

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
THIRTY-FIFTH DAY

Charleston, W. Va., Tuesday, February 16, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Thomas Price, Roxalana Gospel Tabernacle, Dunbar, 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 Monday, February 15, 2016,

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

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

The Clerk presented a communication from the Office of Tax Appeals, submitting its annual report, in accordance with §11-10A-7 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 §17C-5C-2 of the Code of West Virginia.

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

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 amendments, as to

Eng. Senate Bill 123, Treatment for sexually transmitted diseases.

On motion of Senator Carmichael, 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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-4F-1, §16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; that §30-3-14 of said code be amended and reenacted; that §30-3E-17 of said code be amended and reenacted; that §30-5-14 of said code be amended and reenacted; that §30-7-11 of said code be amended and reenacted; and that §30-14-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.**ARTICLE 4F. EXPEDITED PARTNER THERAPY.****§16-4F-1. Definitions.**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings:

(1) "Department" means the West Virginia Department of Health and Human Resources.

(2) "Expedited partner therapy" means prescribing, dispensing, furnishing or otherwise providing prescription antibiotic drugs to the sexual partner or partners of a person clinically diagnosed as infected with a sexually transmitted disease without physical examination of the partner or partners.

(3) "Health care professional" means:

(A) An allopathic physician licensed pursuant to article three, chapter thirty of this code;

(B) An osteopathic physician licensed pursuant to article fourteen, chapter thirty of this code;

(C) A physician assistant licensed pursuant to section four, article three-e, chapter thirty of this code;

(D) An advanced practice registered nurse authorized with prescriptive authority pursuant to section fifteen-a, article seven, chapter thirty of this code; or

(E) A pharmacist licensed pursuant to article five, chapter thirty of this code.

(4) "Sexually transmitted disease" means a disease that may be treated by expedited partner therapy as determined by rule of the department.

§16-4F-2. Expedited partner therapy.

(a) Notwithstanding any other provision of law to the contrary, a health care professional who makes a clinical diagnosis of a sexually transmitted disease may provide expedited partner therapy for the treatment of the sexually transmitted disease if, in the judgment of the health care professional, the sexual partner is unlikely or unable to present for comprehensive health care, including evaluation, testing and treatment for sexually transmitted diseases. Expedited partner therapy is limited to a sexual partner who may have been exposed to a sexually transmitted disease within the previous sixty days and who is able to be contacted by the patient.

(b) Any health care professional who provides expedited partner therapy shall comply with all necessary provisions of article four of this chapter.

(c) A health care professional who provides expedited partner therapy shall provide counseling for the patient, including advice that all women and symptomatic persons, and in particular women with symptoms suggestive of pelvic inflammatory disease, are encouraged to seek medical attention. The health care professional shall also provide in written or electronic format materials provided by the department to be given by the patient to his or her sexual partner.

§16-4F-3. Informational materials.

(a) The department shall provide information and technical assistance as appropriate to health care professionals who provide expedited partner therapy. The department shall develop and disseminate in electronic and other formats the following written materials:

(1) Informational materials for sexual partners, as described in subsection (c), section two of this article;

(2) Informational materials for persons who are repeatedly diagnosed with sexually transmitted diseases; and

(3) Guidance for health care professionals on the safe and effective provision of expedited partner therapy.

(b) The department may offer educational programs about expedited partner therapy for health care professionals.

§16-4F-4. Limitation of liability.

(a) A health care professional who provides expedited partner therapy in good faith without fee or compensation under this article and provides counseling and written materials as required in subsection (c), section two of this article is not subject to civil or professional liability in connection with the provision of the therapy, counseling and materials, except in the case of gross negligence or willful and wanton misconduct. A health care professional is not subject to civil or professional liability for choosing not to provide expedited partner therapy.

(b) A pharmacist or pharmacy is not subject to civil or professional liability for choosing not to fill a prescription that would cause that pharmacist or pharmacy to violate any provision of article five, chapter thirty of this code.

§16-4F-5. Rulemaking.

The Secretary of the Department of Health and Human Resources shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to designate certain diseases as sexually transmitted diseases which may be treated by expedited partner therapy. The department shall consider the recommendations and classifications of the federal Department of Health and Human Services, Centers for Disease Control and Prevention and other nationally recognized medical authorities in making these designations.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-14. Professional discipline of physicians and podiatrists; reporting of information to board pertaining to medical professional liability and professional incompetence

required; penalties; grounds for license denial and discipline of physicians and podiatrists; investigations; physical and mental examinations; hearings; sanctions; summary sanctions; reporting by the board; reapplication; civil and criminal immunity; voluntary limitation of license; probable cause determinations.

(a) The board may independently initiate disciplinary proceedings as well as initiate disciplinary proceedings based on information received from medical peer review committees, physicians, podiatrists, hospital administrators, professional societies and others.

The board may initiate investigations as to professional incompetence or other reasons for which a licensed physician or podiatrist may be adjudged unqualified based upon criminal convictions; complaints by citizens, pharmacists, physicians, podiatrists, peer review committees, hospital administrators, professional societies or others; or unfavorable outcomes arising out of medical professional liability. The board shall initiate an investigation if it receives notice that three or more judgments, or any combination of judgments and settlements resulting in five or more unfavorable outcomes arising from medical professional liability have been rendered or made against the physician or podiatrist within a five-year period. The board may not consider any judgments or settlements as conclusive evidence of professional incompetence or conclusive lack of qualification to practice.

(b) Upon request of the board, any medical peer review committee in this state shall report any information that may relate to the practice or performance of any physician or podiatrist known to that medical peer review committee. Copies of the requests for information from a medical peer review committee may be provided to the subject physician or podiatrist if, in the discretion of the board, the provision of such copies will not jeopardize the board's investigation. In the event that copies are provided, the subject physician or podiatrist is allowed fifteen days to comment on the requested information and such comments must be considered by the board.

