

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2018  
FIFTY-SIXTH DAY

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Charleston, West Virginia, Tuesday, March 6, 2018

The Senate met at 11:35 a.m.

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

Prayer was offered by Pastor Dan Londeree, Pea Ridge Baptist Church, Huntington, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Monday, March 5, 2018,

At the request of Senator Sypolt, 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 Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 73**, Modifying crime of fleeing from scene of accident.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

## **ARTICLE 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.;

And,

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

**Eng. Com. Sub. for Senate Bill 110**—A Bill to amend and reenact §60-7-13 of the Code of West Virginia, 1931, as amended, relating generally to private club licensees; continuing Alcohol Beverage Control Enforcement Fund; requiring a private club licensee to timely notify emergency medical services or law enforcement of a life-threatening medical emergency occurring on the licensee's premises; authorizing sanctions against licensees' failing to notify such personnel as required; requiring a licensee to notify the Alcohol Beverage Control Administration within 48 hours of the occurrence of a life-threatening emergency; permitting the commissioner to sanction a licensee for failing to comply with the 48-hour notification requirement; and providing examples of life-threatening medical emergencies.

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

Engrossed Committee Substitute for Senate Bill 110, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 110) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 134**, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Com. Sub. for Senate Bill 307**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 307, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 307) passed with its title.

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

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

**Eng. Com. Sub. for Senate Bill 327**, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section seven, line one, by striking out “§20-3-1 *et seq.*” and inserting in lieu thereof “§20-2B-3”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 346, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (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. 346) passed with its title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 351**, Permitting ballot commissioners serve while candidates for certain offices.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board.

On motion of Senator Ferns, 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:

## **ARTICLE 1. GENERAL POLICY AND PURPOSE.**

### **§22B-1-9. General provisions for judicial review.**

(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.**

### **§22B-2-3. Judicial review of air quality board orders.**

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:

(4 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:

(4 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.;

And,

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

**Eng. Com. Sub. for Senate Bill 395**—A Bill to amend and reenact §22B-1-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22B-2-3 of said code; to amend and reenact §22B-3-3 of said code; and to amend and reenact §22B-4-3 of said code, all relating to the general provisions for judicial review of final orders of various environmental boards; requiring petition be filed within 30 days of entry of the final order; providing that appeal does not automatically stay any final order or action approved by a board; authorizing the chief or director to employ outside legal counsel without approval of the Attorney General; providing that decisions of the Air Quality Board, Environmental Quality Board, and Surface Mine Board denying an application for a permit, or approving or modifying the terms and conditions of a permit may be directly appealed to the Supreme Court of Appeals; and providing for exceptions to this right of direct appeal.

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

Engrossed Committee Substitute for Senate Bill 395, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 395) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 395) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 397**, Creating crime of impersonating blind or disabled person.

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

**Eng. Senate Bill 539**, Increasing limit for settling claims against DOH.

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

**Eng. Com. Sub. for Senate Bill 561**, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property.

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

**Eng. Com. Sub. for Senate Joint Resolution 12**, No Constitutional right to abortion Amendment.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 2483**, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 2607**, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.



On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Weld, and Woelfel.

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

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

**Eng. Com. Sub. for House Bill 2693**, Relating to state ownership of wildlife.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Smith, Maynard, and Baldwin.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4169**, Requiring certain establishments and facilities to post human trafficking assistance notices.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 4186**, Relating generally to guaranteed asset protection waivers.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Rucker, Azinger, and Beach.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 4207**, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. Com. Sub. for House Bill 4268**, Co-tenancy Modernization and Majority Protection Act.

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

**Eng. House Bill 4402**, Relating to the prevention of sexual abuse of children.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

**Eng. House Bill 4410**, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

**Eng. House Bill 4436**, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. Com. Sub. for House Bill 4444**, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

**Eng. House Bill 4624**, Relating to West Virginia coordinate systems.

### **Executive Communications**

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, submitting the annual probation and parole report, which was received:

**Jim Justice**  
**Governor of West Virginia**

March 5, 2018

**EXECUTIVE MESSAGE NO. 3**  
**2018 REGULAR SESSION**

The Honorable Mitch Carmichael  
President, Senate of West Virginia  
State Capitol, Rm 228M  
Charleston, West Virginia 25305

Dear Mr. President:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of January 13, 2017 through March 5, 2018.

Very truly yours,

Jim Justice  
Governor

cc: Lee Cassis, Senate of West Virginia  
Division of Archives and History

Senator Carmichael (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, regarding annual reports, which communication was received and filed with the Clerk:

**Jim Justice**  
**Governor of West Virginia**

March 5, 2018

**Executive Message 4**  
**2018 Regular Session**

The Honorable Mitch Carmichael  
President, West Virginia State Senate  
State Capitol, Rm 229M  
Charleston, WV 25305

Dear Mr. President:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

Accountancy, West Virginia Board of; Annual Report for preceding fiscal periods ending June 30, 2017 and June 30, 2016

Administration, West Virginia Department of; Public Records Management and Preservation Act Annual Report

Aeronautics Commission- WV Department of Transportation, West Virginia; 2017 Annual Report

Agriculture, West Virginia Department of; 2017 Annual Report

Alcohol Beverage Control Administration, West Virginia; Annual Report FY 2017

Architects, West Virginia Board of; Annual Report FY 2016 and FY 2017

Attorney General's Office, West Virginia; 2017 Annual Report on the Activities of the Consumer Protection and Antitrust Division

Barbers and Cosmetologists, Board of; 2017 Annual Report

Barbers and Cosmetologists, Board of; 2017 Annual Report

Charles Stewart Mott Foundation; 2017 Annual Report

Chiropractic Examiners, West Virginia Board of; Biennium Covering Activities during the period of July 1, 2015 – June 30, 2017

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2017 Annual Report

Contractors Association of West Virginia; 2017 Annual Report

Corrections, West Virginia Division of; Annual Report: FY 2017

Counseling, West Board of; 2015-2017 Annual Report

Dentistry, West Virginia Board of; Annual Report

Early Care and Education Child Care Provider, West Virginia Department of Health and Human Resources; SFY 2017 Early Care and Education Child Care Provider Annual Report

Energy, West Virginia Office of; Annual Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Family Protection Services Board; FY 2016

Financial Institutions, West Virginia Division of; 116th Annual Report of Financial Institutions

