Saturday, March 3, 2018

FIFTY-THIRD DAY

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

The House of Delegates met at 9:30 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Friday, March 2, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 2<sup>nd</sup> day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**Com. Sub. for S. B. 71**, Defining “veteran” as it pertains to veteran-owned business,

And,

**Com. Sub. for S. B. 237**, Authorizing Department of Revenue promulgate legislative rules.

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

Your Committee on Finance has had under consideration:

**S. B. 297**, Eliminating taxation on annuity considerations collected by life insurer,

**Com. Sub. for S. B. 359**, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates,

And,

**Com. Sub. for S. B. 500**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund,

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

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 2, 2018, he approved H. B. 4380, H. B. 4381, H. B. 4384 and H. B. 4386.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:


On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. WILDLIFE RESOURCES.

§20-2-42a. Class A resident hunting and trapping license.

A Class A license is a resident hunting and trapping license and entitles the licensee to hunt and trap all legal species of wild animals and wild birds in all counties of the state, except that the licensee may not hunt deer during the deer archery, and muzzle-loader seasons, or black bear, wild turkey or wild boar during the respective seasons, big game as provided in §20-2-42v of this code, and except as prohibited by rules of the Director or Natural Resources Commission and when additional licenses, stamps, or permits are required. It shall be issued only to residents or aliens lawfully residing in the United States who have been domiciled residents of West Virginia for a period of 30 consecutive days or more immediately prior to the date of their application for a license. The fee for the license is $18. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

§20-2-42q. Class RB resident and Class RRB nonresident archery deer hunting stamp for an additional deer.

The Director has the authority to may issue a Class RB resident and a Class RRB nonresident archery deer hunting stamp when deemed considered essential for the proper management of the wildlife resources. This stamp allows the licensee to hunt and take an additional deer during the deer archery or crossbow seasons as designated by the director. The fee for a Class RB stamp is $20 and the fee for a Class RRB stamp is $35. The director may promulgate propose rules for promulgation in accordance with §29A-3-1 et seq. of this code governing the issuance and use of these stamps. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section except as noted.

§20-2-42s. Class UU nonresident archery deer hunting stamp.

A Class UU stamp is a nonresident archery deer hunting stamp and entitles the licensee to hunt and take deer with a bow during the archery deer season or with a crossbow in the crossbow deer season in all counties of the state, except as prohibited by the rules of the Director or Natural Resources Commission. The fee for a Class UU stamp is $30. The stamp, issued in a form prescribed by the director, shall be is in addition to a Class E license. This stamp requires that the licensee
purchase the appropriate base license before participating in the activities specified in this section except as noted.

§20-2-42v. Class BG resident big game stamp.

A Class BG stamp is a resident big game stamp and entitles the Class A licensee to hunt deer during the deer archery, crossbow, and muzzleloader seasons, and bear, wild turkey, and wild boar during the respective seasons, except as prohibited by rules of the Director of Natural Resources Commission: Provided, That the licensee possesses all other required permits and/or and stamps. The fee for the stamp is $10. The stamp, issued in a form prescribed by the director, shall be in addition to a Class A license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section except as noted."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (Roll No. 292), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem, Eldridge, Ellington, Hornbuckle, Storch, Sypolt and Upson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2696) passed.

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

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4332, Relating to home peritoneal renal dialysis.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

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

§30-5-22. Pharmacies to be registered.

(a) A pharmacy, an ambulatory health care facility, and a charitable clinic pharmacy shall register with the board.

(b) A person desiring to operate, maintain, open or establish a pharmacy shall register with the board.

(c) To be eligible for a registration to operate, maintain, open or establish a pharmacy the applicant shall:

(1) Submit a written application to the board;
(2) Pay all applicable fees;

(3) Designate a pharmacist-in-charge; and

(4) Successfully complete an inspection by the board.

(d) A separate application shall be made and separate registration issued for each location.

(e) Registration are is not transferable.

(f) Registration expire and shall be renewed annually.

(g) If a registration expires, the pharmacy shall be reinspected and an inspection fee is required.

(h) A registrant shall employ a pharmacist-in-charge and operate in compliance with the legislative rules governing the practice of pharmacist care and the operation of a pharmacy.

(i) The provisions of this section do not apply to the sale of nonprescription drugs which are not required to be dispensed pursuant to a practitioner's prescription.

(j) The provisions of this section do not apply to the sale or distribution of dialysate, drugs or devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease, provided the requirements of §30-5-29 of this code are met.

§30-5-29. Limitations of article.

(a) This article may not be construed to prevent, restrict or in any manner interfere with the sale of nonnarcotic nonprescription drugs which may be lawfully sold without a prescription in accordance with the United States Food, Drug and Cosmetic Act or the laws of this state, nor may any legislative rule be adopted by the board which shall require the sale of nonprescription drugs by a licensed pharmacist or in a pharmacy or which shall prevent, restrict or otherwise interfere with the sale or distribution of such drugs by any retail merchant. The sale or distribution of nonprescription drugs may not be deemed to be improperly engaging in the practice of pharmacist care.

