motion of Senator Trump, 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.

On motion of Senator Carmichael, the Senate recessed for five minutes to permit Brooke Poling to address the Senate on behalf of the Frasure-Singleton Student Legislative Program.

Upon expiration of the recess, the Senate reconvened and proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the reconsideration, amendment and passage as amended, by a vote of a majority of all the members elected to the House of Delegates, as a result of the objections of the Governor, of

**Eng. Com. Sub. for Senate Bill No. 335**, Creating Access to Opioid Antagonists Act.

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect July 1, 2015, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill No. 398**, Extending expiration date for health care provider tax on eligible acute care hospitals.

On motion of Senator Carmichael, the message on the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page eight, section thirty-eight, lines six through eight, by striking out all of subsection (g) and inserting in lieu thereof a new subsection, designated subsection (g), to read as follows:

(g) The changes to the tax rate in this section enacted in the 2015 regular session are effective July 1, 2015, upon the approval of the state plan amendment.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill No. 398, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 398) passed with its title.

Senator Carmichael moved that the bill take effect July 1, 2015.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.



The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 398) takes effect July 1, 2015.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2103**—A Bill to amend and reenact §30-1-5, of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3-10 of said code; to amend and reenact §30-3E-4 of said code; to amend and reenact §30-4-8 of said code; to amend and reenact §30-5-9 of said code; to amend and reenact §30-7-6 of said code; to amend and reenact §30-7A-3 of said code; to amend and reenact §30-8-8 of said code; to amend and reenact §30-10-8 of said code; to amend and reenact §30-14-4 of said code; and to amend and reenact §30-21-7 of said code, all relating generally to boards of examination for licensure; requiring information regarding complaints against licensees to be posted on a website; requiring certain boards regulating professions to require national criminal background checks on applicants for a new license; amending licensure requirements for applicants; providing rulemaking authority; and providing exceptions.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2202**—A Bill to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to the disbursement of funds to reimburse county boards of education for costs associated with educating high cost/high acuity special needs students; requiring the state superintendent to develop a new formula for the disbursement of the funds; removing the requirement for the superintendent to review policies and report annually to the legislature.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2268**—A Bill to amend and reenact §11-13A-3b of the Code of West Virginia, 1931, as amended, relating to reducing and terminating the severance tax on timber.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2462**—A Bill to and reenact §11-15-30 of the Code of West Virginia, 1931, as amended, relating to the dedication and deposit of certain tax proceeds; reducing the amount of sales tax proceeds annually dedicated to the School Major Improvement Fund by \$2,000,004 for the fiscal year 2016; reducing the amount of sales tax proceeds annually dedicated to the School Construction Fund by \$6 million for the fiscal years 2016; and making stylistic changes.

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 No. 2569**—A Bill to amend and reenact §17A-6-2a of the Code of West Virginia, 1931, as amended, relating generally to the Dealer Recovery Fund; specifying that the Dealer Recovery Fund Control Board has discretionary jurisdiction to hear claims; and providing the types of claims for damages that may be awarded from the Dealer Recovery Fund.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. Com. Sub. for House Bill No. 2571**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8d, relating generally to repairs to state roads; creating a special fund within the State Road Fund for contributions by private businesses or entities for state road repair; allowing contributing entities to designate which repairs will be made with the contributions; providing for acknowledgment of contributions; providing rulemaking authority.

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. Com. Sub. for House Bill No. 2652**—A Bill to amend and reenact §16-29B-3 and §16-29B-8 of the Code of West Virginia, 1931, as amended, relating to annual assessments on hospitals by the West Virginia Health Care Authority; adding definitions; changing the basis for the annual assessment.

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 No. 2657**—A Bill to amend and reenact §19-1C-5 of the Code of West Virginia, 1931, as amended, relating to reimbursement of expenses of Compensation of Livestock Care Standards board members.

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 No. 2888**—A Bill to amend and reenact §19-9-34 of the Code of West Virginia, 1931, as amended, relating to allowing the use of rotary drum composters to destroy or dispose of the carcass of any animal to prevent the spread of disease.

Referred to the Committee on Natural 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. House Bill No. 2933**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2015, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2015.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 29**—Designating April 2 as West Virginia Autism Awareness Day.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**Com. Sub. for House Concurrent Resolution No. 39**—Requesting the Division of Highways to name the bridge on Route 52 over Tug Fork in McDowell County, bridge number 24-52-20.04 (24A129), latitude 37.41709, longitude -81.58999, locally known as the Coney Island Bridge, as the “USMC LCpl Julius C. ‘Corky’ Foster Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from The Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution No. 51**—Proclaiming and making the fiddle the official musical instrument of the State of West Virginia.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 27th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. No. 6)**, Relating to medical professional liability.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill No. 254**, Relating to Fire, EMS and Law-Enforcement Officer Survivor Benefit Act.

**Senate Bill No. 386**, Excluding mobile x-ray services from health care provider tax.

**Senate Bill No. 420**, Relating to retirement benefits for certain employees in kindergarten programs.

**Senate Bill No. 479**, Adding additional family court judges.

And,

**Senate Bill No. 549**, Establishing classifications and salary schedules for State Police forensic lab civilian employees.

And reports the same back with the recommendation that they each 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 No. 395**, Modifying definitions of “battery” and “domestic battery”.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 395** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-9 and §61-2-28 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-7 of said code, all relating generally to crimes against the person; modifying definitions of “battery” and “domestic battery” to conform with federal laws relating to firearms possession criminal offenses; and conforming list of persons prohibited from possessing firearms to federal law.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill No. 407**, Implementing state safety oversight program.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Blair, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill No. 436**, Relating to State Athletic Commission.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 436** (originating in the Committee on Government Organization)—A Bill to repeal §29-5A-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-5A-1, §29-5A-2, §29-5A-3, §29-5A-3a, §29-5A-5, §29-5A-6, §29-5A-8, §29-5A-17, §29-5A-19, §29-5A-20 and §29-5A-24 of said code; and to amend said code by adding thereto a new section, designated §29-5A-1a, all relating to the State Athletic Commission; changing composition of commission; providing that office of commission be located on the premises of Lottery Commission office; providing for Lottery Commission to provide administrative support and oversight; proposing rules; providing commission shall



follow United States Amateur Boxing Authority rules for amateur boxing; requiring commission to follow the unified rules of boxing adopted by Association of Boxing Commissions and requirements; expenses of commission; increasing payments to referees, judges and timekeepers; weight of boxers; and increasing certain licensing fees.

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,

Craig Blair,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 529**, Relating to PERS, SPRS and TRS benefits and costs.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 529** (originating in the Committee on Finance)—A Bill to amend and reenact §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-10-21a; to amend and reenact

§5-13-2 of said code; to amend and reenact §5-16-13 of said code; to amend and reenact §15-2A-21 of said code; to amend and reenact §18-7A-17, §18-7A-23 and §18-7A-25 of said code; and to amend said code by adding thereto two new sections, designated §18-7A-17a and §18-7A-25b, all relating generally to benefits and costs for certain members of the West Virginia Public Employees Retirement System, State Police Retirement System and Teachers Retirement System; calculating final average salary and service credit for certain public employees; purchase of military service for certain members of the West Virginia Public Employees Retirement System, State Police Retirement System and Teachers Retirement System; increasing contribution rate and years of contributing service required for certain public employees; accrued annual and sick leave of certain employees participating in the West Virginia Public Employees Retirement System and Teachers Retirement System may not be applied for retirement service credit; and revising the reciprocal retirement provisions for certain members of the teachers and the public employees system.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill No. 560**, Establishing special revenue fund for use of certain Supreme Court advanced technology.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mike Hall,  
*Chair.*

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 568**, Transferring Medicaid Fraud Control Unit from DHHR to Attorney General.

