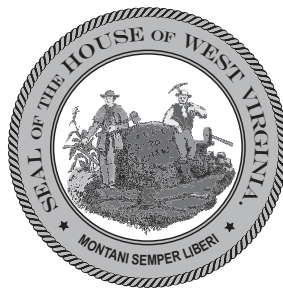


West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Second Legislature  
First Extraordinary Session

Held at Charleston  
Published by the Clerk of the House



May 24, 2016  
SEVENTH DAY



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Tuesday, May 24, 2016

**SEVENTH DAY**

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

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

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

The Clerk proceeded to read the Journal of Monday, May 23, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Bills Introduced**

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

**By Delegate Lane:**

**H. B. 107** — “A Bill to amend and reenact §5A-3-50 of the Code of West Virginia, 1931, as amended, relating to a moratorium on state vehicle purchases”; to the Committee on Finance.

**By Delegate Lane:**

**H. B. 108** — “A Bill to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend said code by adding thereto a new section, designated §5F-2-1a; to amend and reenact §10-5-2a of said code; and to amend and reenact §18-10A-1, §18-10A-2, §18-10A-2a, §18-10A-3, §18-10A-5 and §18-10A-12 of said code, all relating to the termination of the Department of Education and the Arts as an executive branch department; eliminating the Department of Education and the Arts as a department under the executive branch of government; transferring the Library Commission and Division of Culture and History from the Department of Education and the Arts; transferring the Division of Rehabilitation Services to the Department of Commerce; removing the Educational Broadcasting Authority as a part of the Department of Education and the Arts; providing that the agencies and programs operating under the auspices of the Department as of June 30, 2016 shall continue independent of the Department of Education and the Arts; requiring the Governor to evaluate the agencies and programs of the Department of Education and the Arts and make a written report to the Joint Committee on Government and Finance; setting forth information to be provided, at a minimum in the written report; removing the Secretary of the Department of Education and the Arts as the contract agent on behalf of the state with institutions of higher education and the state Board of Education for the development or operation, or both, of state employee training programs transmitted by telecommunications technology; transferring the Division of Rehabilitation Services and its related divisions to the Department of Commerce; and defining terms”; to the Committee on Education then Finance.

**By Delegate Lane:**

**H. B. 109** — “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-4, §18-9A-5, §18-9A-7, §18-9A-10 and §18-9A-11 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 a growth county school facilities act fund; adjusting the formula for foundation allowance for professional educators; adjusting the formula for foundation allowance for service personnel; adjusting and eliminating certain adjustments of the foundation allowance for transportation costs; adjusting the calculation for the foundation allowance to improve instructional programs; and eliminating certain restrictions in the computation of local share”; to the Committee on Education then Finance.

**By Delegate Lane:**

**H. B. 110** — “A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to the cancellation of the Smarter Balanced Assessment and the Partnership for Assessment of Readiness for College and Careers (PARCC) as a statewide assessment programs; prohibiting the use of the Smarter Balanced Assessment or PARCC as a statewide assessment program; requiring the immediate withdrawal from any agreement, memorandum of understanding or contract to use the Smarter Balanced Assessment or PARCC; requiring that cancellation of any such agreement, memorandum of understanding or contract by June 30, 2016; and requiring the state board to withdraw as a governing state in the Smarter Balanced Assessment Consortium”; to the Committee on Education then Finance.

**By Delegate Lane:**

**H. B. 111** — “A Bill to amend and reenact §17-1-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3 and §17-30-4, all relating to the privatization of the Courtesy Patrol Program; eliminating authority of Department of Highways to collect revenues for the Courtesy Patrol Program; eliminating authority of Department of Highways to retain and expend moneys from the Courtesy Patrol Fund; setting forth legislative findings; defining terms; providing for the continuation of the courtesy patrol program under the Department of Highways; requiring the Department of Highways to provide the program through a contract with a private entity; requiring the contract to be based on competitive sealed bids conducted pursuant to the competitive procedures and process set forth in article three of chapter five-a; setting forth certain terms and conditions to be included in the contract; authorizing the use of advertising, logos and sponsorships by the private entity; authorizing contracts on regional or county basis and with multiple private entities; setting the duration term of the contract; authorizing renewals; transferring balance of Courtesy Patrol Fund to general revenue; and closing the Courtesy Patrol Fund special revenue account”; to the Committee on Finance.

**By Delegate Lane:**

**H. B. 112** — “A Bill to repeal §18-9A-8a of the Code of West Virginia, 1931 as amended; to amend and reenact §5B-3-5 of said code; to amend and reenact §16-4C-6c of said code; to amend and reenact §18-2-5b, §18-2-26 and §18-2-26a of said code; to amend and reenact §18-2A-3 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-3 and §18-2I-4 of said code; to amend and reenact §18-9D-3 of said code; to amend and reenact §18-9E-4 of said code; to amend and reenact §18A-3-1b of said code; to amend and reenact §18A-3A-1 of said code; to amend and reenact §30-21-2 of said code; and to amend and reenact §30-31-11 of said code, all relating to abolishing the regional educational service agencies (RESAs) generally, transferring all powers and duties of the same to the county boards of education; providing for the transfer and disposition of assets, property and records of the agencies; authorizing legislative and emergency rulemaking; amending provisions relating to the Joint Commission on Economic Development Studies, certification requirements for emergency medical technician-industrial, Medicaid eligible children and school health services advisory committees; amending provisions relating to meetings on shared services and functions; amending provisions relating to disposition of and requests for textbook samples; removing use of RESAs as an indicator of efficiency; removing requirement that the state board provide RESA with annual professional development master plan established by state

board; removing requirement that state board promulgate legislative rules regarding processes for collaboration by RESAs; removing requirement that state board promulgate legislative rules regarding processes for collaboration by RESAs; removing power of School Building authority to contract for architectural, engineering or other professional services for RESAs; removing power of State Board to assign HVAC technicians to be employed by RESAs; removing RESA from section regarding formation of partnerships to provide an alternative program; removing reference to RESA in definitions relating to psychologists and school psychologists; and removing reference to RESAs in persons exempted from licensure as licensed professional counselors”; to the Committee on Education then Finance.