Fire Commission, West Virginia State; Annual Report 2017

Forestry, West Virginia Division of; 2017 Logging Sediment and Control Act Annual Report

Funeral Service Examiners, State of West Virginia Board of; Governor's Report July 1, 2015-June 30, 2017

Health and Human Resources Bureau for Public Health, West Virginia Department of; 2017 Report to the Governor WV Public Water System Capacity Development Program September 30, 2017

Huntington Museum of Art; FY 2015 & 2016 Annual Report

Independent Living Council, West Virginia State; FY 2016-October 1, 2017

Insurance Commissioner, State of West Virginia Offices of the; 2017 Annual Malpractice Report

Insurance Commissioner, West Virginia Offices of the; Annual Report on the activities of the Office of the consumer advocate at the WV Insurance Commission

Insurance Commissioner, West Virginia Offices of the; Annual Report 2016

Interstate Commission for Adult Offender Supervision- WV Division of Corrections; FY 2017 Annual Report

Interstate Mining Compact Commission; IMCC 2016 Annual Report

James "Tiger" Morton Catastrophic Illness Commission; 2017 Annual Report

Justice and Community Services, West Virginia Division of; 1. Justice Reinvestment Initiative 2. Community Corrections Subcommittee 3. Sexual Assault Forensic Examination Commission 4. Law Enforcement Professional Standard Subcommittee 5. Juvenile Justice Subcommittee

Juvenile Services, West Virginia Division of; Annual Report 2017

Legislative Claims Commission; West Virginia; Report of Legislative Claims Commission for December 2017

Legislative Claims Commission; West Virginia; Supplemental Report of the Legislative Claims Commission for December 2017

Library Commission, West Virginia; 2017 Public Library Facilities Assessment

Lottery, West Virginia; Comprehensive Annual Financial Report for Fiscal Years Ended June 30, 2017 and 2016

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; 2017 Annual Report

Medicine, State of West Virginia Board of; Annual Report for the Biennium of July 1, 2015-June 30, 2017

Mid-Ohio Valley Regional Council; Annual Report July 1, 2016-June 30,2017

Municipal Bond Commission, West Virginia; Annual Summary of Receipts & Disbursements July 1, 2016-June 30, 2017

Municipal Home Rule Pilot Program, West Virginia; Summary Report 2017

Natural Resources, West Virginia Division of; 2017 Annual Report

Natural Resources; West Virginia Division of; 2016-2017 West Virginia Division of Natural Resources Annual Report

Occupational Therapy, West Virginia Board of; FY 2016/2017 Annual Report

Ohio River Valley Water Sanitation Commission; 2017 Annual Report

Osteopathic Medicine, West Virginia School of; Annual Investment Report

Personnel, West Virginia Division of; FY 2017 Annual Report

Pharmacy, West Virginia; Annual Report

Privacy Office, West Virginia State; 2017 Annual Report

Public Employees Grievance Board; 2017 Annual Report

Public Service Commission Consumer Advocate Division, State of West Virginia; Consumer Advocate Division 2018 Annual Report

Public Service Commission of West Virginia; Public Service Commission's Management Summary Report/Electric and Gas Supply & Demand Forecast

Regional Jail and Correctional Facility Authority, West Virginia; Annual Report FY 2017

Regional Planning and Development Councils, West Virginia; Return on Investment Report

Regional Planning and Development Councils, West Virginia; Annual Report for Biennium of July 1, 2015-June 30, 2017

Registered Nurses, West Virginia Board of; Annual Report of the Biennium July 1, 2015-June 30, 2017

Rehabilitation Services, Division of; 2016 Annual Report

Report of the WV Judicial Compensation Commission; Annual Report

Ron Yost Personal Assistance Services (RYPAS) Board; 2017 Annual Report July 1, 2016-June 30, 2017

Sanitarians, West Virginia State Board of; 2017 Annual Report

Southern States Energy Board; 2017 Financial Statements and Required Communications

State Athletic Commission; Annual Report for Calendar Years 2016 and 2017

State of West Virginia Department of Administration Public Defender Services; Public Defender Services Annual Report Fiscal Year 2017

Tax Department, West Virginia State; West Virginia Fireworks Safety Fee Report July 2016-December 2017

Tax Department, West Virginia State; Fifty-Second Biennial Report, originally published in October 2017. This revision is inclusive of corrected annual revenues for the Wine Liter Tax for the 2016 and 2017 fiscal years

Tax Department, West Virginia State; Tax Credit Review and Accountability Report

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report

Veterinary Medicine, West Virginia Board of; Revised Biennium Report 2016 and 2017

Water Development Authority, West Virginia; 2017 Annual Report

Women's Commission, West Virginia; 2017 Annual Report

Youth Services, West Virginia Department of Health and Human Resources-West Virginia; West Virginia Youth Services Annual Report

Sincerely,

Jim Justice  
Governor

cc: Lee Cassis, Clerk, West Virginia State Senate  
Division of Culture and History

The Senate proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 2008**, Relating to the Dealer Recovery Program.

**Eng. Com. Sub. for House Bill 4036**, Increasing the maximum salaries of family case coordinators and secretary-clerks.

**Eng. Com. Sub. for House Bill 4157**, Eliminating the refundable exemption for road construction contractors.

**Eng. Com. Sub. for House Bill 4166**, Establishing a special revenue fund to be known as the “Capital Improvements Fund — Department of Agriculture Facilities”.

And,

**Eng. Com. Sub. for House Bill 4558**, Establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 11:55 a.m. today:

**Eng. Com. Sub. for House Bill 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

The Senate proceeded to the sixth order of business.

Senators Drennan, Plymale, Boso, and Stollings offered the following resolution:

**Senate Concurrent Resolution 52**—Requesting the Division of Highways name bridge number 40-64-36.24, EB-WB, (40A067, 40A069), locally known as Cow Creek Road Bridge, carrying Interstate 64 over Cow Creek Road in Putnam County, the “Deputy Sheriff Jonathan Janey Memorial Bridge”.