The chief executive officer of every hospital shall, within sixty days after the completion of the hospital's formal disciplinary procedure and also within sixty days after the commencement of and again after the conclusion of any resulting legal action, report in writing to the board the name of any member of the medical staff or any other physician or podiatrist practicing in the hospital whose hospital privileges have been revoked, restricted, reduced or terminated for any cause, including resignation, together with all pertinent information relating to such action. The chief executive officer shall also report any other formal disciplinary action taken against any physician or podiatrist by the hospital upon the recommendation of its medical staff relating to professional ethics, medical incompetence, medical professional liability, moral turpitude or drug or alcohol abuse. Temporary suspension for failure to maintain records on a timely basis or failure to attend staff or section meetings need not be reported. Voluntary cessation of hospital privileges for reasons unrelated to professional competence or ethics need not be reported.

Any managed care organization operating in this state which provides a formal peer review process shall report in writing to the board, within sixty days after the completion of any formal peer review process and also within sixty days after the commencement of and again after the conclusion of any resulting legal action, the name of any physician or podiatrist whose credentialing has been revoked or not renewed by the managed care organization. The managed care organization shall also report in writing to the board any other disciplinary action taken against a physician or podiatrist relating to professional ethics, professional liability, moral turpitude or drug or alcohol abuse within sixty days after completion of a formal peer review process which results in the action taken by the managed care organization. For purposes of this subsection, "managed care organization" means a plan that establishes, operates or maintains a network of health care providers who have entered into agreements with and been credentialed by the plan to provide health care services to enrollees or

insureds to whom the plan has the ultimate obligation to arrange for the provision of or payment for health care services through organizational arrangements for ongoing quality assurance, utilization review programs or dispute resolutions.

Any professional society in this state comprised primarily of physicians or podiatrists which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, medical professional liability, moral turpitude or drug or alcohol abuse shall report in writing to the board within sixty days of a final decision the name of the member, together with all pertinent information relating to the action.

Every person, partnership, corporation, association, insurance company, professional society or other organization providing professional liability insurance to a physician or podiatrist in this state, including the State Board of Risk and Insurance Management, shall submit to the board the following information within thirty days from any judgment or settlement of a civil or medical professional liability action excepting product liability actions: The name of the insured; the date of any judgment or settlement; whether any appeal has been taken on the judgment and, if so, by which party; the amount of any settlement or judgment against the insured; and other information required by the board.

Within thirty days from the entry of an order by a court in a medical professional liability action or other civil action in which a physician or podiatrist licensed by the board is determined to have rendered health care services below the applicable standard of care, the clerk of the court in which the order was entered shall forward a certified copy of the order to the board.

Within thirty days after a person known to be a physician or podiatrist licensed or otherwise lawfully practicing medicine and surgery or podiatry in this state or applying to be licensed is convicted of a felony under the laws of this state or of any crime under the laws of this state involving alcohol or drugs in any way, including any controlled substance under state or federal law, the clerk of the court of record in which the conviction was entered shall forward to the board a certified true and correct abstract of record of the convicting court. The abstract shall include the name and address of the physician or podiatrist or applicant, the nature of the offense committed and the final judgment and sentence of the court.

Upon a determination of the board that there is probable cause to believe that any person, partnership, corporation, association, insurance company, professional society or other organization has failed or refused to make a report required by this subsection, the board shall provide written notice to the alleged violator stating the nature of the alleged violation and the time and place at which the alleged violator shall appear to show good cause why a civil penalty should not be imposed. The hearing shall be conducted in accordance with ~~the provisions of~~ article five, chapter twenty-nine-a of this code. After reviewing the record of the hearing, if the board determines that a violation of this subsection has occurred, the board shall assess a civil penalty of not less than \$1,000 nor more than \$10,000 against the violator. The board shall notify any person so assessed of the assessment in writing and the notice shall specify the reasons for the assessment. If the violator fails to pay the amount of the assessment to the board within thirty days, the Attorney General may institute a civil action in the circuit court of Kanawha County to recover the amount of the assessment. In any civil action, the court's review of the board's action shall be conducted in accordance with ~~the provisions of~~ section four, article five, chapter twenty-nine-a of this code. Notwithstanding any other provision of this article to the contrary, when there are conflicting views by recognized experts as to whether any alleged conduct breaches an applicable standard of care, the evidence must be clear and convincing before the board may find that the physician or podiatrist has demonstrated a lack of professional competence to practice with a reasonable degree of skill and safety for patients.

Any person may report to the board relevant facts about the conduct of any physician or podiatrist in this state which in the opinion of that person amounts to medical professional liability or professional incompetence.

The board shall provide forms for filing reports pursuant to this section. Reports submitted in other forms shall be accepted by the board.

The filing of a report with the board pursuant to any provision of this article, any investigation by the board or any disposition of a case by the board does not preclude any action by a hospital, other health care facility or professional society comprised primarily of physicians or podiatrists to suspend, restrict or revoke the privileges or membership of the physician or podiatrist.