And reports the same back without recommendation as to passage; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator M. Hall, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Concurrent Resolution No. 33**, Requesting Joint Committee on Government and Finance study undeveloped land preservation and conservation tax credit program.

And reports the same back with the recommendation that it be adopted; but under the original double committee reference first be referred to the Committee on Rules.

Respectfully submitted,

Mike Hall,  
*Chair.*

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

The Senate proceeded to the sixth order of business.

Senators Cole (Mr. President) and Kessler offered the following resolution:

**Senate Concurrent Resolution No. 47**—Amending the Joint Rules of the Senate and House of Delegates relating to printing of enrolled bills.

*Resolved by the Legislature of West Virginia:*

That Rule 15 of the Joint Rules of the Senate and House of Delegates be amended to read as follows:

### **Printing Enrolled Bills**

15. After a bill has been passed by both houses, the text from which it was originally printed shall be corrected as to any typographical errors that may not previously have been corrected and to include any amendments that may have been made by either house since the last printing of the bill. After the text has been so corrected, not less than fifty copies of the bill shall be printed. ~~Twelve of these copies shall be on seven and one-fourth by ten bond paper, twenty-pound basis of at least fifty percent rag content for the use of the Joint Committee on Enrolled Bills, one~~ One of which the

copies, when properly authenticated, shall become the Enrolled Bill. ~~and the remainder shall be on twenty-pound basis, sulphite bond paper.~~ In the case of enrolled bills authorizing the promulgation of a proposed legislative rule, a copy of the full text of the proposed legislative rule which the bill incorporates by reference shall be appended to the bill which has been properly authenticated and designated to be the Enrolled Bill. The copy appended to the Enrolled Bill shall conform to the copy of the full text of the proposed legislative rule appended to the introduced bill. Copies of the proposed legislative rule ~~shall~~ are not to be appended to the additional copies of the Enrolled Bill. Following action by the Governor, or the failure or refusal of the Governor to approve or disapprove a bill of authorization, the copy of the Enrolled Bill with the proposed legislative rule appended ~~shall be~~ is the copy of the bill filed with the Secretary of State in accordance with the provisions of Rule 19 of these Joint Rules.

Which, under the rules, lies over one day.

Senators Stollings, D. Hall, Plymale, Prezioso and Williams offered the following resolution:

**Senate Resolution No. 47**—Designating the week of March 2, 2015, as Multiple Sclerosis Awareness Week.

Whereas, Multiple sclerosis (MS) is a neurological disease of the central nervous system, affecting 2.3 million people worldwide, and each hour someone is newly diagnosed; and

Whereas, The National Multiple Sclerosis Society – Virginia-West Virginia Chapter reports that in West Virginia more than 12,000 people are diagnosed with MS. The disease generally strikes people in the prime of life, between ages 20 through 50, and causes unpredictable effects in which the progression, severity and specific symptoms cannot be foreseen. The cause and cure for this often debilitating disease remain unknown; and

Whereas, The National Multiple Sclerosis Society has been committed for more than 69 years to a world free of MS, heightening public knowledge about and insight into the disease; and

Whereas, Since 1946, the National Multiple Sclerosis Society has been a driving force of MS research, relentlessly pursuing prevention, treatment and a cure and has invested more than \$868 million in groundbreaking research; and

Whereas, Funds raised through the National Multiple Sclerosis Society fueled the efforts of nearly 380 research projects globally in 2014 totaling \$51.5 million. Research was conducted at the best medical centers, universities and other institutions throughout the United States and abroad. MS research has never been more hopeful than it is today; and

Whereas, Discovering the cause, finding a cure, and preventing future generations from being diagnosed with MS is an important task that all Americans and West Virginians should support; and

Whereas, The Senate recognizes the importance of finding the cause and cure of MS, a chronic and often devastating disease, and expresses its appreciation and admiration for the dedication that the National Multiple Sclerosis Society – Virginia-West Virginia Chapter has shown toward a future free of MS; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates the week of March 2, 2015, as Multiple Sclerosis Awareness Week; and, be it

*Further Resolved,* The Senate encourages all West Virginia citizens to take part in the observance of Multiple Sclerosis Awareness Week and to learn more about multiple sclerosis and what they can do to support individuals with MS and their families; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Virginia-West Virginia Chapter of the National Multiple Sclerosis Society.

At the request of Senator Stollings, 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 Kessler, and by unanimous consent, the remarks by Senators Stollings and Walters regarding the adoption of Senate Resolution No. 47 were ordered printed in the Appendix to the Journal.

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Cole (Mr. President) and Kessler offered the following resolution:

**Senate Resolution No. 48**—Amending Senate Rule No. 49, relating to the Senate Journal.

*Resolved by the Senate:*

That Senate Rule No. 49 be amended to read as follows:

## **JOURNAL**

49. The Journal of the Senate shall be daily prepared by the Clerk and shall be read, corrected and approved the succeeding day. It shall be published under the supervision of the Clerk and made available to the members without delay. After the Journal has been approved and fully marked for corrections, regular bound volumes of the Journal from the type so corrected shall be printed. In addition thereto six copies shall be printed ~~on 6 x 9 heavy weight bond paper~~ with a

certificate at the end thereof signed by the presiding officer and Clerk of the Senate certifying that the same is the Official Journal of the Senate. They shall be bound ~~in flexible binding~~ and bear the imprint on the back, "Official Journal of the Senate of West Virginia", with designation of regular or extraordinary session and the year. After being signed by the proper officers, two of these copies shall be retained in the office of the Clerk, one copy shall be lodged in the office of the Governor, one with the Secretary of State, one with the Division of Archives and History and one with the Clerk of the House of Delegates.

Which, under the rules, was referred to the Committee on Rules.

Following a point of inquiry to the President, with resultant response thereto,

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution No. 42**, Requesting DOH name bridge in Fayette County "Tygrett Brothers Seven Veterans Bridge".

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution No. 43**, Requesting DOH name bridge in Nicholas County "U. S. Army SPC Richard Nesselrotte Bridge".

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution No. 44**, Requesting DOH name bridge in Randolph County "U. S. Navy PO2 Robert Paul Laderach Memorial Bridge".



On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution No. 45**, Requesting DOH name bridge in Jackson County “James P. Spano, Jr., Memorial Bridge”.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution No. 46**, Requesting DOH name bridge in Raleigh County “U. S. Army PFC Shelby Dean Stover 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.

**Eng. Com. Sub. for Senate Bill No. 14**, Creating Public Charter Schools Act of 2015.

On third reading, coming up in regular order, with the right having been granted on Wednesday, February 25, 2015, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Sypolt, unanimous consent being granted, further consideration of the bill was deferred until the conclusion of bills on today’s first reading calendar.

**Eng. Senate Bill No. 63**, Redefining facilities eligible for funding assistance from Courthouse Facilities Improvement Authority.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 63) 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 No. 291**, Clarifying power of Attorney General to contract for outside legal services.

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: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—27.

The nays were: Beach, Facemire, Kirkendoll, Miller, Romano, Woelfel and Yost—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 291) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 347**, Creating Firearms Act of 2015.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 26, 2015, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Romano, the following amendment to bill was reported by the Clerk:

On page nineteen, after line eight, by inserting a new section, designated section three, to read as follows:

**§61-7-3. Nonresident carrying deadly weapon without license or other authorization; penalties.**

(a) Any person who is not a resident of this state and who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in the county jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.