Whereas, Jonathan Wayne Janey was born on March 2, 1957, in South Charleston, West Virginia; and

Whereas, Jonathan Wayne Janey was a lifelong resident of Putnam County, West Virginia, and became a deputy in the Putnam County Sheriff’s Office in 1980. He dutifully served the people of his community for nine years; and

Whereas, In August 1989, Deputy Jonathan Janey received information that a house located on Cow Creek Road in Putnam County may be targeted for arson and he conducted a stakeout of this residence; and

Whereas, During the night of his stakeout, he saw a man enter the house carrying two jugs and the man spread the contents of the jugs on the floor of the house. The man saw Deputy Jonathan Janey and attempted to flee. Deputy Jonathan Janey apprehended him and managed to put one handcuff on him, but the man spun around and struck Deputy Jonathan Janey on the head with the other portion of the handcuffs. The man grabbed Deputy Jonathan Janey’s firearm and shot him twice in the chest. After Deputy Jonathan Janey fell to the ground, the man shot him once more, this time in the head. So ended Deputy Jonathan Janey’s final shift shortly after 1:15



a.m. on August 17, 1989. The culprit was later convicted and sentenced to life in prison and has never been paroled; and

Whereas, It is fitting that an enduring memorial be established to commemorate Deputy Sheriff Jonathan Janey and his contributions to his county and state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 40-64-36.24, EB-WB, (40A067, 40A069), locally known as Cow Creek Road Bridge, carrying Interstate 64 over Cow Creek Road in Putnam County, the “Deputy Sheriff Jonathan Janey Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to make and be place signs identifying the bridge as the “Deputy Sheriff Jonathan Janey Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Unger, Plymale, and Stollings offered the following resolution:

**Senate Resolution 63**—Honoring Dennis Frye for his dedicated public service.

Whereas, Dennis Frye has 32 years as a permanent full-time U. S. government employee, whose work and service in the Harpers Ferry National Historic Park date back to his days as a volunteer in 1973; and

Whereas, Dennis Frye has served as the chief historian at Harpers Ferry National Historical Park from 1989 -1994 and again from 2004 -2018; and

Whereas, Dennis Frye is a prominent writer, lecturer, guide, and Civil War historian; and

Whereas, Dennis Frye has appeared as a guest historian on PBS, the History Channel, the Discovery Channel, C-SPAN, Fox News, A&E, and Voice of America; and

Whereas, Dennis Frye has helped produce Emmy award-winning television features on the Battle of Antietam, abolitionist John Brown, and Maryland during the Civil War; and

Whereas, Dennis Frye led the effort to film the major motion picture, Gods and Generals, at Harpers Ferry, Charles Town, and Martinsburg; and

Whereas, Dennis Frye has been a featured on-screen guest historian in West Virginia: A Film History; and

Whereas, Dennis Frye is one of the nation’s leading Civil War battlefield preservationists; and

Whereas, Dennis Frye co-founded and was the first president of the Save Historic Antietam Foundation; and

Whereas, Dennis Frye co-founded and is a former president of today's Civil War Trust, from which he received the trust's highest honor - the Shelby Foote award; and

Whereas, Dennis Frye earned the prestigious Nevins-Freeman award for his lifetime achievements in the Civil War community; and

Whereas, Dennis Frye is a tour guide in demand, leading tours for organizations such as the Smithsonian, National Geographic, numerous colleges, and universities, and Civil War Round Tables; and

Whereas, Dennis Frye has lectured on Capitol Hill, and to 147 Civil War Round Table organizations in all parts of the country; and

Whereas, Dennis Frye is a well-known writer, having authored 99 articles and 10 books; and

Whereas, Dennis Frye's most recent book is Antietam Shadows: Mystery, Myth and Machination; and

Whereas, Dennis Frye's book, Harpers Ferry Under Fire, received the National Book of the Year award from the Association of Partners for Public Lands; and

Whereas, Dennis Frye's book, September Suspense: Lincoln's Union in Peril, was awarded the 2012 Laney Book Prize for distinguished scholarship and writing on the military and political history of the war; and

Whereas, Dennis Frye has written for prestigious Civil War magazines such as Civil War Times Illustrated, America's Civil War, Blue and Gray Magazine, North and South Magazine, and Hallowed Ground; and

Whereas, Dennis Frye has served as a guest contributor to the Washington Post; and

Whereas, Dennis Frye has been instrumental in the discovery and development of numerous exhibits relating to John Brown and the historic venues of the Civil War era; and

Whereas, Dennis Frye has been instrumental in developing the ideology and obtaining grant funding for many student applications, mini-films, and exhibitions relating to the historic eastern panhandle in West Virginia, including PARTNERS (Potomac Area Rural Teachers using National Education Resources for Students), Time Trek, Shackles to Scholars, and School House Ridge; and

Whereas, Dennis Frye conceived, developed, and sustained an annual internship program for graduate and undergraduate university students. The program averages 20 interns per year, with nearly 260 university students having been served; and

Whereas, Dennis Frye conceived, developed, and sustained an annual student education program that attracts an average of 50,000 students to Harpers Ferry National Historic Park each year; and

Whereas, Dennis Frye resides near the Antietam Battlefield in Maryland, and he and his wife Sylvia have restored the home that was used by General Burnside as his post-Antietam headquarters; and

Whereas, Dennis Frye is retiring on May 31, 2018; therefore, be it

*Resolved by the Senate:*

That the Senate hereby honors Dennis Frye for his dedicated public service; and, be it

*Further Resolved*, That the Senate extends its most sincere appreciation and gratitude to Dennis Frye for his many years of dedicated public service; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Dennis Frye.

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

On motion of Senator Ferns, at 12:01 p.m., the Senate recessed to present Senate Resolution 63.

The Senate reconvened at 12:06 p.m. and resumed business under the sixth order.