(b) This article may not be construed to interfere with any legally qualified practitioner of medicine, dentistry or veterinary medicine, who is not the proprietor of the store for the dispensing or retailing of drugs and who is not in the employ of such proprietor, in the compounding of his or her own prescriptions or to prevent him or her from supplying to his or her patients such medicines as he or she may deem proper, if such supply is not made as a sale.

(c) The exception provided in subsection (b) of this section does not apply to an ambulatory health care facility: Provided, That a legally licensed and qualified practitioner of medicine or dentistry may supply medicines to patients that he or she treats in a free clinic and that he or she deems appropriate.

(d) This article may not be construed to prevent, restrict or in any manner interfere with the sale or distribution of dialysate, drugs or devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease, nor may any legislative rule be adopted by the board which shall require the sale or distribution of such peritoneal dialysis products by a licensed pharmacist or in a pharmacy, provided the following criteria are met:

(1) The dialysate, drugs or devices are approved or cleared by the Food and Drug Administration, as required by federal law.
(2) The dialysate, drugs or devices are lawfully held by a manufacturer or a manufacturer’s agent that has obtained the proper permit from the board as a manufacturer or wholesale distributor, or third-party logistics provider.

(3) The dialysate, drugs or devices are held and delivered in their original, sealed packaging from the manufacturing facility.

(4) The dialysate, drugs or devices are delivered only upon receipt of a physician’s prescription by a licensed pharmacy, and the transmittal of an order from the licensed pharmacy to the manufacturer or the manufacturer’s agent; and

(5) The manufacturer or a manufacturer’s agent delivers the dialysate, drugs, or devices directly to:

(A) A patient with chronic kidney failure, or his/her designee, for the patient’s self-administration of the dialysis therapy; or

(B) A health care provider or institution for administration or delivery of the dialysis therapy to a patient with chronic kidney failure.

(e) The provisions of §30-5-29(d) of this code shall not alter the manner in which dialysate, drugs, devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease are billed by Medicaid under the current pharmacy benefit structure.

(f) A person who handles a prescription drug only during the point of sale to provide the prescription drug to a patient and accept payment is not subject to the licensure requirements of this article. This handling process includes the cashier having access to the pharmacy’s operating system to verify unique information for each patient. A pharmacy may require an individual to complete a criminal background check before he or she is hired.”

And,

By amending the title of the bill to read as follows:

H. B. 4332 – “A Bill to amend and reenact §30-5-22 and §30-5-29 of the Code of West Virginia, 1931, as amended, all relating to the pharmacy practice act; allowing home peritoneal renal dialysis equipment and drugs to be distributed to patients with end state renal disease; providing for payment by Medicaid under the current benefit structure; and exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (Roll No. 293), and there were—yeas 90, nays 3, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Isner, Marcum and Rodighiero.

Absent and Not Voting: Blair, Deem, Eldridge, Ellington, Hornbuckle, Storch and Upson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4332) passed.
Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect July 1, 2018, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4619**, Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

A message from the Senate, by
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of


A message from the Senate, by
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 348**, Allowing for disposal of service weapons of special DNR police officers.

**Motions**

On motion of Delegate Cowles, the House reconsidered the adoption, on yesterday, of the title amendment to **Com. Sub. for S. B. 451**, Relating generally to hunting and fishing.

On motion of Delegate Cowles, the House then reconsidered the passage of the bill.

Delegate Cowles asked unanimous consent that the rule be suspended to permit amendment of the bill on third reading, which consent was not obtained, objection being heard.

Delegate Cowles then moved that the rule be suspended to permit amendment of the bill on third reading.

On this question, the yeas and nays were taken *(Roll No. 294)*, and there were—yeas 90, nays 6, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Jennings, Lane, Lynch, Pushkin and Rowe.

Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, two thirds of the members present and voting having voted in the affirmative, the rule was suspended to permit amendment of the bill on third reading.

On motion of Delegates Hamilton, Graves, Martin and Butler, the bill was amended on page three, section five, line thirty-five, by striking out the word “handgun” and inserting in lieu thereof the word “firearm”.

On page three, section five, line forty, after the word “in”, by striking out the word “a”.

On page three, section five, line forty, after the word “park”, by striking out the comma and inserting in lieu thereof the word “or”.


On page three, section five, line forty, after the word "facilities", by striking out the comma.

On page seven, section nine, line eight, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”.

On page seven, section nine, line twelve, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”.

And,

On page seven, section nine, line sixteen, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”.

The question then being on the passage of the bill, the yeas and nays were taken (Roll No. 295), and there were—yeas 87, nays 8, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Fast, Fleischauer, Hanshaw, Iaquinta, Jennings, Lane, Pushkin and Rowe.

Absent and Not Voting: Cooper, Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 451) passed.