(c) The board may deny an application for license or other authorization to practice medicine and surgery or podiatry in this state and may discipline a physician or podiatrist licensed or otherwise lawfully practicing in this state who, after a hearing, has been adjudged by the board as unqualified due to any of the following reasons:

(1) Attempting to obtain, obtaining, renewing or attempting to renew a license to practice medicine and surgery or podiatry by bribery, fraudulent misrepresentation or through known error of the board;

(2) Being found guilty of a crime in any jurisdiction, which offense is a felony, involves moral turpitude or directly relates to the practice of medicine. Any plea of nolo contendere is a conviction for the purposes of this subdivision;

(3) False or deceptive advertising;

(4) Aiding, assisting, procuring or advising any unauthorized person to practice medicine and surgery or podiatry contrary to law;

(5) Making or filing a report that the person knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record required by state or federal law; or inducing another person to do any of the foregoing. The reports and records covered in this subdivision mean only those that are signed in the capacity as a licensed physician or podiatrist;

(6) Requesting, receiving or paying directly or indirectly a payment, rebate, refund, commission, credit or other form of profit or valuable consideration for the referral of patients to any person or entity in connection with providing medical or other health care services or clinical laboratory services, supplies of any kind, drugs, medication or any other medical goods, services or devices used in connection with medical or other health care services;

(7) Unprofessional conduct by any physician or podiatrist in referring a patient to any clinical laboratory or pharmacy in which the physician or podiatrist has a proprietary interest unless the physician or podiatrist discloses in writing such interest to the patient. The written disclosure shall indicate that the patient may choose any clinical laboratory for purposes of having any laboratory work or assignment performed or any pharmacy for purposes of purchasing any prescribed drug or any other medical goods or devices used in connection with medical or other health care services;

As used in this subdivision, "proprietary interest" does not include an ownership interest in a building in which space is leased to a clinical laboratory or pharmacy at the prevailing rate under a lease arrangement that is not conditional upon the income or gross receipts of the clinical laboratory or pharmacy;

(8) Exercising influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity;

(9) Making a deceptive, untrue or fraudulent representation in the practice of medicine and surgery or podiatry;

(10) Soliciting patients, either personally or by an agent, through the use of fraud, intimidation or undue influence;

(11) Failing to keep written records justifying the course of treatment of a patient, including, but not limited to, patient histories, examination and test results and treatment rendered, if any;

(12) Exercising influence on a patient in such a way as to exploit the patient for financial gain of the physician or podiatrist or of a third party. Any influence includes, but is not limited to, the promotion or sale of services, goods, appliances or drugs;

(13) Prescribing, dispensing, administering, mixing or otherwise preparing a prescription drug, including any controlled substance under state or federal law, other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician's or podiatrist's professional practice. ~~Provided, That a~~ A physician who discharges his or her professional obligation to relieve the pain and suffering and promote the dignity and autonomy of dying patients in his or her care and, in so doing, exceeds the average dosage of a pain relieving controlled substance, as defined in Schedules II and III of the Uniform Controlled Substance Act, does not violate this article;

(14) Performing any procedure or prescribing any therapy that, by the accepted standards of medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed and written consent;

(15) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities that the person knows or has reason to know he or she is not competent to perform;

(16) Delegating professional responsibilities to a person when the physician or podiatrist delegating the responsibilities knows or has reason to know that the person is not qualified by training, experience or licensure to perform them;

(17) Violating any provision of this article or a rule or order of the board or failing to comply with a subpoena or subpoena duces tecum issued by the board;

(18) Conspiring with any other person to commit an act or committing an act that would tend to coerce, intimidate or preclude another physician or podiatrist from lawfully advertising his or her services;

(19) Gross negligence in the use and control of prescription forms;

(20) Professional incompetence; or

(21) The inability to practice medicine and surgery or podiatry with reasonable skill and safety due to physical or mental impairment, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol. A physician or podiatrist adversely affected under this subdivision shall be afforded an opportunity at reasonable intervals to demonstrate that he or she may resume the competent practice of medicine and surgery or podiatry with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor any orders entered by the board shall be used against the physician or podiatrist in any other proceeding.

(d) The board shall deny any application for a license or other authorization to practice medicine and surgery or podiatry in this state to any applicant who, and shall revoke the license of any physician

or podiatrist licensed or otherwise lawfully practicing within this state who, is found guilty by any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other than generally accepted therapeutic purposes. Presentation to the board of a certified copy of the guilty verdict or plea rendered in the court is sufficient proof thereof for the purposes of this article. A plea of nolo contendere has the same effect as a verdict or plea of guilt. Upon application of a physician that has had his or her license revoked because of a drug related felony conviction, upon completion of any sentence of confinement, parole, probation or other court-ordered supervision and full satisfaction of any fines, judgments or other fees imposed by the sentencing court, the board may issue the applicant a new license upon a finding that the physician is, except for the underlying conviction, otherwise qualified to practice medicine: *Provided*, That the board may place whatever terms, conditions or limitations it deems appropriate upon a physician licensed pursuant to this subsection.

(e) The board may refer any cases coming to its attention to an appropriate committee of an appropriate professional organization for investigation and report. Except for complaints related to obtaining initial licensure to practice medicine and surgery or podiatry in this state by bribery or fraudulent misrepresentation, any complaint filed more than two years after the complainant knew, or in the exercise of reasonable diligence should have known, of the existence of grounds for the complaint shall be dismissed: *Provided*, That in cases of conduct alleged to be part of a pattern of similar misconduct or professional incapacity that, if continued, would pose risks of a serious or substantial nature to the physician's or podiatrist's current patients, the investigating body may conduct a limited investigation related to the physician's or podiatrist's current capacity and qualification to practice and may recommend conditions, restrictions or limitations on the physician's or podiatrist's license to practice that it considers necessary for the protection of the public. Any report shall contain recommendations for any necessary disciplinary measures and shall be filed with the board within ninety days of any referral. The recommendations shall be considered by the board and the case may be further investigated by the board. The board after full investigation shall take whatever action it considers appropriate, as provided in this section.

(f) The investigating body, as provided in subsection (e) of this section, may request and the board under any circumstances may require a physician or podiatrist or person applying for licensure or other authorization to practice medicine and surgery or podiatry in this state to submit to a physical or mental examination by a physician or physicians approved by the board. A physician or podiatrist submitting to an examination has the right, at his or her expense, to designate another physician to be present at the examination and make an independent report to the investigating body or the board. The expense of the examination shall be paid by the board. Any individual who applies for or accepts the privilege of practicing medicine and surgery or podiatry in this state is considered to have given his or her consent to submit to all examinations when requested to do so in writing by the board and to have waived all objections to the admissibility of the testimony or examination report of any examining physician on the ground that the testimony or report is privileged communication. If a person fails or refuses to submit to an examination under circumstances which the board finds are not beyond his or her control, failure or refusal is prima facie evidence of his or her inability to practice medicine and surgery or podiatry competently and in compliance with the standards of acceptable and prevailing medical practice.