Senators Prezioso, Plymale, Stollings, Beach, and Cline offered the following resolution:

**Senate Resolution 64**—Reaffirming the sister-state relationship between the State of West Virginia and Taiwan.

Whereas, The Republic of China (Taiwan) and the United States have enjoyed a longstanding partnership and share the common values of freedom, democracy, human rights, and the rule of law. In 2018, Taiwan is ranked by Freedom House as the second freest country in Asia, and the Heritage Foundation rated Taiwan as third in Asia in terms of economic freedom, demonstrating the strength and vitality of its democratic system and showcasing Taiwan as a beacon of democracy for Asia and beyond; and

Whereas, The State of West Virginia is proud of the sister-state relationship it has enjoyed with Taiwan since August 4, 1980, marked by strong bilateral trade, education, and cultural exchange. In 2017, the bilateral trade between West Virginia and Taiwan amounted to nearly \$64 million, making Taiwan our seventh largest Asian trading partner, demonstrating that Taiwan is not only a friendly sister-state of West Virginia but also an important trading partner; and

Whereas, The United States is Taiwan's second largest trading partner and second largest destination of Taiwan outward investment; Taiwan is the eleventh largest trading partner of the United States, with bilateral trade reaching \$68.2 billion in 2017, and eighth largest export destination for U. S. agricultural goods, and overall the fourteenth largest export market; and

Whereas, West Virginia welcomes all opportunities for an even closer economic partnership to increase the trade and investment and endorses Taiwan's effort to secure the signing of a U. S.-Taiwan Bilateral Trade Agreement to boost greater West Virginia exports to Taiwan and to bring in more Taiwanese investment such as the \$34 million project which Far Eastern New Century Corporation recently announced; and

Whereas, In the 2016/17 academic year, 21,516 students from Taiwan studied in the U. S., making Taiwan the seventh leading place of origin for students coming to the U. S. and contributed

more than \$738 million to the U. S. economy through their spending on tuition, accommodation, and living expenses;

Whereas, Taiwan pursues a New Southbound Policy to promote more diverse bilateral and multilateral collaboration with Southeast Asia, South Asia, Australia, and New Zealand, serving the best interests of the Asia-Pacific region in the continuation of stability and growth; and

Whereas, Taiwan has been proven to be a very valuable contributor in a broad range of global issues and is necessary to be granted access to meaningfully participate in various international organizations including the World Health Organization, International Civil Aviation Organization, United Nation Framework Convention on Climate Change, and International Criminal Police Organization; therefore, be it

*Resolved by the Senate:*

That the Senate hereby reaffirms the sister-state relationship between the State of West Virginia and Taiwan; and, be it

*Further Resolved,* That the Senate commends Taiwan's vibrant, full-fledged democracy and endorses Taiwan's efforts to secure the signing of the Bilateral Trade Agreement with the United States, and continues to support Taiwan's meaningful participation and contribution in international organizations which impact the health, safety, and wellbeing of its people, and supports its aspiration to make more contributions in international societies; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Mr. Stanley Kao, Representative of the Taipei Economic and Cultural Representative Office in the United States.

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

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report, to take effect July 1, 2018, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. Com. Sub. for House Bill 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Whereupon, Senator Ferns, from the committee of conference on matters of disagreement between 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,

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the Senate amendment to **Com. Sub. for H. B. 4145** having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate recede from its position as to their amendment to the bill.

Respectfully submitted,

Paul Espinosa, *Chair*, Everette W. Anderson, Jr., Brent Boggs, *Conferees on the part of the House of Delegates*.

Ryan J. Ferns, *Chair*, Craig Blair, Robert H. Plymale, *Conferees on the part of the Senate*.

Senator Ferns moved that the committee of conference report as to Engrossed Committee Substitute for House Bill 4145 be taken up for immediate consideration, and on this question, Senator Ferns demanded the yeas and nays.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members present and voting having voted in the affirmative, the President declared Senator Ferns' aforesated motion had prevailed.

The question now being on the adoption of the committee of conference report as to Engrossed Committee for House Bill 4145.

Following extended discussion,

Senator Blair moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of the committee of conference report as to Engrossed Committee Substitute for House Bill 4145, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4145, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4145) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4145) takes effect July 1, 2018.

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

On motion of Senator Ferns, at 12:59 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 3:05 p.m. today and resumed business under the third order.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 6, 2018, he had approved **Enr. Committee Substitute for Senate Bill 71** and **Enr. Committee Substitute for Senate Bill 237**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th day of March, 2018, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

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

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*

Roger Hanshaw,  
*Chair, House Committee.*

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 17**, John Hancock Hall Memorial Bridge.

**Senate Concurrent Resolution 21**, US Army PFC Charles Thurman "Buddy" Ellis Memorial Bridge.

**Senate Concurrent Resolution 22**, US Army Colonel Larkin Bilton Vance Memorial Highway.

**Senate Concurrent Resolution 25**, US Army PFC O. T. (Teaberry) Mullins Memorial Bridge.

**Senate Concurrent Resolution 26**, US Army PFC Thomas Mayford Martin Memorial Bridge.

**Senate Concurrent Resolution 27**, US Army CPL F. Lee Noel Memorial Bridge.

**Senate Concurrent Resolution 37**, Sheriff John E. White Memorial Road.

**Senate Concurrent Resolution 43**, US Army T-4 CE Caesar Bango Memorial Bridge.

**House Concurrent Resolution 3**, U. S. Army Cpl David Michael Hopkins and U.S. Army Cpl Romey Earl Hughart, Jr. Memorial Bridge.

**House Concurrent Resolution 4**, U. S. Army SPC4 Gary Wayne Morgan Memorial Bridge.

**House Concurrent Resolution 16**, Frenchburg Bridge.

**House Concurrent Resolution 26**, U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge.

**House Concurrent Resolution 33**, U. S. Army 2LT Clarence Dragoo Memorial Bridge.

**House Concurrent Resolution 87**, Constable Joseph H. Davidson Memorial Bridge.

And,

**House Concurrent Resolution 91**, U.S. Navy Capt Homer Leroy Smith Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Boso, unanimous consent being granted, the resolutions (S. C. R. 17, 21, 22, 25, 26, 27, 37, and 43 and H. C. R. 3, 4, 16, 26, 33, 87, and 91) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

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

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

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 29**, US Army SGT Benny Fleming Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 29** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 30-3/5-19.82 (30A268), locally known as Lowney Singing Bridge, carrying County Route 3/5 over the West Fork of Twelvepole Creek in Mingo County, the “U. S. Army SGT Benny Fleming Memorial Bridge”.