On motion of Delegate Hamilton, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 451 – “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing; authorizing the use of certain technologies for hunting coyote, fox, raccoon, opossum, and skunk; regulating firearm use and possession in certain places; prohibiting the use of a drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with certain exceptions; creating a misdemeanor and providing penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters; removing a limitation on the starting time for Sunday hunting on private lands with the landowner’s permission; providing that the misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass; providing increased penalties upon conviction of second and subsequent violations of certain natural resources laws; permitting Sunday hunting on public lands; permitting noodling, or fishing for catfish using one’s bare hands; and making technical changes.”

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

Delegate Cowles asked and obtained unanimous consent that, for the remainder of the session, members of Conference Committees be permitted to vote on any question or issue before the House which they have missed as a direct result of their duties on Conference Committees, provided that such members notify the Clerk of the House in writing as to how they wish to vote, before the daily Journal is published, and that any such vote will not change the outcome on any question.
Special Calendar

Third Reading

**S. B. 143**, Permitting DNR identification tag be used to identify trap; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (Roll No. 296), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer and Pushkin.

Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 143) passed.

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

**S. B. 343**, Limiting expenses in preparing list for notice to redeem; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (Roll No. 297), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Anderson, Frich, Lynch and Marcum.

Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 343) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**S. B. 343** - “A Bill to amend and reenact §11A-3-58 of the Code of West Virginia, 1931, as amended, relating to distributions to purchasers after land has been redeemed; increasing the amount of expenses that may be paid to a purchaser for expenses incurred in preparing the list of those to be served with notice to redeem and title examination to $500.”

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

**S. B. 350**, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (Roll No. 298), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:
Absent and Not Voting: Deem, Ellington, Hornbuckle, Kelly, Storch and Zatezalo.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 350) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

S. B. 350 - “A Bill to amend and reenact §29-22A-5 of the Code of West Virginia, 1931, as amended, relating to the elimination of a requirement that the Lottery Commission file racetrack video lottery game rules with the Secretary of State; and requiring the Secretary of State to post a notice on its website that the rules for video lottery games that have been approved by the Lottery Commission are available for review at the office of the commission and provide relevant contact information.”

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

Second Reading

Com. Sub. for S. J. R. 12, No Constitutional right to abortion Amendment; on second reading, coming up in regular order, was read a second time.

Delegates Canestraro, Miley, Caputo and Brewer moved to amend the resolution on page one, lines ten and eleven, by striking out the words “the next general election to be held in the year “ and inserting in lieu thereof the words “a special election to be held July 21” and a comma.

During debate on the amendment to the bill, the Speaker reminded the members to confine remarks to the question before the House.

On the adoption of the amendment, Delegate Canestraro demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (Roll No. 299), and there were—yeas 35, nays 61, absent and not voting 4, with the yeas and absent and not voting being as follows:


Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The resolution was then ordered to third reading.

Com. Sub. for S. B. 73, Modifying crime of fleeing from scene of accident; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 110, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises; on second reading, coming up in regular order, was read a second time.
An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-13. Revocation or suspension of license; monetary penalty; hearing; assessment of costs; establishment of enforcement fund.

(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of §11-16-1 et seq. of this code or of this chapter; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

(1) Revoke the licensee’s license;

(2) Suspend the licensee’s license;

(3) Place the licensee on probationary status for a period not to exceed 12 months; and

(4) Impose a monetary penalty not to exceed $1,000 for each violation where revocation is not imposed.

(b) Any monetary penalty assessed and collected by the commissioner shall be transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special revenue fund designated the Alcohol Beverage Control Enforcement Fund, which is hereby created continued. All moneys collected, received, and deposited in the Alcohol Beverage Control Enforcement Fund shall be kept and maintained for expenditures by the commissioner for the purpose of enforcement of the statutes and rules pertaining to alcoholic liquor, and shall not be treated by the State Treasurer or State Auditor as any part of the general revenue of the state. At the end of each fiscal year all funds in the Alcohol Beverage Control Enforcement Fund in excess of $20,000 shall be transferred to the General Revenue Fund.

(c) In addition to the grounds for revocation, suspension, or other sanction of a license set forth in subsection (a) of this section, conviction of the licensee of any offense constituting a violation of the laws of this state or of the United States relating to alcoholic liquor, nonintoxicating beer, or gambling shall be mandatory grounds for such sanctioning of a license. Conviction of the licensee of any violation of the laws of this state or of the United States relating to prostitution, or the sale, possession, or distribution of narcotics or controlled substances, shall be mandatory grounds for revocation of the licensee’s license for a period of at least one year.

(d) A licensee shall notify, in a timely manner, emergency medical services or law enforcement if a licensee knows or has reason to know of a life-threatening medical emergency occurring on the licensed premises. In addition to the grounds for revocation, suspension, or other sanction of a license set forth in this section, the commissioner may, in his or her discretion, revoke, suspend, or otherwise sanction a licensee for failing to comply with the provisions of this subsection.