(g) In addition to any other investigators it employs, the board may appoint one or more licensed physicians to act for it in investigating the conduct or competence of a physician.

(h) In every disciplinary or licensure denial action, the board shall furnish the physician or podiatrist or applicant with written notice setting out with particularity the reasons for its action. Disciplinary and licensure denial hearings shall be conducted in accordance with ~~the provisions of~~ article five, chapter twenty-nine-a of this code. However, hearings shall be heard upon sworn

testimony and the rules of evidence for trial courts of record in this state shall apply to all hearings. A transcript of all hearings under this section shall be made, and the respondent may obtain a copy of the transcript at his or her expense. The physician or podiatrist has the right to defend against any charge by the introduction of evidence, the right to be represented by counsel, the right to present and cross-examine witnesses and the right to have subpoenas and subpoenas duces tecum issued on his or her behalf for the attendance of witnesses and the production of documents. The board shall make all its final actions public. The order shall contain the terms of all action taken by the board.

(i) In disciplinary actions in which probable cause has been found by the board, the board shall, within twenty days of the date of service of the written notice of charges or sixty days prior to the date of the scheduled hearing, whichever is sooner, provide the respondent with the complete identity, address and telephone number of any person known to the board with knowledge about the facts of any of the charges; provide a copy of any statements in the possession of or under the control of the board; provide a list of proposed witnesses with addresses and telephone numbers, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil Procedure; provide inspection and copying of the results of any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing: *Provided*, That the board shall not be required to furnish or produce any materials which contain opinion work product information or would be a violation of the attorney-client privilege. Within twenty days of the date of service of the written notice of charges, the board shall disclose any exculpatory evidence with a continuing duty to do so throughout the disciplinary process. Within thirty days of receipt of the board's mandatory discovery, the respondent shall provide the board with the complete identity, address and telephone number of any person known to the respondent with knowledge about the facts of any of the charges; provide a list of proposed witnesses with addresses and telephone numbers, to be called at hearing, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil Procedure; provide inspection and copying of the results of any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing.

(j) Whenever it finds any person unqualified because of any of the grounds set forth in subsection (c) of this section, the board may enter an order imposing one or more of the following:

(1) Deny his or her application for a license or other authorization to practice medicine and surgery or podiatry;

(2) Administer a public reprimand;

(3) Suspend, limit or restrict his or her license or other authorization to practice medicine and surgery or podiatry for not more than five years, including limiting the practice of that person to, or by the exclusion of, one or more areas of practice, including limitations on practice privileges;

(4) Revoke his or her license or other authorization to practice medicine and surgery or podiatry or to prescribe or dispense controlled substances for a period not to exceed ten years;

(5) Require him or her to submit to care, counseling or treatment designated by the board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice medicine and surgery or podiatry;

(6) Require him or her to participate in a program of education prescribed by the board;

(7) Require him or her to practice under the direction of a physician or podiatrist designated by the board for a specified period of time; and

(8) Assess a civil fine of not less than \$1,000 nor more than \$10,000.

(k) Notwithstanding the provisions of section eight, article one of this chapter, if the board determines the evidence in its possession indicates that a physician's or podiatrist's continuation in practice or unrestricted practice constitutes an immediate danger to the public, the board may take any of the actions provided in subsection (j) of this section on a temporary basis and without a hearing if institution of proceedings for a hearing before the board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The board shall render its decision within five days of the conclusion of a hearing under this subsection.

(l) Any person against whom disciplinary action is taken pursuant to ~~the provisions of~~ this article has the right to judicial review as provided in articles five and six, chapter twenty-nine-a of this code: *Provided*, That a circuit judge may also remand the matter to the board if it appears from competent evidence presented to it in support of a motion for remand that there is newly discovered evidence of such a character as ought to produce an opposite result at a second hearing on the merits before the board and:

(1) The evidence appears to have been discovered since the board hearing; and

(2) The physician or podiatrist exercised due diligence in asserting his or her evidence and that due diligence would not have secured the newly discovered evidence prior to the appeal.

A person may not practice medicine and surgery or podiatry or deliver health care services in violation of any disciplinary order revoking, suspending or limiting his or her license while any appeal is pending. Within sixty days, the board shall report its final action regarding restriction, limitation, suspension or revocation of the license of a physician or podiatrist, limitation on practice privileges or other disciplinary action against any physician or podiatrist to all appropriate state agencies, appropriate licensed health facilities and hospitals, insurance companies or associations writing medical malpractice insurance in this state, the American Medical Association, the American Podiatry Association, professional societies of physicians or podiatrists in the state and any entity responsible for the fiscal administration of Medicare and Medicaid.

(m) Any person against whom disciplinary action has been taken under ~~the provisions of~~ this article shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the practice of medicine and surgery or podiatry on a general or limited basis. At the conclusion of a suspension, limitation or restriction period the physician or podiatrist may resume practice if the board has so ordered.

(n) Any entity, organization or person, including the board, any member of the board, its agents or employees and any entity or organization or its members referred to in this article, any insurer, its agents or employees, a medical peer review committee and a hospital governing board, its members or any committee appointed by it acting without malice and without gross negligence in making any report or other information available to the board or a medical peer review committee pursuant to law and any person acting without malice and without gross negligence who assists in the organization, investigation or preparation of any such report or information or assists the board or a hospital governing body or any committee in carrying out any of its duties or functions provided by law is immune from civil or criminal liability, except that the unlawful disclosure of confidential information possessed by the board is a misdemeanor as provided in this article.