(b) It shall be the duty of the prosecuting attorney in all cases to ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it shall be a second

or subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and shall not be permitted to use discretion in introducing evidence to prove the same on the trial.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, and on this question, Senator Gaunch demanded the yeas and nays.

The roll being taken, the yeas were: Miller, Palumbo, Romano and Woelfel—4.

The nays were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—30.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's amendment to the bill rejected.

On motion of Senator Romano, the following amendment to the bill (Com. Sub. for S. B. No. 347) was next reported by the Clerk:

On page nineteen, after line eight, by inserting a new section, designated section three-a, to read as follows:

**§61-7-3a. Person under age twenty-one carrying deadly weapon without authorization; penalties.**

(a) Any person who is under age twenty-one and who carries a concealed deadly weapon, without a state license or other lawful

authorization established under the provisions of this code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in the county jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000: *Provided*, That any active duty military or law-enforcement personnel is exempted from the requirements of this section.

(b) It shall be the duty of the prosecuting attorney in all cases to ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it shall be a second or subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and shall not be permitted to use discretion in introducing evidence to prove the same on the trial.

The question being on the adoption of Senator Romano's amendment to the bill, the same was put and did not prevail.

On motion of Senator Romano, the following amendment to bill (Com. Sub. for S. B. No. 347) was next reported by the Clerk:

On page nineteen, after line eight, by inserting a new section, designated section three-b, to read as follows:

**§61-7-3b. Person carrying deadly weapon without training course; penalties.**

Any person who carries a concealed deadly weapon, without completing a training course in handling and firing a handgun, as set forth in subsection (d), section four of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$200 for each offense: *Provided*, That any active

duty military or law-enforcement personnel is exempted from the requirements of this section.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, and on this question, Senator Karnes demanded the yeas and nays.

To which demand, Senator Miller objected.

Thereafter, the demand for a roll call by Senator Karnes was sustained.

The roll being taken, the yeas were: Facemire, Miller, Palumbo and Romano—4.

The nays were: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—30.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's amendment to the bill rejected.

There being no further amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill No. 347 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Miller and Palumbo—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 347) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Thereafter, at the request of Senator Nohe, and by unanimous consent, the remarks by Senators Romano, Leonhardt, Karnes, Trump and Blair regarding Engrossed Committee Substitute for Senate Bill No. 347 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Senate Bill No. 377**, Limiting civil liability of pharmaceutical manufacturers or sellers providing warning to learned intermediary.

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: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Nohe, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—29.

The nays were: Beach, Kessler, Romano and Snyder-4.

Absent: Miller-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. No. 377) 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 No. 393**, Reforming juvenile justice system.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill No. 393 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)-34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 393) passed with its title.



Senator Carmichael moved that the bill take effect May 17, 2015.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. No. 393) takes effect May 17, 2015.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 409**, Establishing Fair and Open Competition in Governmental Construction Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 26, 2015, for amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill No. 409 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kirkendoll,

Leonhardt, Maynard, Mullins, Nohe, Stollings, Sypolt, Takubo, Trump, Walters, Williams and Cole (Mr. President)—21.

The nays were: Beach, Facemire, Kessler, Laird, Miller, Palumbo, Plymale, Romano, Snyder, Unger, Woelfel and Yost—12.

Absent: Prezioso—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. No. 409) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Com. Sub. for Senate Bill No. 411**, Creating Asbestos Bankruptcy Trust Claims Transparency Act and Asbestos and Silica Claims Priorities Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 26, 2015, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Trump, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page nine, section four, lines five and six, by striking out the words “For an action filed on or after the effective date of this article, the” and inserting in lieu thereof the word “The”;

On page twenty-six, section three, lines one through seven, by striking out all of subdivision (7);

And by renumbering the remaining subdivisions;

On page thirty-three, section three, line eleven, by striking out the word “oncologist,”;

On page forty-two, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

**§55-7F-4. Filing claims, establishment of a prima facie case, additional required information for new nonmalignant claims, individual actions to be filed.;**

On page forty-two, section four, line twelve, after the word “action” by inserting the words “alleging a nonmalignant condition”;

And,

On page forty-three, section four, lines fourteen and fifteen, by striking out the words “or within ninety days of filing the complaint for malignant”.

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill No. 411 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Prezioso—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. No. 411) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Blair, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

On motion of Senator Carmichael, the Senate recessed until 1:20 p.m. today.

Upon expiration of the recess, the Senate reconvened and again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for Senate Bill No. 413**, Relating to commercial pesticide control licensing requirements.

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: Beach, Blair, Boley, Boso, Carmichael, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: Facemire—1.

Absent: Prezioso—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. No. 413) 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 No. 416**, Relating to hotel occupancy tax.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Prezioso—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. No. 416) 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 No. 434**, Relating to horse racing.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Prezioso-1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 434) 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 No. 486**, Authorizing special license plates for Civil Air Patrol vehicles.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sybolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)-33.

The nays were: None.

Absent: Prezioso-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. No. 486) 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 No. 518**, Permitting county and municipal economic development authorities invest certain funds.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Prezioso—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 518) 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 No. 532**, Relating to civil liability immunity for clinical practice plans and medical and dental school personnel.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Prezioso—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 532) 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 No. 537**, Changing mandatory school instructional time from days to minutes.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)— 33.

The nays were: None.

Absent: Prezioso—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. No. 537) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Senate Bill No. 559**, Relating to social work licensing exemptions.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, February 26, 2015, for amendments to be received on third reading, was reported by the Clerk.



On motion of Senator Blair, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 30. SOCIAL WORKERS.**

**§30-30-18. Exemptions from this article.**

The following persons are exempt from licensure, unless specifically stated in writing by the employer:

(1) A person employed as the director or administrative head of a social service agency or division, or applicants for such employment to be licensed;

(2) Licensed or qualified members of other professions, such as physicians, psychologists, lawyers, counselors, clergy, educators or ~~the general public~~ other professions engaged in social work-like activities, from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words “licensed social worker” or “licensed clinical social worker” or a variation thereof;

(3) Employees of the West Virginia Department of Health and Human Resources engaged in social work-like activities from doing social work consistent with their training: *Provided*, That prior to engaging in these activities, employees demonstrate sufficient standards of qualification, education, training and experience by completing a rigorous training program designed by the Department of Health and Human Resources to ensure the protection of the health, welfare and safety of the public;

~~(3)~~ (4) An employer from performing social work-like activities performed solely for the benefit of employees;

~~(4)~~ (5) Activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study; and

~~(5)~~ (6) Pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within ninety days of taking up residency in this state, and is licensed to perform the activities and services in the state of former residence.

The bill, as just amended, was ordered to engrossment.

Engrossed Senate Bill No. 559 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Senate Bill No. 559 pass?”

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Yost and Cole (Mr. President)—31.

The nays were: Laird and Woelfel—2.

Absent: Prezioso—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. No. 559) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

**Eng. Com. Sub. for House Bill No. 2457**, Prohibiting the use of the name or likeness of elected or appointed officials on publicly-owned vehicles.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Prezioso—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. No. 2457) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

**Eng. House Bill No. 2523**, Creating a special revenue account to offset costs for the West Virginia State Police 100th Anniversary in 2019.