Whereas, SGT Benny Fleming was born on June 9, 1948, to Goodlow Fleming and Lora Evans of Wilsondale, and passed away August 30, 2013; and

Whereas, SGT Benny Fleming was a lifelong resident of Mingo County where he raised a family and made a living as a coal miner. Throughout his life, he overcame many obstacles, all while maintaining a great attitude; and

Whereas, SGT Benny Fleming attended Lowney Grade School near his family home, and graduated from Lenore High School in 1966. That same year, he enlisted in the U. S. Army. In the five years he served, he was promoted Sergeant E-5, served in Vietnam, and eventually received an honorable discharge. After returning home, he worked for the West Virginia Division of Highways; and

Whereas, SGT Benny Fleming began working underground in the coal mines in 1970s, when the danger of working underground was at its highest. He worked for Dehue Mines in Logan until they closed, and then went to work at Rawl Sales Rocky Hollow for nearly 15 years until he suddenly became sick while on vacation with his family. He was diagnosed with transverse myelitis. After spending months in the hospital, and then at a rehabilitation center, he was left paralyzed from the waist down and confined to a wheelchair; and

Whereas, When faced with an obstacle such as this, most people would have given up, but not SGT Benny Fleming. He had to learn how to use his hands again, and how to sit up again. He learned how to cook, clean, do laundry, and be self-sufficient. Eventually, he would mow his own grass, and his sister’s, just to keep busy. He also became active in helping facilities become handicapped accessible. It was very important to him to be able to get in and out of places without having to ask for assistance; and

Whereas, SGT Benny Fleming had two daughters, Mabelle and Teresa. He loved them dearly. They married and had children of their own. Mabelle had his first grandchild, Jarrid, in 1991. This gave Benny something to get stronger for, and something to look forward to. Jarrid was his whole world. He would spend weekends with Benny, and he would feed him, bathe him, and change his diaper, all while being confined to a wheelchair; and

Whereas, Five years later, Mabelle had SGT Benny Fleming’s second grandchild, Seann Cameron. He and Benny spent their time fishing, riding four wheelers, and Benny would point out deer and bear tracks to his grandson. Some weekends, Benny would keep both boys. That was when he was at his happiest; and

Whereas, In August of 1998, Teresa had SGT Benny Fleming’s third grandchild, a boy named Carson. Just as he did with the grandsons before him, SGT Benny Fleming loved to spend time



with him, watching him play basketball and talk about trains. He, too, would spend the night with Benny, and he would see to it that he was well taken care of; and

Whereas, Because of his grandkids, the last years of SGT Benny Fleming's life were his happiest. In 2002, he was the official scorekeeper for his grandson Jarrid's baseball team and never missed a game. He traveled to the away games, as well as the home games, and treated Jarrid's teammates as if they were his own. He would buy the kids drinks, hotdogs, and candy at the games, and they loved him as if he were their own grandpa. He also spent time with his companion and life partner, Cathy Perry. They were at their happiest when spending time outdoors and sharing memories; and

Whereas, In his last few years, SGT Benny Fleming began reflecting on his life. He began compiling notes and started the process of writing a short story about the life and times of growing up in the 1950s. He titled it "Growing Up Lowney". It tells the story of when he was young and going to Lowney Grade School near his childhood home. He goes into great detail and tells everything he can remember of growing up in that area of Mingo County. He typed the story himself and surprised his children and grandchildren each with a copy. The seven-page story is Benny's legacy. It is a small glimpse into the type of man that he was. Although confined to a wheelchair for the last 25 years of his life, Benny overcame many obstacles with the love and support of his family. He overcame them to become a loving father, extraordinary grandfather, and outstanding member of the community, all with a smile on his face; and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of SGT Benny Fleming; therefore, be it

*Resolved by the West Virginia Legislature:*

That the Division of Highways is hereby requested to name bridge number 30-3/5-19.82 (30A268), locally known as Lowney Singing Bridge, carrying County Route 3/5 over the West Fork of Twelvepole Creek in Mingo County, the "U. S. Army SGT Benny Fleming Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SGT Benny Fleming Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4431**, Establishing the Mountaineer Trail Network Recreation Authority.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**House Concurrent Resolution 5**, U. S. Army PFC Jessie Franklin Crow Memorial Bridge.

And has amended same.

And reports the same back with the recommendation that it be adopted, as amended.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

The Senate proceeded to the seventh order of business.

**House Concurrent Resolution 27**, Making Grafton's Annual Memorial Day Parade the Official State Memorial Day Parade.

On unfinished business, coming up in regular order, was reported by the Clerk.

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

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

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2464**, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

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: Arvon, Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2464) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2464**—A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers and exclusions of warranties for used manufactured homes; providing that a consumer may waive the warranties of merchantability and fitness for a particular use; providing that a consumer may waive a particular defect or malfunction which the merchant has identified and disclosed in writing to the consumer; providing for the manner and content of waivers; and providing a definition.

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

**Eng. Com. Sub. for House Bill 4015**, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4015) passed.

On motion of Senator Gaunch, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4015**—A Bill to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10, §5A-12-11, §5A-12-12, §5A-12-13 and §5A-12-14; to amend said code by adding thereto a new section, designated §12-6D-7; to amend and reenact §17A-3-23 of said code; to amend said code by adding thereto three new sections, designated §17A-3-25, §17A-3-26, and §17A-3-27; and to amend and reenact §29B-1-4 of said code, all relating to the management and inventory of vehicles owned, leased, operated, or acquired by the state and its agencies; authorizing establishment of aviation division within Department of Administration; establishing Fleet Management Division within Department of Administration; repealing provisions relating to the central motor pool; continuing management of state owned or leased aircraft through an Aviation Division; setting duties of Aviation Division; continuing Aviation Fund and authorizing