(e) If a life-threatening medical emergency occurs on a licensee’s private premises requiring notification of emergency medical services or law enforcement under subsection (d) of this section, the licensee shall notify the Alcohol Beverage Control Administration within 48 hours of the emergency’s occurrence. The commissioner may, in his or her discretion, revoke, suspend, or otherwise sanction a licensee for failing to comply with the 48-hour notification requirement.
(f) As used in this section, a life-threatening medical emergency includes, but is not limited to, respiratory distress or cessation of breathing, severe chest pains, shock, uncontrolled bleeding, poisoning, prolonged unconsciousness, overdose, any complaint or observation which indicates significant head or spinal injury, and life-threatening physical injury caused by a crime of violence against the person occupying or emanating from the licensed premises."

The bill was then ordered to third reading.

Com. Sub. for S. B. 307, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance; on second reading, coming up in regular order, was read a second time.

On motion of Delegate R. Miller, the bill was amended on page two, section one, lines nineteen and twenty, by striking out the words “as regulated by the provisions of §29-26-1 et seq. of this code nonprofit service organization” and inserting in lieu thereof the words “and nonprofit service organizations”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 327, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 346, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section seven, line one, by striking out “§20-3-1 et seq.” and inserting in lieu thereof “§20-2B-3”.

The bill was then ordered to third reading.

S. B. 351, Permitting ballot commissioners serve while candidates for certain offices; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 395, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. GENERAL POLICY AND PURPOSE.


(a) Any person, or the Secretary, as the case may be, adversely affected by an order made and entered by a board after an appeal hearing, held in accordance with the provisions of this chapter, is entitled to judicial review thereof. All of the provisions of §29A-5-4 of this code apply to and govern the review with like effect as if the provisions of that section four were set forth in extenso in this section, with the modifications or exceptions set forth in this chapter: Provided, That the exceptions set forth in §22B-2-3, §22B-3-3 and §22B-4-3 apply.

(b) The filing of a petition of appeal under the provisions of this chapter does not automatically stay or suspend the effectiveness or execution of the order, permit or official action pending appeal.
The board shall file with the clerk of the court wherein the petition for appeal is filed all papers, documents, evidence and other records comprising the complete record in the case, or certified copies thereof, as were before the board at the time of the entry of the order from which the appeal is taken.

(c) Notwithstanding any provisions of this code to the contrary, the Secretary may employ in-house legal counsel to perform all legal services for the Department and Secretary or any director, chief or division therein in all proceedings made under the provisions of this chapter, including those in any administrative proceeding or before any state or Federal court. Additionally, the Secretary may call upon the Attorney General for any legal assistance and representation as provided by law.

ARTICLE 2. AIR QUALITY BOARD.

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of said that section nine were set forth in extenso in this section, with the following modifications or exceptions:

(1 a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition for review shall be filed in the circuit court of Kanawha County Supreme Court of Appeals within 30 days of the board’s order: Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County; and

(2 b) As to all other cases, the petition shall be filed in the circuit court of the county wherein the alleged statutory air pollution complained of originated or in Kanawha County upon agreement between the parties.

ARTICLE 3. ENVIRONMENTAL QUALITY BOARD.
§22B-3-3. Judicial review.

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of said that section nine were set forth in extenso in this section, with the following modifications or exceptions:

(1 a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition shall be filed in the circuit court of Kanawha County Supreme Court of Appeals within 30 days of the board’s order: Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County;

(2 b) As to cases involving an order revoking or suspending a permit, the petition shall be filed in the circuit court of Kanawha County; and

(3 c) As to cases involving an order directing that any and all discharges or deposits of solid waste, sewage, industrial wastes or other wastes, or the effluent therefrom, determined to be causing pollution be stopped or prevented or else that remedial action be taken, the petition shall be filed in the circuit court of the county in which the establishment is located or in which the pollution occurs.

ARTICLE 4. SURFACE MINE BOARD.
§22B-4-3. Judicial review.

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of that said section nine were set forth in extenso in this section. except the petition
shall be filed in the circuit court of Kanawha County or the county in which the surface-mining operation is located with the following modifications or exceptions:

(a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition shall be filed in the Supreme Court of Appeals within 30 days of the board’s order: Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County;

(b) As to all other cases, the petition shall be filed in the circuit court of Kanawha County or in the county wherein the surface mining operation is located."

The bill was then ordered to third reading.

Com. Sub. for S. B. 397, Creating crime of impersonating blind or disabled person; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 404, Relating to sex offender registry information; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page five, section two, line ninety-seven, by striking out the words "or adjudicated".

The bill was then ordered to third reading.