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: Beach, Blair, Boley, Boso, Carmichael, Facemire, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: Prezioso—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. No. 2523) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill No. 94**, Establishing driver's license restoration program.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 122**, Adopting federal definition for disabled veterans' preference in civil service hiring and state contract vendor bidding.

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 No. 248**, Requiring certain insurance and owner information be provided following car accident.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for Com. Sub. for Senate Bill No. 278**, Relating to lawful and unlawful methods of hunting.

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 No. 423**, Amending Aboveground Storage Tank Act.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

On page twenty, section six, lines three and four, after the word “engineer,” by inserting the following: regulated and licensed by the State Board of Registration for Professional Engineers,.

The bill (Com. Sub. for S. B. No. 423), as amended, was then ordered to engrossment and third reading.

**Senate Bill No. 454**, Criminalizing trademark counterfeiting.

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 No. 488**, Reestablishing and modifying Broadband Deployment Council.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Senate Bill No. 502**, Relating to eligibility for certain reclamation or remediation tax credit.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page five, section eleven, line two, after the word “Fund” by changing the colon to a period and inserting the following: The credit authorized pursuant to this subdivision is retroactive and may be claimed for reclamation or remediation performed on or after January 1, 2012:.

The bill (S. B. No. 502), as amended, was then ordered to engrossment and third reading.

**Senate Bill No. 503**, Permitting sheriff hire outside attorneys for tax collection assistance.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page three, section two, line seven, after the word “action:” by striking out the remainder of the bill and inserting in lieu thereof the following proviso: *Provided*, That any attorney so hired shall be paid, in addition to actual expenses directly incurred in the course of the representation: (1) An hourly rate, the cumulative sum of which shall not exceed fifty percent of the taxes so collected; or (2) a percentage of the taxes so collected, not to exceed twenty-five percent thereof.

The bill (S. B. No. 503), as amended, was then ordered to engrossment and third reading.

**Senate Bill No. 576**, Prohibiting PSC jurisdiction of internet protocol-enabled service or voice over internet protocol-enabled service and certain telephone company transactions.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Blair, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill No. 2099**, Extending the time of meetings of local levying bodies when meetings are delayed.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill No. 2576**, Creating new code sections which separate the executive departments.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 2. ORGANIZATION OF STATE AGENCIES, BOARDS AND COMMISSIONS WITHIN DEPARTMENTS OF STATE GOVERNMENT.**

**~~§5F-2-1. Transfer and incorporation of agencies and boards, funds~~  
General provisions.**

(a) ~~The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Administration:~~

~~(1) Building Commission provided in article six, chapter five of this code;~~

~~(2) Public Employees Insurance Agency provided in article sixteen, chapter five of this code;~~

~~(3) Governor's Mansion Advisory Committee provided in article five, chapter five-a of this code;~~

~~(4) Commission on Uniform State Laws provided in article one-a, chapter twenty-nine of this code;~~

~~(5) West Virginia Public Employees Grievance Board provided in article three, chapter six-c of this code;~~

~~(6) Board of Risk and Insurance Management provided in article twelve, chapter twenty-nine of this code;~~

~~(7) Boundary Commission provided in article twenty-three, chapter twenty-nine of this code;~~

~~(8) Public Defender Services provided in article twenty-one, chapter twenty-nine of this code;~~

~~(9) Division of Personnel provided in article six, chapter twenty-nine of this code;~~

~~(10) The West Virginia Ethics Commission provided in article two, chapter six-b of this code;~~

~~(11) Consolidated Public Retirement Board provided in article ten-d, chapter five of this code; and~~

~~(12) Real Estate Division provided in article ten, chapter five-a of this code:~~

~~(b) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Commerce:~~



~~(1) Division of Labor provided in article one, chapter twenty-one of this code, which includes:~~

~~(A) Occupational Safety and Health Review Commission provided in article three-a, chapter twenty-one of this code; and~~

~~(B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter twenty-one of this code:~~

~~(2) Office of Miners' Health, Safety and Training provided in article one, chapter twenty-two-a of this code. The following boards are transferred to the Office of Miners' Health, Safety and Training for purposes of administrative support and liaison with the Office of the Governor:~~

~~(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty-two-a of this code;~~

~~(B) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two-a of this code; and~~

~~(C) Mine Inspectors' Examining Board provided in article nine, chapter twenty-two-a of this code.~~

~~(3) The West Virginia Development Office provided in article two, chapter five-b of this code;~~

~~(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;~~

~~(5) Division of Forestry provided in article one-a, chapter nineteen of this code;~~

~~(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code; and~~

~~(7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:~~

~~(A) Division of Unemployment Compensation;~~

~~(B) Division of Employment Service;~~

~~(C) Division of Workforce Development; and~~

~~(D) Division of Research, Information and Analysis.~~

~~(8) Division of Energy provided in article two-f, chapter five-b of this code.~~

~~(9) Division of Tourism Commission provided in article two-h, chapter five-b of this code.~~

~~(c) The Economic Development Authority provided in article fifteen, chapter thirty-one of this code is continued as an independent agency within the executive branch.~~

~~(d) The Water Development Authority and the Water Development Authority Board provided in article one, chapter twenty-two-c of this code is continued as an independent agency within the executive branch.~~

~~(e) The following agencies and boards, including all of the allied, advisory and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the office of the Governor:~~

~~(1) Air Quality Board provided in article two, chapter twenty-two-b of this code;~~

~~(2) Solid Waste Management Board provided in article three, chapter twenty-two-c of this code;~~

~~(3) Environmental Quality Board, or its successor board, provided in article three, chapter twenty-two-b of this code;~~

~~(4) Surface Mine Board provided in article four, chapter twenty-two-b of this code;~~

~~(5) Oil and Gas Inspectors' Examining Board provided in article seven, chapter twenty-two-c of this code;~~

~~(6) Shallow Gas Well Review Board provided in article eight, chapter twenty-two-c of this code; and~~

~~(7) Oil and Gas Conservation Commission provided in article nine, chapter twenty-two-c of this code.~~

~~(f) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Education and the Arts:~~

~~(1) Library Commission provided in article one, chapter ten of this code;~~

~~(2) Division of Culture and History provided in article one, chapter twenty-nine of this code; and~~

~~(3) Division of Rehabilitation Services provided in article ten-a, chapter eighteen of this code.~~

~~(g) The Educational Broadcasting Authority provided in article five, chapter ten of this code is part of the Department of Education and the Arts for the purposes of administrative support and liaison with the office of the Governor.~~

~~(h) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Health and Human Resources:~~

~~(1) Human Rights Commission provided in article eleven, chapter five of this code;~~

~~(2) Division of Human Services provided in article two, chapter nine of this code;~~

~~(3) Bureau for Public Health provided in article one, chapter sixteen of this code;~~

~~(4) Office of Emergency Medical Services and the Emergency Medical Service Advisory Council provided in article four-c, chapter sixteen of this code;~~

~~(5) Health Care Authority provided in article twenty-nine-b, chapter sixteen of this code;~~

~~(6) Commission on Mental Retardation provided in article fifteen, chapter twenty-nine of this code;~~

~~(7) Women's Commission provided in article twenty, chapter twenty-nine of this code; and~~

~~(8) The Child Support Enforcement Division provided in chapter forty-eight of this code.~~

~~(i) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Military Affairs and Public Safety:~~

~~(1) Adjutant General's Department provided in article one-a, chapter fifteen of this code;~~

~~(2) Armory Board provided in article six, chapter fifteen of this code;~~

~~(3) Military Awards Board provided in article one-g, chapter fifteen of this code;~~