administration by division director or secretary of Department of Administration; defining terms; setting scope of article and applicability to spending units; continuing Fleet Management Office as Fleet Management Division; setting duties and responsibilities of division; providing for the appointment of a division director; providing powers and duties of the division director; terminating the Fleet Management Office Fund; establishing the Fleet Management Division Fund; providing for transfer of funds from Fleet Management Office Fund to Fleet Management Division Fund; establishing rulemaking authority for division director; requiring proposal of certain legislative rules; setting requirements for operators of state vehicles; establishing duties and responsibilities of spending units with respect to state vehicles and equipment; requiring each spending unit designate a fleet coordinator; requiring spending unit provide name and contact information of fleet coordinator to division; setting requirements and responsibilities of fleet coordinators; requiring spending units use vehicle management services provided by division; authorizing certain exceptions; requiring annual reporting by spending units to division; requiring spending units maintain certain records; requiring division director establish complaint process for general public to report issues relevant to state vehicle fleet; requiring spending unit investigate complaints received by division; requiring division prepare state vehicle fleet annual report; setting contents of annual report; providing for spot compliance audits by the State Auditor; requiring legislative compliance audit; directing Enterprise Resource Planning Board develop standard naming convention for state vehicle information in centralized accounting system; increasing number of state vehicles Attorney General may have without state license plate; changing colors of state license plates to gold with blue lettering effective January 1, 2019; authorizing Commissioner of the Division of Motor Vehicles to issue special plates to certain organizations and entities at no charge; authorizing inclusion of higher education institution logos on state license plates; requiring higher education institutions bear any additional costs of those features; prohibiting public service districts or designated nongovernmental institutional from being issued state license plate; directing commissioner of Division of Motor Vehicles develop and adopt standardized naming convention for title, registration and licensing of state vehicles; providing for expiration of green and white state license plates; requiring spending units obtain new state license plate prior to January 1, 2019; requiring affirmative statement from spending unit that vehicle is state asset recorded in central accounting system, and verification of same, prior to issuance of state license plate; providing license plates and registrations be valid for not more than 24 months; requiring renewal every two years; authorizing promulgation of emergency rules by commissioner; directing proposal of legislative and emergency rules to establish standardized naming conventions for state vehicle titles, licenses, and registrations; establishing process for spending unit to apply for and acquire new uniform vehicle title and registration plate; requiring updating of information in centralized accounting system following receipt of new title, registration and license plates; providing for a citation for vehicles with expired state license plate; requiring spending unit file report with division upon receipt of citation; directing compliance audit by Legislative Auditor of Division of Motor Vehicles; exempting confidential information relating to certain vehicles from public disclosure under the Freedom of Information Act; authorizing rule-making; and requiring annual reports to the Governor and Legislature.

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

**Eng. Com. Sub. for House Bill 4023**, Relating to the regulation of dialysis technicians.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4023) passed with its title.

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

**Eng. House Bill 4025**, Permitting reciprocity for licensure as a pharmacy technician.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4025) passed with its title.

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

**Eng. Com. Sub. for House Bill 4027**, Creating an education permit for allopathic physician resident.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4027) passed with its title.

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

**Eng. House Bill 4178**, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4178) passed with its title.

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

**Eng. Com. Sub. for House Bill 4197**, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4197) passed with its title.

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

**Eng. Com. Sub. for House Bill 4279**, Relating to adult protective services system.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4279) passed with its title.

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

**Eng. Com. Sub. for House Bill 4368**, Relating to voluntary assignments of wages by state employees who have been overpaid.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4368) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4368**—A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to voluntary assignments of wages by state employees who have been overpaid; and providing that state employees may voluntarily authorize an assignment or order of future wages to repay an overpayment, not to exceed a certain amount.

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

**Eng. House Bill 4434**, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4434 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4434) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 4434**—A Bill to amend and reenact §3-5-23 of the Code of West Virginia, 1931, as amended, to prohibit any person from becoming a candidate for political office by virtue of the nomination-certificate process when he or she, at the time of the filing of the nomination certificate or certificates, is registered and affiliated with a recognized political party as defined in §3-1-8 of this code or when he or she was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code but failed to win the nomination of his or her party.

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

**Eng. House Bill 4462**, Allowing off duty members and officers of the department of public safety to guard private property.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4462) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 4462**—A Bill to amend and reenact §15-2-18 of the Code of West Virginia, 1931, as amended, relating to allowing off duty members and officers of the State Police to contract to work for a private person or entity during off duty hours as long as the type of the contract work does not violate State Police rules as to location or nature.

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

**Eng. Com. Sub. for House Bill 4478**, Authorizing public schools to distribute excess food to students.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard,



Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4478) passed with its title.

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

**Eng. Com. Sub. for House Bill 4502**, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4502) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4502**—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, as amended, relating to including treason, murder, certain degrees of robbery, certain felony sexual offenses, and organized criminal activity to the list of offenses for which a prosecutor may apply for an order authorizing interception of communications.

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

**Eng. Com. Sub. for House Bill 4509**, Relating to the establishment of substance abuse treatment facilities.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4509) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4509**—A Bill to amend and reenact §16-53-1 of the Code of West Virginia, 1931, as amended, relating to the establishment of substance abuse treatment and recovery facilities; and permitting the Department of Health and Human Resources to provide funding to facilities that provide peer-support services which follow specified standards.

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

**Eng. Com. Sub. for House Bill 4522**, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Monday, March 5, 2018, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Blair, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the bill was withdrawn.

On motion of Senator Boso, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting section and inserting in lieu thereof the following:

#### **ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.**

##### **§11-10-5dd. Disclosure of certain tax information pursuant to written agreements with state agencies purchasing or leasing goods or services or the Enterprise Resource Planning Board to facilitate purchasing; and the State Auditor.**

(a) General. – Notwithstanding any provision of this code to the contrary, the Tax Commissioner may enter into written agreements with other agencies of this state, as provided in this section, to share certain tax information, as defined in this section.

(b) Contracts with the state. – Notwithstanding any provision of this article to the contrary, the Tax Commissioner may enter into a written agreement with the chief executive officer of an agency with authority to award public contracts for the purchase or lease of goods or services, or with the chief executive officer of the Enterprise Resource Planning Board to facilitate purchasing or leasing of goods and service, to disclose whether a vendor, or prospective vendor, is in good standing before a public contract is awarded or renewed.

(c) State Auditor. – The State Auditor is authorized to request from the Tax Commissioner, and the Tax Commissioner shall provide to the State Auditor, confirmation whether a vendor is in good standing with the Tax Commissioner. When the State Auditor provides the Tax

Commissioner an electronic file, the Tax Commissioner will determine in a timely manner whether the vendor is in good standing and, if the vendor is not in good standing, electronically advise the State Auditor of the amount of taxes, interest and additions to tax that are then due and owing by that vendor to the Tax Commissioner that should be offset, if any, or that the vendor needs to contact the Tax Commissioner's office to resolve the issue that prevents the vendor from being in good standing, before the vendor will be paid by the state.

(d) As used in §11-10-5dd of this code, the term "good standing" means that the person has a current business registration certificate under §11-12-1 et seq. of this code, has filed all required returns for taxes administered under §11-10-1 et seq. and has paid all taxes shown to be due on those returns. A person is in "good standing" even though the person may be paying taxes under a payment plan provided the person is in compliance with the terms of the written payment plan agreement; or is contesting an assessment for one or more taxes administered under §11-10-1 et seq. before the Office of Tax Appeals or in a court of this state.