S. B. 539, Increasing limit for settling claims against DOH; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 561, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 7, Relating to claims under Wage Payment and Collection Act,

S. B. 47, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person’s child,

Com. Sub. for S. B. 102, Creating WV Uniform Fiduciary Access to Digital Assets Act,

Com. Sub. for S. B. 133, Exempting renewal of certain contracts entered into during declared state of emergency,

S. B. 272, Relating generally to drug control,

S. B. 298, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes,

S. B. 319, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma,
S. B. 365, Relating to Young Entrepreneur Reinvestment Act,

Com. Sub. for S. B. 412, Relating to authority of county litter control officers,

S. B. 427, Modifying form of notice for certain tax delinquencies,

S. B. 441, Relating to health care provider taxes,

Com. Sub. for S. B. 456, Physical Therapy Licensure Compact Act,

Com. Sub. for S. B. 493, Relating to guaranty associations,

Com. Sub. for S. B. 499, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees,

Com. Sub. for S. B. 510, Designating hospitals for stroke treatment,

Com. Sub. for S. B. 522, Relating generally to Administrative Procedures Act,

And,

S. B. 545, Relating to driving privileges and requirements for persons under 18.

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

Your Committee on the Judiciary has had under consideration:

S. B. 347, Relating to operation of motorboats,

Com. Sub. for S. B. 543, Relating to confidentiality of medical records,

Com. Sub. for S. B. 574, Relating to crime of misrepresentation of military honors,

And,

Com. Sub. for S. B. 582, Allowing candidate for political party executive committee serve as election official.

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 273, Reducing use of certain prescription drugs,
Com. Sub. for S. B. 475, Industrial Hemp Development Act,

Com. Sub. for S. B. 575, Approving additional beds for intermediate care facilities,

Com. Sub. for S. B. 616, Establishing maximum gross weight for certain wood-bearing trucks,

And,

S. B. 626, Relating generally to coal mining,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 261, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund,

S. B. 299, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas,

Com. Sub. for S. B. 461, Extending time to file petition for motor fuel excise tax refund,

And,

S. B. 576, Relating to Patient Injury Compensation Fund,

And reports the same back, with amendments, with the recommendation that they each do pass, as amended.

Delegate Statler, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

Com. Sub. for S. B. 625, Creating WV Volunteer Fire and Rescue Act of 2018,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 625) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:
Com. Sub. for S. B. 116, Providing court costs collected under Second Chance Driver’s License Program are not subject to 5 percent offset,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference of the bill to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 116) to the Committee on Finance was abrogated.

At 11:35 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:30 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.

Messages from the Senate

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Delegate Cowles moved the House of Delegates refuse to concur in the following amendment by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-5. Career progression system; salaries; exclusion from wages and hour law, with supplemental payment; bond; leave time for members called to duty in guard or reserves.

(a) The superintendent shall establish within the West Virginia State Police a system to provide for: The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant, and first lieutenant; the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class, or corporal; the classification of members assigned to the forensic laboratory as criminalist I-VIII; and the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII.

(b) The superintendent may propose legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code for the purpose of ensuring consistency, predictability, and independent review of any system developed under the provisions of this section.
(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on July 1, 2018, members shall receive annual salaries payable at least twice per month as follows:

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**SUPERVISORY AND NONSUPERVISORY RANKS**

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<thead>
<tr>
<th>Rank</th>
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<td>Sergeant</td>
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<td>First Sergeant</td>
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<td>First Lieutenant</td>
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**ANNUAL SALARY SCHEDULE (BASE PAY)**

**ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION**

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### ANNUAL SALARY SCHEDULE (BASE PAY)

#### CRIMINALIST CLASSIFICATION

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### ANNUAL SALARY SCHEDULE (BASE PAY)

#### SUPERVISORY AND NONSUPERVISORY RANKS

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</table>
Beginning July 1, 2019, the annual salaries for members of each of the West Virginia State Police, the Administration Support Specialists, and the Criminalist classifications set forth in the schedules in this subsection shall be increased an additional $432.

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in §15-2-5(e) of this code and supplemental pay as provided in §15-2-5(g) of this code.
(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in §15-2-5(d) of this code for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015, and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of $500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.

(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service and shall be paid the salaries the same length of service entitles them to receive under the provisions of this section.

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police are excluded from the provisions of state wage and hour law. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour law prior to this exclusion.

In lieu of any overtime pay they might otherwise have received under the wage and hour law, and in addition to their salaries and increases for length of service, members who have completed basic training and who are exempt from federal Fair Labor Standards Act guidelines may receive supplemental pay as provided in this section.

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with §29A-3-1 et seq. of this code to establish the number of hours per month which constitute the standard pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard pay period. The superintendent shall certify at least twice per month to the West Virginia State Police’s payroll officer the names of those members who have worked in excess of the standard pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed $200 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

(h) Each member of the West Virginia State Police, except the superintendent and civilian employees, shall execute, before entering upon the discharge of his or her duties, a bond with security in the sum of $5,000 payable to the State of West Virginia, conditioned upon the faithful performance of his or her duties, and the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members’ participation in the West Virginia State Police Cadet Training Program pursuant to §30-29-8 of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the
United States annually shall be granted, upon request, leave time not to exceed 30 calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-2. State minimum salaries for teachers.

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least $43,000 by fiscal year 2019.