~~(4) West Virginia State Police provided in article two, chapter fifteen of this code;~~

~~(5) Division of Homeland Security and Emergency Management and Disaster Recovery Board provided in article five, chapter fifteen of this code and Emergency Response Commission provided in article five-a of said chapter;~~

~~(6) Sheriffs' Bureau provided in article eight, chapter fifteen of this code;~~

~~(7) Division of Justice and Community Services provided in article nine-a, chapter fifteen of this code;~~

~~(8) Division of Corrections provided in chapter twenty-five of this code;~~

~~(9) Fire Commission provided in article three, chapter twenty-nine of this code;~~

~~(10) Regional Jail and Correctional Facility Authority provided in article twenty, chapter thirty-one of this code; and~~

~~(11) Board of Probation and Parole provided in article twelve, chapter sixty-two of this code.~~

~~(j) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Revenue:~~

~~(1) Tax Division provided in chapter eleven of this code;~~

~~(2) Racing Commission provided in article twenty-three, chapter nineteen of this code;~~

~~(3) Lottery Commission and position of Lottery Director provided in article twenty-two, chapter twenty-nine of this code;~~

~~(4) Insurance Commissioner provided in article two, chapter thirty-three of this code;~~

~~(5) West Virginia Alcohol Beverage Control Commissioner provided in article sixteen, chapter eleven of this code and article two, chapter sixty of this code;~~

~~(6) Board of Banking and Financial Institutions provided in article three, chapter thirty-one-a of this code;~~

~~(7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;~~

~~(8) Division of Banking provided in article two, chapter thirty-one-a of this code;~~

~~(9) The State Budget Office provided in article two of this chapter;~~

~~(10) The Municipal Bond Commission provided in article three, chapter thirteen of this code;~~

~~(11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and~~

~~(12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this code.~~

~~(k) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Transportation:~~

~~(1) Division of Highways provided in article two-a, chapter seventeen of this code;~~

~~(2) Parkways, Economic Development and Tourism Authority provided in article sixteen-a, chapter seventeen of this code;~~

~~(3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;~~

~~(4) Driver's Licensing Advisory Board provided in article two, chapter seventeen-b of this code;~~

~~(5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;~~

~~(6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code; and~~

~~(7) Public Port Authority provided in article sixteen-b, chapter seventeen of this code:~~

~~(1) Effective July 1, 2011, the Veterans' Council provided in article one, chapter nine-a of this code, including all of the allied, advisory, affiliated or related entities and funds associated with it, is incorporated in and administered as a part of the Department of Veterans' Assistance.~~

(a) The Legislature finds that in 1989, this chapter was enacted to provide for the reorganization of the executive branch of state government pursuant to the findings set forth under section one, article one of this chapter. This section was enacted as part of that legislation to effect the transfer of agencies and board and related entities into the various departments created within the executive branch of government. Since its initial enactment, the Legislature has amended and reenacted this section on a number of occasions, in most instances to modify the initial reorganization within the executive branch of government. The Legislature further finds that the structure of this section by which it provides an extensive list of executive agencies in a single section of the Code of West Virginia renders this section unnecessarily lengthy and complicated. The

designation of a separate statute for each of the agencies and entities as they are organized in subsections (a) through (l) of this section as provided pursuant to the amendment and reenactment of this section in 2015 would reduce the unnecessary length and complexity of the statute without altering the Legislature's intent in providing for the organization of the executive branch of state government pursuant to the original findings set forth under section one, article one of this chapter and the Legislature's subsequent amendments and reenactments of various sections of this chapter. The Legislature therefore finds and declares that the amendment and reenactment of this section and the further amendment of the Code of West Virginia by adding thereto twelve new sections, designated sections one-a, one-b, one-c, one-d, one-e, one-f, one-g, one-h, one-i, one-j, one-k and one-l of this article, are solely for the purpose of designating a separate statute for each of the agencies and entities as they are organized in subsections (a) through (l) of this section as provided pursuant to the amendment and reenactment of this section in 2015 and for the purpose of providing corrective descriptions of an agency and corrective code references and deleting references to agencies, boards or commissions that have been repealed. The Legislature further finds and declares that except as otherwise provided in this section, the amendment and reenactment of this section and the enactment of the new sections may not be construed to have altered or modified the application of any other provision of this code to the agencies and entities described in those sections, and that all other provisions of this code, to the extent applicable to those sections, as well as the remaining subsections of this section, shall apply in like manner to the agencies and entities described in those new sections.

(m) (b) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the position of administrator and the powers, authority and duties of each administrator and agency are not affected by the enactment of this chapter.



(n) (c) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the existence, powers, authority and duties of boards and the membership, terms and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers shall not have their appellate or independent decision-making status affected by the enactment of this chapter.

(o) (d) Any department previously transferred to and incorporated in a department by prior enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in section two, article one of this chapter, the reference means a division of the appropriate department and any reference to a division of a department so transferred and incorporated means a section of the appropriate division of the department.

(p) (e) When an agency, board or commission is transferred under a bureau or agency other than a department headed by a secretary pursuant to this section, that transfer is solely for purposes of administrative support and liaison with the Office of the Governor, a department secretary or a bureau. Nothing in this section extends the powers of department secretaries under section two of this article to any person other than a department secretary and nothing limits or abridges the statutory powers and duties of statutory commissioners or officers pursuant to this code.

**§5F-2-1a. Department of Administration.**

The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Administration:

(1) Building Commission provided in article six, chapter five of this code;

(2) Public Employees Insurance Agency provided in article sixteen, chapter five of this code;

(3) Governor's Mansion Advisory Committee provided in article five, chapter five-a of this code;

(4) Commission on Uniform State Laws provided in article one-a, chapter twenty-nine of this code;

(5) West Virginia Public Employees Grievance Board provided in article three, chapter six-c of this code;

(6) Board of Risk and Insurance Management provided in article twelve, chapter twenty-nine of this code;

(7) Boundary Commission provided in article twenty-three, chapter twenty-nine of this code;

(8) Indigent Defense Commission provided in article twenty-one, chapter twenty-nine of this code;

(9) Division of Personnel provided in article six, chapter twenty-nine of this code;

(10) The West Virginia Ethics Commission provided in article two, chapter six-b of this code;

(11) Consolidated Public Retirement Board provided in article ten-d, chapter five of this code; and

(12) Real Estate Division provided in article ten, chapter five-a of this code.

**§5F-2-1b. Department of Commerce.**

The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any

agency or board, are incorporated in and administered as a part of the Department of Commerce:

(1) Division of Labor provided in article one, chapter twenty-one of this code, which includes:

(A) Occupational Safety and Health Review Commission provided in article three-a, chapter twenty-one of this code;

(B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter

(C) The Manufactured Housing Construction and Safety Standards Board provided in article nine, chapter twenty-one of this code; and

(D) The West Virginia Contractor Licensing Board provided in article 11, chapter twenty-one of this code.

(2) Office of Miners' Health, Safety and Training provided in article one, chapter twenty-two-a of this code. The following boards are transferred to the Office of Miners' Health, Safety and Training for purposes of administrative support and liaison with the Office of the Governor:

(A) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two-a of this code;

(B) Mine Inspectors' Examining Board provided in article nine, chapter twenty-two-a of this code; and

(C) Coal Mine Safety Board of Appeals provided in article five, chapter twenty two A of this code.