(o) A physician or podiatrist may request in writing to the board a limitation on or the surrendering of his or her license to practice medicine and surgery or podiatry or other appropriate sanction as provided in this section. The board may grant the request and, if it considers it appropriate, may waive the commencement or continuation of other proceedings under this section. A physician or podiatrist whose license is limited or surrendered or against whom other action is taken under this subsection

may, at reasonable intervals, petition for removal of any restriction or limitation on or for reinstatement of his or her license to practice medicine and surgery or podiatry.

(p) In every case considered by the board under this article regarding discipline or licensure, whether initiated by the board or upon complaint or information from any person or organization, the board shall make a preliminary determination as to whether probable cause exists to substantiate charges of disqualification due to any reason set forth in subsection (c) of this section. If probable cause is found to exist, all proceedings on the charges shall be open to the public who are entitled to all reports, records and nondeliberative materials introduced at the hearing, including the record of the final action taken: *Provided*, That any medical records, which were introduced at the hearing and which pertain to a person who has not expressly waived his or her right to the confidentiality of the records, may not be open to the public nor is the public entitled to the records.

(q) If the board receives notice that a physician or podiatrist has been subjected to disciplinary action or has had his or her credentials suspended or revoked by the board, a hospital or a professional society, as defined in subsection (b) of this section, for three or more incidents during a five-year period, the board shall require the physician or podiatrist to practice under the direction of a physician or podiatrist designated by the board for a specified period of time to be established by the board.

(r) Notwithstanding any other provisions of this article, the board may, at any time, on its own motion, or upon motion by the complainant, or upon motion by the physician or podiatrist, or by stipulation of the parties, refer the matter to mediation. The board shall obtain a list from the West Virginia State Bar's mediator referral service of certified mediators with expertise in professional disciplinary matters. The board and the physician or podiatrist may choose a mediator from that list. If the board and the physician or podiatrist are unable to agree on a mediator, the board shall designate a mediator from the list by neutral rotation. The mediation shall not be considered a proceeding open to the public and any reports and records introduced at the mediation shall not become part of the public record. The mediator and all participants in the mediation shall maintain and preserve the confidentiality of all mediation proceedings and records. The mediator may not be subpoenaed or called to testify or otherwise be subject to process requiring disclosure of confidential information in any proceeding relating to or arising out of the disciplinary or licensure matter mediated: *Provided*, That any confidentiality agreement and any written agreement made and signed by the parties as a result of mediation may be used in any proceedings subsequently instituted to enforce the written agreement. The agreements may be used in other proceedings if the parties agree in writing.

(s) A physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-17. Complaint process.

(a) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings and procedures a physician assistant licenses and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in articles three and/or fourteen of this chapter, depending on which board licenses the physician assistant.

(b) The boards may impose the same discipline, restrictions and/or limitations upon the license of a physician assistant as they are authorized to impose upon physicians and/or podiatrists.

(c) The boards shall direct to the appropriate licensing board a complaint against a physician assistant, a supervising physician and/or an alternate supervising physician.

(d) In the event that independent complaint processes are warranted by the boards with respect to the professional conduct of a physician assistant or a supervising and/or alternate supervising physician, the boards are authorized to work cooperatively and to disclose to one another information which may assist the recipient appropriate licensing board in its disciplinary process. The determination of what information, if any, to disclose shall be at the discretion of the disclosing board.

(e) A physician assistant licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.

§30-5-14. Prohibiting the dispensing of prescription orders in absence of practitioner-patient relationship.

A pharmacist may not compound or dispense any prescription order when he or she has knowledge that the prescription was issued by a practitioner without establishing a valid practitioner-patient relationship. An online or telephonic evaluation by questionnaire, or an online or telephonic consultation, is inadequate to establish a valid practitioner-patient relationship: *Provided*, That this prohibition does not apply:

(1) In a documented emergency;

(2) In an on-call or cross-coverage situation; or

(3) For the treatment of sexually transmitted diseases by expedited partner therapy as set forth in article four-f, chapter sixteen of this code; or

~~(3)~~ (4) Where patient care is rendered in consultation with another practitioner who has an ongoing relationship with the patient and who has agreed to supervise the patient's treatment, including the use of any prescribed medications.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-11. Denial, revocation or suspension of license; grounds for discipline.

(a) The board shall have the power to deny, revoke or suspend any license to practice registered professional nursing issued or applied for in accordance with the provisions of this article, or to otherwise discipline a licensee or applicant upon proof that he or she:

~~(a)~~ (1) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to practice registered professional nursing; or

~~(b)~~ (2) Has been convicted of a felony; or

~~(c)~~ (3) Is unfit or incompetent by reason of negligence, habits or other causes; or

~~(d)~~ (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or

~~(e)~~ (5) Is mentally incompetent; or

~~(f)~~ (6) Is guilty of conduct derogatory to the morals or standing of the profession of registered nursing; or

~~(g)~~ (7) Is practicing or attempting to practice registered professional nursing without a license or reregistration; or

~~(H)~~ (8) Has willfully or repeatedly violated any of the provisions of this article.

(b) An Advanced practice registered nurse licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

(a) The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes:

- (1) Conviction of a felony, as shown by a certified copy of the record of the trial court;
- (2) Conviction of a misdemeanor involving moral turpitude;
- (3) Violation of any provision of this article regulating the practice of osteopathic physicians and surgeons;
- (4) Fraud, misrepresentation or deceit in procuring or attempting to procure admission to practice;
- (5) Gross malpractice;
- (6) Advertising by means of knowingly false or deceptive statements;
- (7) Advertising, practicing or attempting to practice under a name other than one's own;
- (8) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs.

(b) The board shall also have the power to suspend or revoke for cause any certificate of authorization issued by it. It shall have the power to reinstate any certificate of authorization suspended or revoked by it.