(b) For school year 2018–2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

STATE MINIMUM SALARY SCHEDULE

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(2) For school year 2019–2020, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus $404; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

(3) For school year 2020–2021, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus $808; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

d) To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code, each teacher shall be paid an equity supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For ‘4th Class’ at zero years of experience, $1,781. An additional $38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For ‘3rd Class’ at zero years of experience, $1,796. An additional $67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For ‘2nd Class’ at zero years of experience, $1,877. An additional $69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For ‘A. B.’ at zero years of experience, $2,360. An additional $69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For ‘A. B. + 15’ at zero years of experience, $2,452. An additional $69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For ‘M. A.’ at zero years of experience, $2,644. An additional $69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For ‘M. A. + 15’ at zero years of experience, $2,740. An additional $69 shall be paid for each year of experience up to and including 35 years of experience;
(8) For ‘M. A. + 30’ at zero years of experience, $2,836. An additional $69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For ‘M. A. + 45’ at zero years of experience, $2,836. An additional $69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For ‘Doctorate’ at zero years of experience, $2,927. An additional $69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

§18A-4-8a. Service personnel minimum monthly salaries.

(a) The minimum monthly pay for each service employee shall be as follows:

(1) For school year 2018–2019, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.

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(2) For school year 2019–2020, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade, plus $22; and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade, plus $11.

(3)(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

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Draftsman .............................................................................................................. D
Early Childhood Classroom Assistant Teacher I ........................................ E
Early Childhood Classroom Assistant Teacher II ......................................... E
Early Childhood Classroom Assistant Teacher III ........................................ F
Educational Sign Language Interpreter I ......................................................... F
Educational Sign Language Interpreter II ....................................................... G
Electrician I ........................................................................................................ F
Electrician II ....................................................................................................... G
Electronic Technician I .................................................................................... F
Electronic Technician II .................................................................................. G
Executive Secretary .......................................................................................... G
Food Services Supervisor ............................................................................... G
Foreman .............................................................................................................. G
General Maintenance ....................................................................................... C
Glazier ............................................................................................................... D
Graphic Artist ................................................................................................... D
Groundsman ....................................................................................................... B
Handyman ........................................................................................................... B
Heating and Air Conditioning Mechanic I ................................................... E
Heating and Air Conditioning Mechanic II ................................................... G
Heavy Equipment Operator ............................................................................... E
Inventory Supervisor ........................................................................................ D
Key Punch Operator .......................................................................................... B
Licensed Practical Nurse .................................................................................. F
Locksmith .......................................................................................................... G
Lubrication Man .................................................................C
Machinist .................................................................F
Mail Clerk .................................................................D
Maintenance Clerk .........................................................C
Mason .................................................................G
Mechanic .................................................................F
Mechanic Assistant .........................................................E
Office Equipment Repairman I .................................................F
Office Equipment Repairman II .................................................G
Painter .................................................................E
Paraprofessional ...............................................................F
Payroll Supervisor ...............................................................G
Plumber I .................................................................E
Plumber II .................................................................G
Printing Operator ...............................................................B
Printing Supervisor ...............................................................D
Programmer .................................................................H
Roofing/Sheet Metal Mechanic .................................................F
Sanitation Plant Operator .........................................................G
School Bus Supervisor .............................................................E
Secretary I .................................................................D
Secretary II .................................................................E
Secretary III .................................................................F
Sign Support Specialist .............................................................E
Supervisor of Maintenance .........................................................H
Supervisor of Transportation .........................................................H
Switchboard Operator-Receptionist ..................................................D
(b) An additional $12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional $11 per month also is added to the minimum monthly pay of each service person for each of the following:

1. A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

2. A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

3. A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

4. A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

5. A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

6. A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

7. A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

8. A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

9. A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

10. A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional $40 per month also is added to the minimum monthly pay of each service person for each of the following:

1. A service person who holds an associate’s degree;

2. A service person who holds a bachelor’s degree;

3. A service person who holds a master’s degree;
(4) A service person who holds a doctorate degree.

(e) An additional $11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor’s degree plus 15 college hours;

(2) A service person who holds a master’s degree plus 15 college hours;

(3) A service person who holds a master’s degree plus 30 college hours;

(4) A service person who holds a master’s degree plus 45 college hours; and

(5) A service person who holds a master’s degree plus 60 college hours.

(f) To meet the objective of salary equity among the counties, each service person is paid an equity supplement, as set forth in §18A-4-5 of this code, of $164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person’s daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an additional $10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person’s usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee’s written consent and the person’s required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person’s daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: Provided, however, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than
an additional $3 per hour or no less than $5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee’s regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee’s regular employment county for asbestos removal and an additional $30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, ‘under the direct supervision of a certified professional person’ means that certified professional person is present, with and accompanying the aide.”

On the motion to refuse to concur, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (Roll No. 300), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans, Fleischauer, Hornbuckle, C. Romine and Storch.

