

West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Third Legislature  
First Extraordinary Session

Held at Charleston  
Published by the Clerk of the House



May 18, 2017  
SIXTH DAY



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Thursday, May 18, 2017

**SIXTH DAY**

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

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

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

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 614**), and 86 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Bates, Caputo, Ellington, A. Evans, Fast, N. Foster, Gearheart, Hill, Miley, Moore, Rodighiero, Rowe, Thompson and White.

The Clerk proceeded to read the Journal of Wednesday, May 17, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Resolutions Introduced**

Delegates Byrd, Phillips, Rowe, Robinson, Lovejoy, Pushkin, Eldridge and Canestraro offered the following resolution, which was reported by the Clerk.

Delegate Byrd asked and obtained unanimous consent that resolution (H. C. R. 1) be read in its entirety, as follows:

**H. C. R. 1** - "Establishing a Select Committee on Taxation and Budget Matters to negotiate and recommend to both houses of the Legislature any necessary revenue legislation to enact balanced budget for fiscal year 2018; and calling for a recess of the first extraordinary session until June 5, 2017 to consider the recommendations of the Select Committee."

Whereas, Each day the full Legislature is in session costs the taxpayers of this state more than \$34,000.00, and members of the Legislature support keeping the cost to state taxpayers to a minimum while in a special session; and

Whereas, The negotiations for funding and passage of the state budget, at the point of time of presentment of this resolution, are far from resolved and are likely to continue for several days if not weeks; and

Whereas, These negotiations are being undertaken by a select group of legislators in leadership who are charged with representing the wishes of their respective caucuses;

Whereas, The rank and file membership of the State Senate and House of Delegates are not participating in preliminary efforts to reach a final agreement; and

Whereas, Adoption of this resolution will allow a studied and balanced process to resolution of the issues associated with funding the 2018 fiscal year budget at a low cost to state taxpayers; therefore, be it

*Resolved by the Legislature of West Virginia:*

That a Select Committee on Taxation and Budget Matters is hereby created with the following members: The President of the Senate; the Speaker of the House of Delegates; the Majority and Minority Leaders of each house; the chairs of Finance of each house; the vice chairs of Finance of each house; and two minority members of the Committees of Finance of each house; and, be it

*Further Resolved,* That, at the conclusion of its study, the Select Committee on Taxation and Budget Matters report to each house its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That all members of the Select Committee are authorized to receive pay and expense reimbursement during days those members are present at Select Committee meetings; and, be

*Further Resolved,* That upon adoption of this resolution by each house, the First Extraordinary Session of the 2017 Legislature shall recess until 11:00 a.m. on June 5, 2017.

Following the reading of the resolution, it was then referred to the Committee on Rules.

At 11:48 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 4:30 p.m.

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### Afternoon Session

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### Special Calendar

#### First Reading

**Com. Sub. H. B. 106**, Relating generally to the furlough of public employees during declared fiscal emergency; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 615**), and there were—yeas 83, nays 1, absent and not voting 16, with the nays and absent and not voting being as follows:

Nays: Folk.

Absent and Not Voting: Anderson, Arvon, Bates, Caputo, Eldridge, Ellington, A. Evans, N. Foster, Harshbarger, Hicks, Hornbuckle, Marcum, Miley, Moore, Rohrbach and Statler.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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

Having been engrossed, the bill was then read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 616**), and there were—yeas 82, nays 2, absent and not voting 16, with the nays and absent and not voting being as follows:

Nays: G. Foster and Gearheart.

Absent and Not Voting: Anderson, Arvon, Bates, Caputo, Eldridge, Ellington, A. Evans, N. Foster, Harshbarger, Hicks, Hornbuckle, Marcum, Miley, Moore, Rohrbach and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 106) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 617**), and there were—yeas 84, nays none, absent and not voting 16, with the absent and not voting being as follows:

Absent and Not Voting: Anderson, Arvon, Bates, Caputo, Eldridge, Ellington, A. Evans, N. Foster, Harshbarger, Hicks, Hornbuckle, Marcum, Miley, Moore, Rohrbach and Statler.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 106) takes effect from its passage.

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

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

### **Committee Reports**

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

Your Committee on Finance has had under consideration:

**H. B. 107**, Relating generally to the Tax Reform Act of 2017,

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

**Com. Sub. for H. B. 107** – “A Bill to amend and reenact §11-15-3, §11-15-8a, §11-15-9, §11-15-9b and §11-15-9h of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-15-3d; to amend and reenact §11-15A-2 of said code; to amend and reenact §11-21-8a, §11-21-8e and §11-21-16 of said code; to amend said code by adding thereto two new sections, designated §11-21-12j and §11-21-12k; and to amend and reenact §11-24-23a and §11-24-23e of said code, all relating generally to taxation; imposing taxes on

telecommunication services and ancillary telecommunication services beginning on a specified date; eliminating exemptions from consumers sales and service tax as of July 1, 2017, on the first \$40,000 of consideration paid for the portion of the labor component for contracting services furnished that is not otherwise exempt from the sales tax for a contract for contracting services entered into on or after a specified date; eliminating exemptions from sales and services tax beginning on specified dates on sales of electronic data processing services and related software, on charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs, on sales of certain primary opinion research services, and on sales of services, machinery, supplies and materials directly used or consumed in the business activity of communication, but exempting all sales of services, machinery, supplies and materials directly used or consumed in the business activities of the buildout of broadband infrastructure in the state from the tax; eliminating the transfers of sales tax revenues to the State Road Fund that are collected from sales of construction and maintenance materials acquired by a second party for use in the construction or maintenance of a highway project beginning on specified date; exempting all military retirement from personal income tax beginning on specified date; phasing in an exemption of federal social security benefits income from personal income tax for certain resident individuals beginning on specified date; increasing the personal income tax personal exemption of certain resident individuals beginning on specified date; increasing amount of credit allowed against personal and corporation net income taxes for qualified building rehabilitation expenditures made after specified date; and establishing limitations on carryback and carryforward of credit for qualified building rehabilitation expenditures; and making technical corrections in various sections,”

With the recommendation that the committee substitute do pass.

At the request of Delegate Cowles, and by unanimous consent, the bill was taken up for immediate consideration, read a first time and ordered to second reading.

#### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Bates, Caputo, Ellington, A. Evans, N. Foster, Miley and Moore.

At 5:22 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, May 19, 2017.

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

**SPECIAL CALENDAR**

**Friday, May 19, 2017**

**7<sup>th</sup> Day**

**11:00 A.M.**

**SECOND READING**

Com. Sub. for H. B. 107 - Relating generally to the Tax Reform Act of 2017 (NELSON) (JULY 1, 2017)





**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**FRIDAY, MAY 19, 2017**

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

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