(c) An osteopathic physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 123—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-17 of said code; to amend and reenact §30-5-14 of said code; to amend and reenact §30-7-11 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; allowing 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.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 123, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 123) 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 the concurrence by that body in the passage of

Eng. Senate Bill 261, Bringing state code relating to daylight saving time in conformity with federal code.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 16, US Army CPL John Belcastro Bridge.

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 2615—A Bill to amend and reenact §32-3-301 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §32-5-501, §32-5-502, 32-5-503, §32-5-504, and §32-5-505, all relating to creation of a new exemption to the securities registration rule with the commissioner for intrastate securities offerings under the West Virginia Small Business Capital Act.

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 4146—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to abuse-deterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid analgesic drugs; providing direct health care services cover abuse-deterrent opioid analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs; defining terms; providing an effective date; providing for cost sharing; providing for cost tier location; and allowing cost containment measures.

Referred to the Committee on Banking and Insurance; and then 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 4188—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas, welcome centers, and roads; providing for sponsorship agreements; providing for agreement requirements; providing for disposition of funds received from agreements; providing for the promulgation of emergency or legislative rules; and providing for a report of the status of the program.

Referred to the Committee on Transportation and Infrastructure; 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 4218—A Bill to amend and reenact §24C-1-2 of the Code of West Virginia, 1931, as amended, relating to the One-call system; revising the definition of “underground facility”.

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 July 1, 2016, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4228—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, §17-29-18 and §17-29-19, all relating to transportation network companies generally; providing definitions; establishing that transportation network companies and transportation network company drivers are not certain common carriers, contract carriers or motor carriers and do not provide taxicab or for-hire vehicle service; requirements to obtain permit from the Division of Motor Vehicles; requiring an agent for service of process; collection and disbursement of fees for permit; providing for fare collection, electronic receipts and identification of vehicles and drivers; requiring automobile liability insurance; requiring disclosures relating to insurance; allowing automobile insurers to exclude certain coverages; establishing status of drivers and relationship between drivers and transportation network companies; requiring transportation network companies to implement a policy of zero tolerance for the use of alcohol or drugs by drivers; providing requirements and conditions for being a driver; requiring vehicle inspections; prohibiting street hails; requiring transportation network companies to adopt policy relating to the prohibition of cash payments; requiring transportation network companies to adopt policy relating to nondiscrimination; requiring compliance with law; prohibiting additional charges in certain circumstances; requiring retention of customer records; providing exclusivity of provisions governing regulation of business activities of companies and drivers; prohibiting local governmental entities or special districts from imposing requirements of licensure, fee, tax, entry registration or operation; prescribing certain tax limitations and exemptions; and specifying certain other provisions of law that are not affected by provisions of article.

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 4309—A Bill to amend and reenact §61-2-29b of the Code of West Virginia, 1931, as amended, relating to increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person, protected person or incapacitated adult; increasing the criminal penalty for the offense of financial exploitation of \$1,000 or more.

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 2—Requesting the Division of Highways to name the bridge on County Route 4/1, Gibbons Run Road, over North River in Hampshire County, bridge number 14-4/1-2.29, (14A011), latitude 39.33852, longitude -78.50974, as the “U.S. Army PVT William Frederick Kump 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 14—Designating the second Friday in July as West Virginia Collector Car Appreciation Day.

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 19—Requesting the Division of Highways to name the bridge on U. S. Route 19 at mile marker 15.55 over the West Fork River in Clarksburg, Harrison County, the “H. Laban White Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 54, Altering how tax is collected on homeowners' associations.

And has amended same.

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

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 293, Neighborhood Investment Program Act.

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

Com. Sub. for Senate Bill 293 (originating in the Committee on Finance)—A Bill to amend and reenact §11-13J-3, §11-13J-4, §11-13J-4a, §11-13J-10 and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating generally to Neighborhood Investment Program Act; reauthorizing act until July 1, 2021; defining terms “community based” and “emergency assistance”; modifying definition of “economically disadvantaged area”; reducing frequency of required project transferee reports; reducing number of required advisory board meetings; reducing required number of West Virginia Development Office reports to the board; eliminating guidance on what a community based project is when the board is evaluating a project; removing requirement that Tax Commissioner annually publish addresses of taxpayers who claim the credit; and reducing frequency of program assessments by the director.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mike Hall,
Chair.

Senator Karnes, 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 434, Allowing home-based micro-processed foods sold at farmers markets.

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

Com. Sub. for Senate Bill 434 (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 §19-35-5, relating to permitting sale of home-based, micro-processed foods at farmers markets; requiring seventy percent from vendor’s garden or farm; requiring recordkeeping and labeling; clarifying foods requiring a permit and exempted foods; establishing permit requirements and limitations; setting for permit inspections and fees; and limiting sales to seven hundred fifty units per year.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Robert Karnes,
Chair.

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

Your Committee on Banking and Insurance has had under consideration

Senate Bill 547, Adjusting limits on consumer loans for which finance charges can be imposed.

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

Your Committee on Finance has had under consideration

Eng. House Bill 4148, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

And,

Eng. Com. Sub. for House Bill 4158, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Mike Hall,
Chair.