So, a majority of the members present and voting having voted in the affirmative, the House of Delegates refused to concur in the Senate amendment and requested the Senate to recede therefrom.

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

At 10:07 p.m., on motion of Delegate Cowles, the House of Delegates recessed for thirty minutes.

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Evening Session

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to
Com. Sub. for H. B. 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Ferns, Blair and Plymale.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Anderson, Espinosa and Boggs.

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 36, Relating generally to DNA testing,

Com. Sub. for S. B. 465, Relating to mandated reporting of child abuse and neglect,

Com. Sub. for S. B. 555, Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities,

And,

S. B. 631, Relating generally to one-call system,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 282, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.
Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 584**, Finding certain claims against state to be moral obligations of state,

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

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

Your Committee on Finance has had under consideration:

**S. B. 479**, Establishing local government monitoring by Auditor,

**Com. Sub. for S. B. 589**, Relating to issuance of personalized plates for antique motor vehicles,

And,

**Com. Sub. for S. B. 590**, Providing special license plate for curing childhood cancer,

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

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 51**, Relating to domestic relations.

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

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

Your Committee on the Judiciary has had under consideration:

**S. B. 627**, Permitting local governments to access certain economic development project-related tax records,

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

In accordance with the former direction of the Speaker, the bill (S. B. 627) was referred to the Committee on Finance.

### Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Deem, Hornbuckle and Storch.
Miscellaneous Business

Delegate Cooper announced that he was absent when the vote was taken on Com. Sub. for S. B. 451, and that had he been present, he would have voted “Yea” thereon.

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

- Delegates Canestraro and Moye during debate on amendment to Com. Sub. for S. J. R. 12

At 10:49 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 5, 2018.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470
SPECIAL CALENDAR
Monday, March 5, 2018
55th Day
11:00 A. M.

THIRD READING

Com. Sub. for S. J. R. 12 - No Constitutional right to abortion Amendment (SHOTT)
Com. Sub. for S. B. 73 - Modifying crime of fleeing from scene of accident (SHOTT)
Com. Sub. for S. B. 110 - Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises (SHOTT) (REGULAR)
Com. Sub. for S. B. 307 - Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance (SHOTT) (REGULAR)
Com. Sub. for S. B. 327 - Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty (SHOTT) (REGULAR)
S. B. 346 - Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses (NELSON) (REGULAR)
S. B. 351 - Permitting ballot commissioners serve while candidates for certain offices (SHOTT) (EFFECTIVE FROM PASSAGE)
Com. Sub. for S. B. 395 - Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board (SHOTT) (EFFECTIVE FROM PASSAGE)
Com. Sub. for S. B. 397 - Creating crime of impersonating blind or disabled person (SHOTT) (REGULAR)
Com. Sub. for S. B. 404 - Relating to sex offender registry information (SHOTT) (REGULAR)
S. B. 539 - Increasing limit for settling claims against DOH (SHOTT) (REGULAR)
Com. Sub. for S. B. 561 - Increasing minimum contract price requiring execution of bond with respect to building or repairing school property (ESPINOSA) (REGULAR)

SECOND READING

Com. Sub. for S. B. 7 - Relating to claims under Wage Payment and Collection Act (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)
S. B. 47 - Requiring Defense Department advocacy groups be notified in abuse or neglect of military person’s child (SHOTT) (REGULAR)
Com. Sub. for S. B. 102 - Creating WV Uniform Fiduciary Access to Digital Assets Act (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 133 - Exempting renewal of certain contracts entered into during declared state of emergency (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 272 - Relating generally to drug control (ELLINGTON) (REGULAR) (PREVENTION AND TREATMENT OF SUBSTANCE ABUSE COMMITTEE AMENDMENT PENDING)

S. B. 298 - Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes (NELSON) (REGULAR)

Com. Sub. for S. B. 319 - Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma (ESPINOSA) (JULY 1, 2018) (EDUCATION COMMITTEE AMENDMENT PENDING)

S. B. 365 - Relating to Young Entrepreneur Reinvestment Act (HILL) (REGULAR)

Com. Sub. for S. B. 412 - Relating to authority of county litter control officers (SHOTT) (REGULAR)

S. B. 427 - Modifying form of notice for certain tax delinquencies (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)

S. B. 441 - Relating to health care provider taxes (NELSON) (JULY 1, 2018) (FINANCE COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 456 - Physical Therapy Licensure Compact Act (ELLINGTON) (REGULAR) (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 493 - Relating to guaranty associations (WESTFALL) (REGULAR)

Com. Sub. for S. B. 499 - Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees (ELLINGTON) (REGULAR) (HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 510 - Designating hospitals for stroke treatment (ELLINGTON) (REGULAR)

Com. Sub. for S. B. 522 - Relating generally to Administrative Procedures Act (SHOTT) (REGULAR)

S. B. 545 - Relating to driving privileges and requirements for persons under 18 (SHOTT) (EFFECTIVE FROM PASSAGE) (JUDICIARY COMMITTEE AMENDMENT PENDING)
FIRST READING