(D) Board of Miner Training, Education and Certification provided in article seven, chapter twenty two A of this code

(E) Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty two A of this code;

(F) West Virginia Diesel Equipment Commission provided in article two A, chapter twenty two A of this Code; and

(G) Coal Mine Safety and Technology Task Force, provided in article 11, chapter twenty two A of this code.

(3) The West Virginia Development Office provided in article two, chapter five-b of this code;

(A) The West Virginia Guaranteed Work Force Program—this program is frequently referred to as the “Governor’s Guaranteed Work Force Program” provided in article two D, chapter five B of this code.

(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;

(5) Division of Forestry provided in article one-a, chapter nineteen of this code;

(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code; and

(7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis.

(E) Unemployment Compensation Board of Review

(8) Division of Energy provided in article two-f, chapter five-b of this code.

(A) West Virginia Public Energy Authority

(B) Office of Coal Field Development

(9) Division of Tourism and Tourism Commission provided in article two, chapter five-b of this code.

**§5F-2-1c. Economic Development Authority.**

The Economic Development Authority provided in article fifteen, chapter thirty-one of this code is continued as an independent agency within the executive branch.

**§5F-2-1d. Water Development Authority.**

The Water Development Authority and the Water Development Authority Board provided in article one, chapter twenty-two-c of this code is continued as an independent agency within the executive branch.

**§5F-2-1e. Department of Environmental Protection.**

The following agencies and boards, including all of the allied, advisory and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the Office of the Governor:

(1) Air Quality Board provided in article two, chapter twenty-two-b of this code;

(2) Solid Waste Management Board provided in article three, chapter twenty-two-c of this code;

(3) Environmental Quality Board, or its successor board, provided in article three, chapter twenty-two-b of this code;

(4) Surface Mine Board provided in article four, chapter twenty-two-b of this code;

(5) Office of Oil and Gas provided in article six, chapter twenty-two of this code; and

(6) Shallow Gas Well Review Board provided in article eight, chapter twenty-two-c of this code;

**§5F-2-1f. Department of Education and the Arts.**

The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Education and the Arts:

(1) Library Commission provided in article one, chapter ten of this code;

(2) Division of Culture and History provided in article one, chapter twenty-nine of this code; and

(3) Division of Rehabilitation Services provided in article ten-a, chapter eighteen of this code.

**§5F-2-1g. Educational Broadcasting Authority.**

The Educational Broadcasting Authority provided in article five, chapter ten of this code is part of the Department of Education and the Arts for the purposes of administrative support and liaison with the Office of the Governor.

**§5F-2-1h. Department of Health and Human Resources.**

The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any

agency or board, are incorporated in and administered as a part of the Department of Health and Human Resources:

(1) Human Rights Commission provided in article eleven, chapter five of this code;

(2) Division of Human Services provided in article two, chapter nine of this code;

(3) Bureau for Public Health provided in article one, chapter sixteen of this code;

(4) Office of Emergency Medical Services and the Emergency Medical Service Advisory Council provided in article four-c, chapter sixteen of this code;

(5) Health Care Authority provided in article twenty-nine-b, chapter sixteen of this code;

(6) State Commission on Intellectual Disability provided in article fifteen, chapter twenty-nine of this code;

(7) Women's Commission provided in article twenty, chapter twenty-nine of this code; and

(8) The Child Support Enforcement Division provided in chapter forty-eight of this code.

**§5F-2-1i. Department of Military Affairs and Public Safety.**

The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Military Affairs and Public Safety:

(1) Adjutant General's Department provided in article one-a, chapter fifteen of this code;

(2) Armory Board provided in article six, chapter fifteen of this code;

(3) Military Awards Board provided in article one-g, chapter fifteen of this code;

(4) West Virginia State Police provided in article two, chapter fifteen of this code;

(5) Division of Homeland Security and Emergency Management and Disaster Recovery Board provided in article five, chapter fifteen of this code and Emergency Response Commission provided in article five-a of said chapter;

(8) Division of Justice and Community Services provided in article nine-a, chapter fifteen of this code;

(9) Division of Corrections provided in chapter twenty-five of this code;

(10) Fire Commission provided in article three, chapter twenty-nine of this code;

(11) Regional Jail and Correctional Facility Authority provided in article twenty, chapter thirty-one of this code; and

(12) Board of Probation and Parole provided in article twelve, chapter sixty-two of this code.

**§5F-2-1j. Department of Revenue.**

The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Revenue:

(1) The State Tax Division provided in article one, chapter eleven of this code;



(2) Racing Commission provided in article twenty-three, chapter nineteen of this code;

(3) Lottery Commission and position of Lottery Director provided in article twenty-two, chapter twenty-nine of this code;

(4) Insurance Commissioner provided in article two, chapter thirty-three of this code;

(5) West Virginia Alcohol Beverage Control Commissioner provided in article sixteen, chapter eleven of this code and article two, chapter sixty of this code;

(6) Board of Banking and Financial Institutions provided in article three, chapter thirty-one-a of this code;

(7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;

(8) Division of Financial Institutions provided in article two, chapter thirty-one-a of this code;

(9) The State Budget Office provided in article two, chapter eleven-b of this code;

(10) The Municipal Bond Commission provided in article three, chapter thirteen of this code;

(11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and

(12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this code.

**§5F-2-1k. Department of Transportation.**

The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any

agency or board, are incorporated in and administered as a part of the Department of Transportation:

(1) Division of Highways provided in article two-a, chapter seventeen of this code;

(2) Parkways Authority provided in article sixteen-a, chapter seventeen of this code;

(3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;

(4) Driver's Licensing Advisory Board provided in article two, chapter seventeen-b of this code;

(5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;

(6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code;

(7) Public Port Authority provided in article sixteen-b, chapter seventeen of this code; and

(8) Division of Public Transit provided in article sixteen-c, chapter seventeen of this code.

**§5F-2-11. Department of Veterans' Assistance.**

The Veterans' Council provided in article one, chapter nine-a of this code, including all of the allied, advisory, affiliated or related entities and funds associated with it, is incorporated in and administered as a part of the Department of Veterans' Assistance.

The bill (Eng. H. B. No. 2576), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for Senate Bill No. 17**, Permitting all-terrain vehicle operation on roadway under certain conditions; defining off-road motorcycle.

**Senate Bill No. 332**, Relating to administrative fees for Tax Division, Department of Revenue.

**Com. Sub. for Senate Bill No. 342**, Clarifying scope, application and requirements for error corrections by CPRB.

**Com. Sub. for Com. Sub. for Senate Bill No. 455**, Relating to public higher education procurement and payment of expenses.

**Senate Bill No. 481**, Relating to municipal policemen's and firemen's pension and relief funds' investment.

**Senate Bill No. 510**, Amending Uniform Interstate Family Support Act.

**Senate Bill No. 514**, Relating to investments of local policemen's and firemen's pension and relief funds.

**Senate Bill No. 515**, Allowing Municipal Pensions Oversight Board invest funds with Investment Management Board or Board of Treasury Investments.

**Senate Bill No. 530**, Extending income tax exemption for retirees receiving pensions from certain defined pension plans.

**Senate Bill No. 545**, Removing certain prior bank overdraft approval by director or executive officer.

**Com. Sub. for Senate Bill No. 548**, Changing procedure for filling U. S. Senator vacancies.

**Senate Bill No. 574**, Relating to liquor sales by distilleries and mini-distilleries.

And,

**Eng. House Bill No. 2726**, Clarifying choice of laws issues in product's liability actions.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate recessed until 5 p.m. today.

Upon expiration of the recess, the Senate reconvened.