(e) Exchanges of information under §11-10-5dd of this code shall occur pursuant to memorandums of understanding executed by the Tax Commissioner and the chief executive officer of any agency to award public contracts for the purchase or lease of goods or services; the chief executive officer of the Enterprise Resource Planning Board; or the State Auditor, as the case may be. These memorandums may be amended from time to time.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4522), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4522) passed with its title.

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

**Eng. House Bill 4622**, Relating to authorizing legislative rules regarding higher education.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4622) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Eng. Com. Sub. for House Bill 4016**, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page two, section four, line four, after the word “expenditure” by changing the semicolon to a colon and inserting the following proviso: “*Provided* That, all federal and state laws and regulations and rules regarding the confidentiality of information and privacy apply;”

The bill (Eng. Com. Sub. for H. B. 4016), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4035**, Creating a legislative coalition to study and report to the Legislature on palliative care.

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

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **ARTICLE 54. STATE ADVISORY COALITION ON PALLIATIVE CARE.**

##### **§16-54-1. Purpose.**

The purpose of the coalition created under this article is to improve quality and delivery of patient centered and family focused palliative care in West Virginia.

##### **§16-54-2. Definitions**

As used in this article:

“Appropriate” means consistent with applicable legal, health, and professional standards; the patient’s clinical and other circumstances; and the patient’s reasonably known wishes and beliefs.

“Medical care” means services provided, requested, or supervised by a physician or advanced practice nurse.

“Palliative care” means patient and family centered medical care that optimizes quality of life by anticipating, preventing, and treating suffering caused by serious illness throughout the

continuum of illness, involves addressing physical, emotional, social, and spiritual needs, and facilitates patient autonomy, access to information, and choice.

“Serious Illness” means any medical illness or physical injury or condition that substantially impacts quality of life for more than a short time.

### **§16-54-3. Creation of the State Advisory Coalition on Palliative Care.**

There is created the State Advisory Coalition on Palliative Care. The administrative functions of the coalition are the responsibility of staff assigned to the Joint Committee on Health.

### **§16-54-4. Members of the Advisory Coalition on Palliative Care.**

(a) The Advisory Coalition on Palliative Care consists of the individuals appointed by the President of the Senate and the Speaker of the House of Delegates who are health professionals having palliative care work experience and/or expertise in palliative care delivery models in a variety of inpatient, outpatient, and community settings and with a variety of populations, including pediatric, youth, and adults.

(b) The members include:

(1) A physician who practices palliative care in this state and is licensed pursuant to the provisions of §30-3-1 et seq. of this code, who shall serve as chair of the coalition for the first meeting until a chairman is selected by the Advisory Coalition;

(2) A physician;

(3) A registered professional nurse;

(4) A social worker;

(5) A pharmacist;

(6) A spiritual advisor;

(7) A patient advocate;

(8) A family caregiver advocate;

(9) One additional palliative care practitioner; and

(10) The Executive Director of the Center for End of Life Care, or his or her designee.

(c) The co-chairs of the Joint Committee on Health serve as nonvoting members, ex-officio.

(d) Membership on the coalition shall be distributed among the congressional districts of the state, and each congressional district shall be represented in the membership of the coalition.

### **§16-54-5. Powers and duties.**

(a) The coalition shall consult with and advise the Legislature on matters related to the establishment, maintenance, operation, and outcomes evaluation of palliative care initiatives in the state. The coalition may:

(1) Meet at least quarterly or at the call of the chairman. A quorum is a simple majority of the coalition;

(2) Keep accurate records of the actions of the coalition;

(3) Make recommendations to the Legislature as required by this article;

(4) Provide guidance to the Legislature on potential statutory solutions relative to regulation of palliative care;

(5) Establish workgroups and clinical advisory committees as the coalition considers necessary to address pertinent issues related to palliative care and to provide consistency in the development of further regulation;

(6) Consult with entities and persons with expertise as the coalition considers necessary in the fulfillment of its duties. This can include public and private sector partnerships;

(7) Establish a system for identifying patients or residents who could benefit from palliative care;

(8) Provide information about and facilitate access to appropriate palliative care; and

(9) Offer any additional guidance to the Legislature which the coalition sees is within its scope which would further enhance the palliative care.

(b) The coalition shall report its findings to the Joint Committee on Health by December 31, 2019, and annually after that until the coalition terminates pursuant to the provisions of this article. The report shall include, at a minimum, the following:

(1) Conclusions and recommendations to promote a better means for palliative care;

(2) Recommendations for statutory and regulatory modifications;

(3) Identification of any action which may be taken by the Legislature to better foster awareness of palliative care issues in this state;

(4) A means to raise palliative care awareness; and

(5) Any other ancillary issues relative to palliative care.

#### **§16-54-6. Cooperation with the coalition.**

The Department of Health and Human Resources, the West Virginia Insurance Commission, the Public Employees Insurance Agency, the Center for End of Life Care, and all other entities of state government shall cooperate with the coalition in the exchange of data, information, and expertise if so requested by the coalition, including, but not limited to:

(1) Providing the entity's plans to improve palliative care in West Virginia;

(2) Sharing information on the financial impact of palliative care on the State of West Virginia;

(3) Providing an assessment of the benefits of implemented programs and activities aimed at bettering palliative care;

(4) Assisting in the development or revision of detailed action plans to improve palliative care; and

(5) Providing resources required to implement the plan.

**§16-54-7. Sunset.**

The coalition terminates on December 31, 2021, unless continued by act of the Legislature.

The bill (Eng. Com. Sub. for H. B. 4035), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4042**, Redefining school zone to facilitate placement of school zone signs.

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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page one, section one, line sixteen, after the word “zone” by inserting the words “established by an engineering study conducted by the Division of Highways”.

The bill (Eng. Com. Sub. for H. B. 4042), as amended, was then ordered to third reading.

**Eng. House Bill 4183**, Relating generally to standardized testing requirements for nonpublic schools.

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

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On pages one and two, section three, lines eleven and twelve, by striking out the words “the most recent published or normed version of the test” and inserting in lieu thereof the words “published or normed within the last ten years”;

On page two, section three, line fourteen, after the word “a” by inserting the word “school’s”;

And,

On page three, section three, line forty-seven, by striking out the words “does no longer satisfy” and inserting in lieu thereof the words “no longer satisfies”.