**By Delegate Lane:**

**H. B. 113** — “A Bill to repeal §18B-1B-2, §18B-1B-3, §18B-1B-5, §18B-1B-10 and §18B-1B-13 of the Code of West Virginia, 1931, as amended; to repeal §18B-2B-2, §18B-2B-3, §18B-2B-4, §18B-2B-5, §18B-2B-7 and §18B-2B-8 of said code; to amend and reenact §18B-1B-1 of said code; and to amend and reenact §18B-2B-1 and §18B-2B-6 of said code, all relating to abolishing the West Virginia Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education; transferring all powers and duties of the commission relating to internal governance of institutions of higher education to the board of governors of the institutions; transferring all powers and duties of the commission to secure, provide, or administer financial support for educational or research purposes to the Secretary for the Department of Education and the Arts; providing for the transfer and disposition of assets, property and records of the commission; repealing certain obsolete and redundant powers and responsibilities of the commission; and authorizing legislative and emergency rule making; transferring all powers and duties of the council to the Secretary for the Department of Education and the Arts, including rule-making authority; repealing certain obsolete and redundant powers and responsibilities of the council; and providing for the transfer and disposition of assets, property and records of the council”; to the Committee on Education then Finance.

**By Delegates Pushkin, Folk, McGeehan, Flanigan and Fluharty:**

**H. B. 114** — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-28-1; to amend and reenact §60-3A-6 of said code; to amend and reenact §60A-2-204 of said code; to amend and reenact §60A-4-401 and §60A-4-402 and §60A-4-407 of said code; to amend said code by adding thereto two new sections, designated §60A-4-414 and §60A-4-415, all relating to permitted use and possession of marihuana; decriminalizing and permitting personal use, growth and possession of certain amounts of marihuana by persons over the age of twenty-one; removing marihuana from the list of schedule I drugs; decriminalizing first offense distribution of under 30 grams of marihuana; continuing criminal penalties for sales and manufacture of marihuana; establishing new criminal penalties associated with possession of marihuana; providing that the tax department issue tax stamps for certain residents to lawfully possess up to two ounces of marihuana; providing that the Tax Commissioner promulgate rules; authorizing persons holding retail liquor licenses to sell tax stamps; establishing cost of and allocation for tax stamp proceeds; allowing for tax penalties for failure to pay for tax stamp; providing conditions for creation and distribution of stamp; and providing for a medical exemption to criminal laws against marihuana use or possession”; to the Committee on Health and Human Resources then the Judiciary then Finance.

**By Delegates Folk, McGeehan, Ihle, Moffatt and Faircloth:**

**H. B. 115** — “A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting the first \$20,000 of income from adjusted gross income for the purpose of determining personal income tax liability”; to the Committee on Finance.

**House Calendar****Third Reading**

**Com. Sub. for S. B. 1005**, Increasing tax rate on cigarettes and tobacco products; on third reading, coming up in regular order, was read a third time.

In response to points of order raised during debate on S. B. 1005, the Speaker responded that he was granting some leeway but reminded Members to confine their remarks to the subject of the bill.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 673**), and there were, including 2 paired—yeas 44, nays 55, absent and not voting 1, with the paired, yeas, absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea:       Border       Nay:   Householder

Yeas: Ambler, Anderson, Arvon, Atkinson, Blair, Cadle, Canterbury, Cooper, Cowles, Deem, Ellington, Espinosa, A. Evans, D. Evans, Fast, Flanigan, Foster, Frich, Hamilton, Hamrick, Hanshaw, Howell, Ireland, Kelly, Kurcaba, McCuskey, Miller, E. Nelson, Rohrbach, Romine, Rowan, Shott, Statler, Storch, Summers, Trecost, Wagner, Walters, Waxman, Weld, Westfall, Zatezalo and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Duke.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (S. B. 1005) rejected.

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

**Second Reading**

**H. B. 106**, Reducing the distributions to the West Virginia Infrastructure Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**First Reading**

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

**S. B. 1002**, Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue,

And,

**Com. Sub. for H. B. 105**, Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

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

Your Committee on Finance has had under consideration:

**H. B. 101**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

And reports back a committee substitute therefore, with the same title, as follows:

**Com. Sub. for H. B. 101** — “A Bill making appropriations of public money out of the treasury in accordance with section fifty-one, article VI of the Constitution,”

With the recommendation that the committee substitute do pass.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Border and Duke.

At 2:30 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, May 25, 2016.

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

**HOUSE CALENDAR**

**Wednesday, May 25, 2016**

**First Extraordinary Session**

**8<sup>th</sup> Day**

**11:00 A. M.**

**THIRD READING**

H. B. 106 - Reducing the distributions to the West Virginia Infrastructure Fund

**SECOND READING**

S. B. 1002 - Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue (E. NELSON) (FINANCE COMMITTEE AMENDMENT PENDING) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 105 - Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund (E. NELSON) (JULY 1, 2016)

**FIRST READING**

Com. Sub. for H. B. 101 - Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution (E. NELSON) (JULY 1, 2016)



**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**WEDNESDAY, MAY 25, 2016**

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

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HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
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