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

Your Committee on Banking and Insurance has had under consideration

Eng. Com. Sub. for House Bill 4244, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

And,

Eng. Com. Sub. for House Bill 4245, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

C. Edward Gaunch,
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 Ashley, Hall, Kessler, Palumbo, Romano, Williams, Woelfel, Yost, Plymale and Facemire:

Senate Bill 608—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8, §30-41-9, §30-41-10, §30-41-11, §30-41-12, §30-41-13, §30-41-14 and §30-41-15, all relating to the West Virginia Court Reporter Act of 2016; providing a short title; defining certain terms; providing licensure and reporting firm requirements; providing court reporters are not required to be involved in all legal proceedings; providing for the creation of the West Virginia Board of Court Reporting; designating membership requirements and setting terms of service for board members; establishing duties for the board; providing a procedure to handle complaints against court reporters and reporting firms; providing for fines for certain violations and noncompliance with the article; providing for reciprocal agreements with governmental or other entities; providing guidelines for determining when state licensure laws apply over another state's licensure laws in case of conflict; requiring and providing for fees for licensure or registration; addressing license and registration renewal; requiring continuing legal education for licensees; requiring licensees to provide changes of address; providing guidelines for grandfathering licensure of court reporters; providing for the disposition and disbursement of moneys collected by the board; requiring the board to annually establish a budget; and authorizing the board to contract for services under certain circumstances.

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

By Senator Plymale:

Senate Bill 609—A Bill to amend and reenact §16-29B-26 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §16-29B-28 and §16-29B-29, all relating to jurisdiction of the Health Care Authority; establishing exemption from state and federal antitrust laws; providing legislative findings; setting forth intent and purpose; and establishing the Health Care Authority as state regulatory body over certain hospital functions in this state.

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

By Senators Gaunch, Yost, Stollings, Beach, Palumbo, Kirkendoll, Facemire, Kessler, Mullins, Boso, Snyder, Cline, Miller, Prezioso, Williams, Plymale, Takubo, Hall, Trump and Romano:

Senate Bill 610—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 §11-15-3c of said code; to amend said code by adding thereto a new section, designated §11-15-18c; 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-10-1, §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-10-3c; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-8 and §17B-2-11 of said code; and to amend and reenact §17D-2-2 of said code, all relating to generating and maintaining revenue for maintenance of roads and infrastructure; increasing flat tax rate portion for diesel fuel; increasing general consumers sales and service tax; dedicating portion of general consumers sales and service tax imposed to State Road Fund; providing that general consumers sales and service tax on motor vehicle repairs, parts and services be deposited into State Road Fund; increasing and adding certain fees related to motor vehicles, registration, titles, license plates, decals, records, licenses and identification cards; creating new registration class for alternative fuel vehicles; and changing privilege tax rate and privilege tax calculation on motor vehicles.

Referred to the Committee on Finance.

Senators Kessler, Yost, Stollings, Laird, Unger, Prezioso, Williams, Plymale, Romano and Facemire offered the following resolution:

Senate Resolution 38—Recognizing the West Virginia Federation of Democratic Women.

Whereas, The West Virginia Federation of Democratic Women works to promote an informed electorate through political education; and

Whereas, The West Virginia Federation of Democratic Women works to increase the effectiveness of women in the cause of good government through active political participation; and

Whereas, The West Virginia Federation of Democratic Women facilitates cooperation among Democratic women's clubs; and

Whereas, The West Virginia Federation of Democratic Women fosters loyalty to the Democratic Party and promotes its ideals; and

Whereas, The West Virginia Federation of Democratic Women works for the election of the Democratic Party's nominees; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the West Virginia Federation of Democratic Women; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the West Virginia Federation of Democratic Women.

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

Senators Cline, Gaunch, Karnes and Leonhardt, respectfully, presented petitions from the National Association for Gun Rights and numerous West Virginia residents, supporting Engrossed Committee Substitute for House Bill 4145 (*Relating to carry or use of a handgun or deadly weapon*).

Referred to the Committee on the Judiciary.

Senator Kessler presented a petition from Christine Campbell and numerous West Virginia residents, requesting the Legislature to stop cutting benefits and fairly fund PEIA.

Referred to the Committee on Finance.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 36, US Army SPC5 Joseph Richard "Rick" Schafer 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 then proceeded to the eighth order of business.

Eng. Senate Bill 147, Providing consumers sales and service tax and use tax exemption for certain services and tangible personal property sold for repair, remodeling and maintenance of aircraft.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 147) 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 272, Allowing investigators from Attorney General's office to carry concealed weapons.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Mullins, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—29.

The nays were: Kessler, Miller, Palumbo, Snyder and Yost—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 S. B. 272) 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 298, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 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 423, Providing for disposition of unclaimed and unredeemed savings bond.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 423) 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 493, Allowing creation of self-settled spendthrift trusts.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 493) 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 510, Establishing Adult Drug Court Participation 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 510) 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 511, Establishing Court Advanced Technology Subscription 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 511) 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 516, Relating to registration for selective service.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 516) 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 583, Repealing certain obsolete legislative rules by Department of Administration.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, 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. 583) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 583) 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 584, Repealing certain obsolete legislative rules by DEP.

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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 584) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 584) 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 585, Repealing certain obsolete legislative rules by 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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 585) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 585) 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 586, Repealing certain obsolete legislative rules by Department of Military Affairs and Public Safety.

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: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 586) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 586) 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 587, Repealing certain obsolete legislative rules by Department of Revenue.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 587) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 587) 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 588, Repealing certain obsolete legislative rules by Department of Transportation.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller,

Mullins, 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. 588) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 588) 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 589, Repealing certain obsolete legislative rules by miscellaneous agencies 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 589) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 589) 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 590, Repealing certain obsolete legislative rules by 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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 590) passed with its title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, 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. 590) 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 10, Creating Unborn Child Protection from Dismemberment Abortion Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Ferns, 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 Com. Sub. for Senate Bill 16, Providing tax credit for providing broadband service to unserved areas.

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

Com. Sub. for Senate Bill 105, Creating Tim Tebow Act allowing nonpublic school student participate in SSAC member school athletics.

On second reading, coming up in regular order, was read a second time.

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

On page one, section twenty-five-b, line eight, after the word "Commission" by changing the period to a colon and inserting the following proviso: *Provided*, That the nonpublic school has agreed to open its extracurricular activities to Tebow students.

