

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2018  
FORTY-FIRST DAY

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Charleston, West Virginia, Monday, February 19, 2018

The Senate met at 11:12 a.m.

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

Prayer was offered by Pastor Dan Nicksich, Vanville Church of Christ, Martinsburg, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael J. Romano, a senator from the twelfth district.

Pending the reading of the Journal of Friday, February 16, 2018,

At the request of Senator Mann, 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.

On motion of Senator Ferns, at 11:20 a.m., the Senate recessed to permit Hunter Bennett to address the Senate on behalf of the Governor's Honors Academy and Julia Pritt to address the Senate on behalf of the Governor's School for the Arts.

The Senate reconvened at 11:30 a.m. today and resumed business under the second order.

The Senate 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, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 163**—Authorizing DEP promulgate legislative rules.

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 165**, Authorizing DHHR promulgate legislative rules.

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 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

**§64-5-1. Department of Health and Human Resources.**

(a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-5B-8 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 30, 2017, relating to the Department of Health and Human Resources (hospital licensure, 64 CSR 12), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-1-9a of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2017, relating to the Department of Health and Human Resources (public water systems, 64 CSR 3), is authorized with the following amendment:

On page six, by striking out all of subdivision 8.1. and inserting in lieu thereof a new subdivision 8.1., to read as follows:

8.1. A public water system which artificially adjusts fluoride levels shall strive to maintain those levels between 0.6 milligrams per liter and 0.8 milligrams per liter. The optimum target concentration for artificially adjusted fluoride is 0.7 milligrams per liter. If the drinking water of a public water system is found to be outside of the 0.6 to 0.8 milligrams per liter range, the public water system shall make any treatment or operational changes necessary to return the fluoride level to within the range within 24 hours of receiving the analytical result unless doing so is impracticable, in which case, the correction shall be made as soon as possible. A public water system shall identify in its annual report to the Bureau the date and time of each instance where the fluoride levels were found to be outside the target range and how long it took to implement responsive adjustments

(c) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-4C-6 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 11, 2017, relating to the Department of Health and Human Resources (emergency medical services, 64 CSR 48), is authorized.

(d) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §16-49-9 of this code, relating to the Department of Health and Human Resources (West Virginia clearance for access: registry and employment screening, 69 CSR 10), is authorized with the following amendment:

On page five, by striking out all of subdivision 7.3.a. and inserting in lieu thereof a new subdivision 7.3.a., to read as follows:

7.3.a. The passage of time. The length of time an applicant is barred from employment in direct access care starts from the date of conviction or the date of release from the penalty imposed, whichever is later.

(e) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-53-3 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2017, relating to the Department of Health and Human Resources (development of methodologies to examine needs for substance use disorder treatment facilities within the state, 69 CSR 13), is authorized with the following amendments:

On page two, subdivision 2.6, by striking out the word “six” and inserting in lieu thereof the word “seven”,

On page two, in subdivision 2.6.c, by striking out “Roane,”;

On page two, in subdivision 2.6.e, by striking out “Kanawha,” and “Clay,”;

On page two, in subdivision 2.6.f, by striking out “Fayette,” and “Nicholas,”; and

On page two, following subdivision 2.6.f, creating a new subdivision by inserting the following: “2.6.g. Region 7: Clay, Fayette, Kanawha, Nicholas, and Roane counties.”.

(f) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-5T-5 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 11, 2017, relating to the Department of Health and Human Resources (collection and exchange of data related to overdoses, 69 CSR 14), is authorized.

(g) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2017, relating to the Department of Health and Human Resources (child care centers licensing, 78 CSR 1), is authorized.

(h) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2017, relating to the Department of Health and Human Resources (family child care facility licensing requirements, 78 CSR 18), is authorized.

(i) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §49-2-121 of this code, relating to the Department of Health and Human Resources (family child care home registration requirements, 78 CSR 19), is authorized.

(j) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 11, 2017, relating to the Department of Health and Human Resources (informal and relative family child care home registration requirements, 78 CSR 20), is authorized.

(k) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §49-2-121 of this code, relating to the Department of Health and Human Resources (out-of-school-time child care center licensing requirements, 78 CSR 21), is authorized.

(l) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §9-3-6 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 11, 2017, relating to the Department of Health and Human Resources (pilot program for drug screening of applicants for cash assistance, 78 CSR 26), is authorized.

(m) The legislative rule effective on October 10, 2013, authorized under the authority of §16-1-4 of this code, relating to the Department of Health and Human Resources (regulation of opioid treatment programs, 69 CSR 7), is repealed.