The end of today's first reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for Senate Bill No. 14**, Creating Public Charter Schools Act of 2015.

On third reading, coming up in deferred order, with the right having been granted on Wednesday, February 25, 2015, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Sypolt, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, and with the right for amendments to be considered on third reading remaining in effect.

At the request of Senator Carmichael, and by unanimous consent, the Senate returned to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 27th day of February, 2015, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. No. 255)**, Eliminating certain boards, councils, committees, panels, task forces and commissions.

**(S. B. No. 298)**, Clarifying funds within Public Employees Retirement Fund.

**(S. B. No. 299)**, Clarifying start date of State Police duty-related and nonduty related disability payments.

**(S. B. No. 302)**, Relating to state retirement plans.

And,

**(Com. Sub. for S. B. No. 378)**, Relicensing electricians without retesting under certain circumstances.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
John B. McCuskey,  
*Chair, House Committee.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 195**, Authorizing Conservation Committee promulgate legislative rule relating to financial assistance programs.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill No. 336** (originating in the Committee on Government Organization), Eliminating Health Care Authority's power to apply certain penalties to future rate applications.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Com. Sub. for Senate Bill No. 336** (originating in the Committee on the Judiciary)—A Bill to amend §16-29B-19 of the Code of West Virginia, 1931, as amended, relating generally to powers and duties of Health Care Authority; and eliminating power of Health Care Authority to apply penalties held in abeyance to any future rate applications filed with the authority.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 439**, Relating to higher education personnel.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 439** (originating in the Committee on Education)—A Bill to amend and reenact §18B-4-2a of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-7-1, §18B-7-2, §18B-7-8, §18B-7-9, §18B-7-11 and §18B-7-16 of said code; to amend and reenact §18B-9-1 and §18B-9-2 of said code; to amend and reenact §18B-9A-1, §18B-9A-2, §18B-9A-3, §18B-9A-4, §18B-9A-5, §18B-9A-6 and §18B-9A-7 of said code; and to amend said code by adding thereto a new section, designated §18B-9A-5a, all relating to public higher education personnel generally; clarifying roles of Higher Education Policy Commission, Council for Community and Technical College Education and state organizations of higher education; providing legislative purposes and intent for higher education personnel; defining terms; clarifying duties of vice chancellor for human resources of the Higher Education Policy Commission; eliminating outdated and redundant reporting and review requirements; providing for evaluation and reviews of organizations for certain human resource deficiencies, best practices and compliance with state higher education personnel laws; providing percentages of employees designated as “nonclassified” employees; directing the Higher Education Policy Commission and the Community and Technical College Council to study employment practices; providing legislative purposes and intent for classified employees salary schedule; defining terms; providing legislative purposes and intent for classification and compensation system; defining terms; clarifying that certain provisions are only applicable to classified

employees; clarifying powers and duties of the Job Classification Committee; clarifying powers and duties of the Compensation Planning and Review Committee; eliminating requirement that salary schedules fall within relative market equity; restricting duties of Job Classification Committee and Compensation Planning and Review Committee; clarifying role and considerations of Higher Education Policy Commission and Community and Technical College Council in developing salary schedules for classified employees; and requiring classification and compensation rules.

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,

Dave Sypolt,  
*Chair.*

At the request of Senator M. Hall, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 447**, Allowing issuance of diploma by public, private or home school administrator.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.



Respectfully submitted,

Dave Sypolt,  
*Chair.*

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 457**, Relating to selection of school athletic coaches or other extracurricular activities coaches.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

Senator Ferns, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Bill No. 516**, Relating to practice of advance practice registered nurses.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill No. 516** (originating in the Committee on Health and Human Resources)—A Bill to repeal §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a, §30-15-7b and §30-15-7c of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5-19 of said code; to amend and reenact §30-3-5 of said code; to amend said code by adding thereto two new sections, designated §30-3-7b and §30-3-7c; to amend and reenact §30-7-15a of said code; to amend said code by adding thereto a new section, designated §30-7-15d; to amend and reenact §30-14-3 of said code; and to amend said code by adding thereto two new sections, designated §30-14-16 and §30-14-17, all relating to the practice of advance practice registered nurses; allowing advance practice registered nurses to sign death certificates; adding an advance practice registered nurse to the Board of Medicine and the Board of Osteopathy; providing that under specified circumstances advance practice registered nurses may prescribe without a collaborative agreement; providing advance practice registered nurses who prescribe without a collaborative agreement shall be licensed by either the Board of Medicine or the Board of Osteopathy for prescriptive purposes; granting rule-making authority to the Board of Medicine and the Board of Osteopathy to license advance practice registered nurses for prescriptive purposes; providing for reports to the Legislature; and modifying the controlled substances which an advance practice registered nurse may prescribe.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. No. 516), under the original double committee reference, was then referred to the Committee on Finance.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 544**, Establishing procedures for body mass index screening in schools.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Sypolt, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Bill No. 577** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-1-12e, relating to allowing governing boards of certain four-year colleges and universities to invest certain funds with its respective nonprofit foundation that has been established to receive contributions exclusively for that institution and which exists on January 1, 2015.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Dave Sypolt,  
*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 No. 578** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §23-4-8d of the Code of West Virginia, 1931, as amended; and to amend and reenact §23-5-7 of said code, all relating to authorization of compromise and settlement of occupational disease claims; permitting final settlement of medical benefits for nonorthopedic occupational disease claims; and requiring claimant be represented by legal counsel in these claims.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Bill No. 579** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-22B-328 of the Code of West Virginia, 1931, as amended, relating to clarifying restriction of businesses selling petroleum products from creating a restricted adult-only facility.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Saturday, February 28, 2015, at 10 a.m.

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## SATURDAY, FEBRUARY 28, 2015

The Senate met at 10 a.m.

(Senator Cole, Mr. President, in the Chair.)

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles S. Trump IV, a senator from the fifteenth district.

Pending the reading of the Journal of Friday, February 27, 2015,

On motion of Senator Kessler, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2161**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5 and §15-14-6; to amend and reenact §62-1D-8 and §61-2-17 of said code; to amend said code by adding thereto two new sections, designated §61-2-17a and §61-2-17b, all relating to adopting the Uniform Act on Prevention of and Remedies for Human Trafficking; providing legislative findings; setting forth definitions; creating a Commission on the Prevention of Human Trafficking; requiring public posting of hotline information in certain locations; making services available to victims of human trafficking; providing victims immunity from criminal prosecution for certain crimes directly resulting from human trafficking; changing the definition of human trafficking; expanding criminal remedies and enforcement tools; and allowing victims to expunge conviction for certain crimes directly resulting from human trafficking.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2780**—A Bill to amend and reenact §18B-4-5 of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-29-8 of said code, all relating to enhancing the ability of campus police officers at state institutions of higher education to perform their duties; authorizing certain higher education campus police officers to receive compensation for attending law-enforcement training academies; authorizing governing boards to apply for certain funds available to law-enforcement agencies; authorizing governing boards to compensate campus police officers for attending law-enforcement training academies; and providing for agreements to reimburse employers for wages and expenses of employees trained but not continuing employment.

Referred to the Committee on Education.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

**Eng. House Bill No. 2884**—A Bill to amend and reenact §18B-1D-9 of the Code of West Virginia, 1931, as amended, relating to modifying training and development requirement for certain members of Higher Education Policy Commission, council for community and technical college education and institutional governing boards.

Referred to the Committee on Education.