Following discussion,

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

On motion of Senator Palumbo, the following amendment to the bill (Com. Sub. for S. B. 105) was next reported by the Clerk and adopted:

On page two, section twenty-five-b, line sixteen, after the word "school" by changing the period to a colon and inserting the following proviso: *Provided*, That the extracurricular activity is not offered at the private, parochial or church school or school operated by a religious order where the Tebow student is enrolled.

On motion of Senator Romano, the following amendments to the bill (Com. Sub. for S. B. 105) were next reported by the Clerk:

On page one, section twenty-five-b, line six, after the word "activities" by striking out the comma and the words "including athletic teams,";

And,

On page two, section twenty-five-b, line thirteen, by striking out the word "includes" and inserting in lieu thereof the word "means".

At the request of Senator Romano, and by unanimous consent, Senator Romano's amendments to the bill were withdrawn.

The bill (Com. Sub. for S. B. 105), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 267, Modifying removal procedure for 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.

Com. Sub. for Senate Bill 283, Creating crime when fire is caused by operation of a clandestine drug laboratory.

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 313, Relating to school calendar and allowing limited use of available accrued instructional time.

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.

Senate Bill 351, Dedicating severance tax proceeds.

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

Senate Bill 356, Eliminating consumers sales and service tax exemption for 2016 fiscal year.

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 400, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund.

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 424, Allowing fire departments assess fees.

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 Senate Bill 436, Defining adequate shelter for dogs and cats.

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

Senate Bill 439, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances.

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

Senate Bill 462, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

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 504, Relating to confidentiality of juvenile records.

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

Senate Bill 507, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.

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

Senate Bill 515, Authorizing payment of certain claims against state.

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.

Senator Carmichael requested unanimous consent that the bills on first reading each be read a first time and ordered to second reading.

Thereafter, at the request of Senator Carmichael, and by unanimous consent, his foregoing request was withdrawn.

Com. Sub. for Com. Sub. for Senate Bill 315, Providing for construction of statewide fiber optic broadband infrastructure network.

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

Com. Sub. for Senate Bill 529, Making certain sport and educational fantasy games lawful.

On first reading, coming up in regular order, was read a first time.

Senator Trump moved that the bill be referred to the Committee on Finance.

Following discussion and a point of inquiry to the President, with resultant response thereto,

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

The roll being taken, the yeas were: Ashley, Facemire, Hall, Kessler, Kirkendoll, Laird, Miller, Palumbo, Prezioso, Romano, Snyder, Stollings, Trump, Unger, Williams and Yost—16.

The nays were: Beach, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Karnes, Leonhardt, Maynard, Mullins, Plymale, Sypolt, Takubo, Walters, Woelfel 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 Trump's aforesated motion had not prevailed.

The bill (Com. Sub. for S. B. 529) was then 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.

The Senate next proceeded to the thirteenth order of business.

At the request of Senator Boso, the name of Senator Boso was removed as a sponsor of **Senate Bill 604** (*Increasing excise tax on bottled soft drinks, syrups and dry mixtures*).

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, Wednesday, February 17, 2016, at 11 a.m.

SENATE CALENDAR

Wednesday, February 17, 2016
11:00 AM

THIRD READING

- Com. Sub. for S. B. 10 - Creating Unborn Child Protection from Dismemberment Abortion Act - (With right to amend) (original similar to HB4004).
- Eng. Com. Sub. for Com. Sub. for S. B. 16 - Providing tax credit for providing broadband service to unserved areas.
- Eng. Com. Sub. for S. B. 105 - Creating Tim Tebow Act allowing nonpublic school student participate in SSAC member school athletics.
- Eng. Com. Sub. for S. B. 267 - Modifying removal procedure for certain county, school district and municipal officers.
- Eng. Com. Sub. for S. B. 283 - Creating crime when fire is caused by operation of a clandestine drug laboratory.
- Eng. S. B. 351 - Dedicating severance tax proceeds (original similar to HB4268).
- Eng. S. B. 356 - Eliminating consumers sales and service tax exemption for 2016 fiscal year (original similar to HB4294).
- Eng. Com. Sub. for S. B. 400 - Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund (original similar to SB463).
- Eng. Com. Sub. for S. B. 436 - Defining adequate shelter for dogs and cats (original similar to HB4373).
- Eng. S. B. 439 - Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances.
- Eng. S. B. 462 - Reducing deposit of excess lottery proceeds into WV Infrastructure Fund (original similar to HB4217).
- Eng. Com. Sub. for S. B. 504 - Relating to confidentiality of juvenile records.
- Eng. S. B. 507 - Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.
- Eng. S. B. 515 - Authorizing payment of certain claims against state.

SECOND READING

- Com. Sub. for S. B. 313 - Relating to school calendar and allowing limited use of available accrued instructional time.
- Com. Sub. for Com. Sub. for S. B. 315 - Providing for construction of statewide fiber optic broadband infrastructure network.

- Com. Sub. for S. B. 424 - Allowing fire departments assess fees.
- Com. Sub. for S. B. 529 - Making certain sport and educational fantasy games lawful (original similar to HB4583).

FIRST READING

- S. B. 54 - Altering how tax is collected on homeowners' associations - (Com. amend. pending).
- Com. Sub. for S. B. 293 - Neighborhood Investment Program Act (original similar to HB4563).
- Com. Sub. for S. B. 434 - Allowing home-based micro-processed foods sold at farmers markets.
- Eng. H. B. 4148 - Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act (original similar to SB354).
- Eng. Com. Sub. for H. B. 4158 - Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act (original similar to SB447).
- Eng. Com. Sub. for H. B. 4244 - Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.
- Eng. Com. Sub. for H. B. 4245 - Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Wednesday, February 17, 2016

| | | |
|--------|-------------------|-------------|
| 2 p.m. | Natural Resources | (Room 451M) |
| 2 p.m. | Pensions | (Room 208W) |