Com. Sub. for S. B. 36 - Relating generally to DNA testing (SHOTT) (REGULAR)

Com. Sub. for S. B. 51 - Relating to domestic relations

Com. Sub. for S. B. 116 - Providing court costs collected under Second Chance Driver’s License Program are not subject to 5 percent offset (SHOTT) (REGULAR)

Com. Sub. for S. B. 261 - Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund (NELSON) (JULY 1, 2018) (FINANCE COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 273 - Reducing use of certain prescription drugs (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

S. B. 282 - Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

S. B. 297 - Eliminating taxation on annuity considerations collected by life insurer (NELSON) (REGULAR)

S. B. 299 - Relating to mandatory insurance coverage for medical foods for amino acid-based formulas (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 347 - Relating to operation of motorboats (SHOTT) (REGULAR)

Com. Sub. for S. B. 359 - Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for S. B. 461 - Extending time to file petition for motor fuel excise tax refund (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 465 - Relating to mandated reporting of child abuse and neglect (SHOTT) (REGULAR)

Com. Sub. for S. B. 475 - Industrial Hemp Development Act (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

S. B. 479 - Establishing local government monitoring by Auditor (NELSON) (REGULAR)

Com. Sub. for S. B. 500 - Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund (NELSON) (EFFECTIVE FROM PASSAGE)

Com. Sub. for S. B. 543 - Relating to confidentiality of medical records (SHOTT) (REGULAR)

Com. Sub. for S. B. 555 - Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities (SHOTT) (REGULAR)
Com. Sub. for S. B. 574 - Relating to crime of misrepresentation of military honors (SHOTT) (REGULAR)

Com. Sub. for S. B. 575 - Approving additional beds for intermediate care facilities (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

S. B. 576 - Relating to Patient Injury Compensation Fund (NELSON) (REGULAR) (FINANCE COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 582 - Allowing candidate for political party executive committee serve as election official (SHOTT) (EFFECTIVE FROM PASSAGE)

S. B. 584 - Finding certain claims against state to be moral obligations of state (NELSON) (EFFECTIVE FROM PASSAGE) (FINANCE COMMITTEE AMENDMENT PENDING)

Com. Sub. for S. B. 589 - Relating to issuance of personalized plates for antique motor vehicles (NELSON) (REGULAR)

Com. Sub. for S. B. 590 - Providing special license plate for curing childhood cancer (NELSON) (REGULAR)

Com. Sub. for S. B. 616 - Establishing maximum gross weight for certain wood-bearing trucks (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

S. B. 626 - Relating generally to coal mining (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING)

S. B. 631 - Relating generally to one-call system (SHOTT) (REGULAR)
HOUSE CALENDAR
Monday, March 5, 2018
55th Day
11:00 A. M.

THIRD READING

Com. Sub. for H. B. 4235 - Permitting full-time nonresident students attending an in-state college or university to purchase lifetime resident hunting, trapping, and fishing licenses (NELSON) (REGULAR)

Com. Sub. for H. B. 4296 - Establishing the Southern West Virginia Lake Development Study Commission (NELSON) (REGULAR)

SECOND READING

S. B. 385 - Decreasing and adding appropriations out of Treasury to DHHR and MAPS (NELSON) (EFFECTIVE FROM PASSAGE)

H. B. 2114 - Providing a procedure for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America (SHOTT) (REGULAR)

Com. Sub. for H. B. 2383 - Providing for the redistricting office of the Joint Committee on Government and Finance to propose redistricting plans during census years (SHOTT) (REGULAR)

Com. Sub. for H. B. 4158 - Relating to municipal home rule (HOWELL) (REGULAR)

Com. Sub. for H. B. 4241 - Transitioning foster children into managed care (NELSON) (REGULAR)

Com. Sub. for H. B. 4563 - Relating to the severance tax on oil and gas produced from low producing wells (NELSON) (REGULAR)

FIRST READING

Com. Sub. for H. B. 4494 - Authorizing certain motor vehicle manufacturers to operate as new car dealers (SHOTT) (REGULAR)
WEST VIRGINIA
HOUSE OF DELEGATES

MONDAY, MARCH 5, 2018

PUBLIC HEARING – COMMITTEE ON GOVERNMENT ORGANIZATION
8:00 A.M. – HOUSE CHAMBER
COM. SUB. FOR S. B. 313, WAIVING OCCUPATIONAL FEES AND LICENSING
REQUIREMENTS FOR CERTAIN LOW-INCOME INDIVIDUALS, MILITARY FAMILIES,
AND YOUNG WORKERS.

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

COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 418M

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

TUESDAY, MARCH 6, 2018

PUBLIC HEARING – COMMITTEE ON THE JUDICIARY
8:30 A.M. – HOUSE CHAMBER
COM. SUB. FOR S. B. 434, SPECIFYING DOCUMENTS NOT SUBJECT TO
DISCOVERY IN CERTAIN PROCEEDINGS.