### **Executive Communications**

Senator Cole (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

February 27, 2015

The Honorable William P. Cole III  
President, West Virginia Senate  
State Capitol  
Charleston, West Virginia

Dear President Cole:

Pursuant to the provisions of section fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill No. 389 for technical reasons.

The bill's title is defective for several reasons. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E. 2d 610 (1972) (requiring bill title to provide notice of bill's contents). First, the bill provides for a late fee in W. Va. Code §30-13-18(b) that is not noted in the title. Second, the title provides that the bill requires reinstatement of nonrenewed licenses, but the bill does not contain language to that effect. Rather, the bill states in §30-13-18(c) that “[a] certificate that was not timely renewed or for other reason was given a nonpracticing status *may* be reinstated . . . .” (emphasis added). Reinstatement is permissive in the bill, rather than required. Finally, the bill requires the West Virginia State Board of Registration for Professional Engineers to promulgate emergency rules in §30-13-18(e). Emergency rulemaking authorization is absent from the title.

For the foregoing reasons, I disapprove and return this bill. I urge the Legislature to correct these technical issues, and to return the bill to my desk for signature.

Sincerely,

Earl Ray Tomblin,  
*Governor.*

cc: The Honorable Tim Armstead  
The Honorable Natalie E. Tennant

Senator Carmichael moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

**Enr. Senate Bill No. 389**, Relating to Board of Registration for Professional Engineers license renewals and reinstatements.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.



The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled Senate Bill No. 389, the same was put and prevailed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Enr. Senate Bill No. 389**—An Act to amend and reenact §30-13-18 of the Code of West Virginia, 1931, as amended, relating to the Board of Registration for Professional Engineers; changing time period for renewal from fiscal year to calendar year; authorizing renewal notification by mail or electronically; providing for reinstatement of nonrenewed licenses; authorizing annual or biennial renewal periods; providing late fee; and authorizing legislative rules and emergency rules related to renewal and reinstatement.

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Ferns and Prezioso—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. S. B. No. 389) passed with its title, as amended, as a result of the objections of the Governor.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boley, Boso, Carmichael, Facemire, Gaunch, D. Hall, M. Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Nohe, Palumbo, Plymale, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—32.

The nays were: None.

Absent: Ferns and Prezioso—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. No. 389) takes effect from passage.

*Ordered,* That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Cole (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:

STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
CHARLESTON

February 24, 2015

The Honorable Tim Armstead  
Speaker, West Virginia House of Delegates  
State Capitol  
Charleston, West Virginia

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2201 for technical reasons.

First, the bill's title is defective because it fails to indicate the Legislature's insertion of a definition for the term "commission". This is problematic in that other newly inserted defined terms, such as "net metering", "customer generator" and "cross-subsidization" are included in the title. This issue may be corrected either by referencing the definition of "commission" in the title, or by eliminating that definition altogether, as "commissioner" is already defined elsewhere for purposes of Chapter 24. *See* W. Va. Code §24-1-2.

Second, the definition of "customer generator" on page 2, subsection (b), is flawed because the word "projected" on page 2, line 9, makes the definition ambiguous. A suggested fix for this technical issue is to change the word "projected" to "project" on page 2, line 9.

Third, the definition of "cross-subsidization" on page 2, subsection (c), is also flawed because the phrase "to electric retail customers to electric retails customers" on page 2, lines 13-14, is unintelligible. This error may be repaired by eliminating the phrase "to electric retails customers" on page 2, line 14.

Finally, there is a technical error in the language contained on page 3, subsection (i), line 61. The term "standards" following the phrase "and as the same shall be amended," makes subsection (i) difficult to comprehend. A suggested fix for this technical issue is to move the term "standards at all times" from its current location to directly after "(IEEE)" on line 61.

For the foregoing reasons, I disapprove and return this bill.

Sincerely,

Earl Ray Tomblin,  
*Governor.*

cc: The Honorable William P. Cole III  
The Honorable Natalie E. Tennant

A message from The Clerk of the House of Delegates announced the reconsideration, amendment and passage as amended, of a bill disapproved and returned by the Governor with his objections, and requested the concurrence of the Senate in the passage, of

**Eng. House Bill No. 2201**, Requiring the Public Service Commission to adopt certain net metering and interconnection rules and standards.

On motion of Senator Carmichael, the message was taken up for immediate consideration.

Senator Carmichael then moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate reconsider the bill (Enr. H. B. No. 2201), heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Carmichael's motion that the Senate reconsider Enrolled House Bill No. 2201, the same was put and prevailed.

On motion of Senator Carmichael, the Senate concurred in the following House of Delegates amendment to the bill:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 2F. NET METERING OF CUSTOMER-GENERATORS.**

**§24-2F-8. Net metering and interconnection standards.**

(a) “Net metering” means measuring the difference between electricity supplied by an electric utility and electricity generated from a facility owned or leased and operated by a customer

generator when any portion of the electricity generated from the facility is used to offset part or all of the electric retail customer's requirements for electricity.

(b) "Customer-generator" means an electric retail customer who owns or leases and operates a customer-sited generation project utilizing an alternative or renewable energy resource or a net metering system in this state.

(c) "Cross-subsidization", for purposes of this section, means the practice of charging costs directly incurred by the electric utility in accommodating a net metering system to electric retail customers who are not customer generators.

(d) The Public Service Commission shall adopt a rule requiring that all electric utilities provide a rebate or discount at fair value, to be determined by the Public Service Commission, to customer-generators for any electricity generation that is delivered to the utility under a net metering arrangement. The commission shall assure that any net metering tariff does not create a cross-subsidization between customers within one class of service.

~~(b)~~ (e) The Public Service Commission shall also consider adopting, by rule, a requirement that all sellers of electricity to retail customers in the state, including rural electric cooperatives, municipally owned electric facilities or utilities serving less than thirty thousand residential electric customers in this state, offer net metering rebates or discounts to customer-generators.

~~(c)~~ (f) The Public Service Commission shall institute a general investigation for the purpose of adopting rules pertaining to net metering and the interconnection of eligible electric generating facilities intended to operate in parallel with an electric utility's system. As part of its investigation, the Public Service Commission shall take into consideration rules of other states within the applicable region of the regional transmission organization, as that term is defined in 18 C.F.R. §35.34, that

manages a utility's transmission system in any part of this state. Furthermore, the Public Service Commission shall consider increasing the allowed kilowatt capacity for commercial customer-generators to an amount not to exceed five hundred kilowatts and for industrial customer-generators to an amount not to exceed two megawatts. The Public Service Commission shall further consider interconnection standards for combined heat and power.

~~(d) The commission shall promulgate these rules within twelve months of the effective date of this article.~~

(g) An electric utility shall offer net metering to a customer-generator that generates electricity on the customer-generator side of the meter using alternative or renewable energy sources, on a first-come, first-served basis, based on the date of application for interconnection as provided in the rules promulgated by the commission and pursuant to a standard tariff. An electric utility may offer net metering to customer-generators, on a first-come, first-served basis, so long as the total generation capacity installed by all customer-generators is no greater than three percent (3%) of the electric utility aggregate customer peak demand in the state during the previous year, of which no less than one-half percent (0.5%) is reserved for residential customer-generators.

(h) The Public Service Commission shall adopt a rule requiring compliance with the Institute of the Electrical and Electronics Engineers (IEEE) standards at all times, and as the same shall be amended, including having a disconnect readily accessible to the utility between the facilities of the customer-generator and the electric utility.

The question now being on the passage of the bill, disapproved by the Governor and amended by the House of Delegates.

Senator Palumbo moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motion prevailed.