The bill (Eng. H. B. 4183), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4275**, Relating to the law-enforcement authority of the director and officers of the division of protective services.

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

**Eng. Com. Sub. for House Bill 4400**, Relating to the West Virginia Physicians Mutual Insurance Company.

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

**Eng. Com. Sub. for House Bill 4546**, Relating to where an application for a marriage license may be made.

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

The Senate proceeded to the tenth order of business.

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

**Senate Bill 633**, Expiring funds from Insurance Commission Fund and appropriating funds to Consolidated Medical Services Fund.

**Senate Bill 634**, Adding, increasing, and decreasing appropriations from General Revenue to DHHR.

**Eng. Com. Sub. for House Bill 2028**, Relating to the venue for suits and other actions against the state.

**Eng. Com. Sub. for House Bill 4214**, Increasing penalties for unlawfully possessing or digging ginseng.

**Eng. Com. Sub. for House Bill 4276**, Allowing magistrates to grant work release privileges.

**Eng. Com. Sub. for House Bill 4336**, Updating the schedule of controlled substances.

**Eng. House Bill 4376**, Expiring funds to the balance of the Department of Health and Human Resources.

**Eng. House Bill 4379**, Supplementing, amending, decreasing, and increasing items of the existing appropriations to the Department of Transportation.

**Eng. Com. Sub. for House Bill 4401**, Relating to the registration of business.

**Eng. Com. Sub. for House Bill 4453**, Relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review.

**Eng. House Bill 4529**, Relating to oath by municipal official certifying list of delinquent business and occupation taxes.

**Eng. Com. Sub. for House Bill 4571**, Relating to the final day of filing announcements of candidates for a political office.



**Eng. Com. Sub. for House Bill 4618**, Relating to the authority of the Division of Protective Services.

And,

**Eng. House Bill 4627**, Relating to providing a limitation on the eminent domain authority of a municipal park board.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 3:52 p.m., the Senate recessed until 4:30 p.m. today.

The Senate reconvened at 5:28 p.m. today and, without objection, returned to the third order of business.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 6, 2018, he had approved **Enr. Committee Substitute for House Bill 4145**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th 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 H. B. 2654)**, Expanding county commissions' ability to dispose of county or district property.

**(Com. Sub. for H. B. 2889)**, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

And,

**(Com. Sub. for H. B. 4268)**, Co-tenancy Modernization and Majority Protection Act.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

The Senate again proceeded to the fifth order of business.

**Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 5:29 p.m. today:

**Eng. Com. Sub. for House Bill 4013**, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 5:30 p.m., the Senate adjourned until tomorrow, Wednesday, March 7, 2018, at 11 a.m.

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## **SENATE CALENDAR**

**Wednesday, March 07, 2018**

**11:00 AM**

### **UNFINISHED BUSINESS**

- Com. Sub. for S. C. R. 29 - US Army SGT Benny Fleming Memorial Bridge
- S. C. R. 52 - Deputy Sheriff John Janey Memorial Bridge
- H. C. R. 5 - U. S. Army PFC Jessie Franklin Crow Memorial Bridge -  
(Com. amends. pending)

### **THIRD READING**

- Eng. Com. Sub. for H. B. 4016 - Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency
- Eng. Com. Sub. for H. B. 4035 - Creating a legislative coalition to study and report to the Legislature on palliative care - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4042 - Redefining school zone to facilitate placement of school zone signs
- Eng. H. B. 4183 - Relating generally to standardized testing requirements for nonpublic schools - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4275 - Relating to the law-enforcement authority of the director and officers of the division of protective services
- Eng. Com. Sub. for H. B. 4400 - Relating to the West Virginia Physicians Mutual Insurance Company
- Eng. Com. Sub. for H. B. 4546 - Relating to where an application for a marriage license may be made

### **SECOND READING**

- S. B. 633 - Expiring funds from Insurance Commission Fund and appropriating funds to Consolidated Medical Services Fund
- S. B. 634 - Adding, increasing, and decreasing appropriations from General Revenue to DHHR
- Eng. Com. Sub. for H. B. 2028 - Relating to the venue for suits and other actions against the state
- Eng. Com. Sub. for H. B. 4214 - Increasing penalties for unlawfully possessing or digging ginseng - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4276 - Allowing magistrates to grant work release privileges

- Eng. Com. Sub. for H. B. 4336 - Updating the schedule of controlled substances - (Com. title amend. pending)
- Eng. H. B. 4376 - Expiring funds to the balance of the Department of Health and Human Resources
- Eng. H. B. 4379 - Supplementing, amending, decreasing, and increasing items of the existing appropriations to the Department of Transportation
- Eng. Com. Sub. for H. B. 4401 - Relating to the registration of business - (Com. amend. and title amend. pending) (original similar to SB497)
- Eng. Com. Sub. for H. B. 4453 - Relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review
- Eng. H. B. 4529 - Relating to oath by municipal official certifying list of delinquent business and occupation taxes
- Eng. Com. Sub. for H. B. 4571 - Relating to the final day of filing announcements of candidates for a political office - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4618 - Relating to the authority of the Division of Protective Services - (Com. amend. and title amend. pending)
- Eng. H. B. 4627 - Relating to providing a limitation on the eminent domain authority of a municipal park board - (Com. amend. pending)

### **FIRST READING**

- Eng. Com. Sub. for H. B. 2008 - Relating to the Dealer Recovery Program
- Eng. Com. Sub. for H. B. 4036 - Increasing the maximum salaries of family case coordinators and secretary-clerks
- Eng. Com. Sub. for H. B. 4157 - Eliminating the refundable exemption for road construction contractors
- Eng. Com. Sub. for H. B. 4166 - Establishing a special revenue fund to be known as the "Capital Improvements Fund — Department of Agriculture Facilities"
- Eng. Com. Sub. for H. B. 4431 - Establishing the Mountaineer Trail Network Recreation Authority - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4558 - Establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2018**

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**Wednesday, March 7, 2018**

9 a.m.	Education	(Room 451M)
9 a.m.	Government Organization	(Room 208W)
10 a.m.	Natural Resources	(Room 208W)