#### **§64-5-2. Health Care Authority.**

(a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §16-29B-8 of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2017, relating to the Health Care Authority (financial disclosure, 65 CSR 13), is authorized with the following amendment:

On page nine, by inserting a new section seven to read as follows:

#### **§65-13-7. Exemption.**

The provisions of this rule do not apply to the legally authorized practice of medicine by any one or more persons in the private office of any healthcare provider.

(b) The legislative rule effective on April 13, 2011, authorized under the authority of §16-2D-3 of this code, relating to the Health Care Authority (certificate of need rule, 65 CSR 7), is repealed.;

And,

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

**Eng. Com. Sub. for Senate Bill 165**—A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, relating generally to authorizing various health agencies to promulgate certain legislative rules as filed, modified, and amended by the legislature; authorizing various health agencies to repeal certain legislative rules; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to hospital licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access: registry and employment screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to development of methodologies to examine needs for substance use disorder treatment facilities within the state; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to collection and exchange of data related to overdoses; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care centers licensing; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family

child care facility licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to informal and relative family child care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to out-of-school-time child care center licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to pilot program for drug screening of applicants for cash assistance; directing the Department of Health and Human Resources to repeal a legislative rule relating to regulation of opioid treatment programs; authorizing the Health Care Authority to promulgate a legislative rule relating to financial disclosure; and repealing a Health Care Authority legislative rule relating to certificate of need.

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

Engrossed Committee Substitute for Senate Bill 165, 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. 165) 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. 165) 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, to take effect from passage, of

**Eng. Senate Bill 379**, Supplemental appropriation from State Excess Lottery Revenue Fund to DHHR.

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 382**, Supplemental appropriation of Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund.

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 384**, Decreasing and increasing appropriations from State Fund, General Revenue to DHHR.

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. Com. Sub. for Senate Bill 386**, Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission.

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 388**, Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration.

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

**Com. Sub. for Senate Concurrent Resolution 4**, WV Army National Guard Sergeant Glenn F. Lough, P.E., Memorial Bridge.

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

**Eng. Com. Sub. for House Bill 4343**—A Bill to amend and reenact §31A-4-20 of the Code of West Virginia, 1931, as amended, relating to the delivery of financial statements to bank shareholders at or prior to the annual meeting of shareholders.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 4385**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal monies remaining unappropriated for the fiscal year ending June 30, 2018, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2018, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

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

**Eng. House Bill 4402**—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §18-2-41, relating to the education and prevention of sexual abuse of children; mandating that children in grades K-12 receive sexual abuse education at least once during the academic year beginning July 1, 2019; requiring the State Board of Education to promulgate legislative rules to facilitate this process and develop resources by December 31, 2018; providing a list of minimum content for said legislative rules; requiring that the state board promulgate legislative rules for sexual abuse education and prevention training of public school employees by December 31, 2018; providing for an emergency rule, if necessary; providing a list of minimum content for said legislative rules; providing that said training be administered every two years; and providing additional requirements of said training.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 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 department of public safety to guard private property.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 4620**—A Bill expiring funds to the balance of the Department of Administration, Public Employees Insurance Agency – Basic Insurance Premium Fund, fund 2180, fiscal year 2018, organization 0225 for the fiscal year ending June 30, 2018, in the amount of \$29,000,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2018, organization 0701 for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

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

**House Concurrent Resolution 19**—Requesting that the West Virginia Legislature designate Sunday, May 6th, 2018, as a day of recognition of World Moyamoya Awareness Day in West Virginia.

Referred to the Committee on Health and Human Resources.

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

**House Concurrent Resolution 26**—Requesting the Division of Highways to name bridge number 12-3-0.02 (12A003), locally known as Maysville Bridge, carrying County Route 3 over Lunice Creek in Grant County, the “U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

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

Referred to the Committee on Military.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 412**, Relating to authority of county litter control officers.

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

**Com. Sub. for Senate Bill 412** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §7-1-3ff of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-29-1 of said code, all relating to providing that any litter control officer who is trained and certified as a law-enforcement officer and whose certification is active has the same authority as any other law-enforcement officer to enforce all litter laws and including litter control officers in the definition of the term “law enforcement officer”.

And,

**Senate Bill 522**, Relating generally to Administrative Procedures Act.

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

**Com. Sub. for Senate Bill 522** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29A-1-3b of the Code of West Virginia, 1931, as amended; and to amend and reenact §29A-3-8, §29A-3-12, and §29A-3-19 of said code, all relating generally to the Administrative Procedures Act; providing that rules become void if statutory authority is repealed; providing that legislative exempt, procedural, or interpretive rules may be repealed by an agency upon notification to Secretary of State; relating to the deadline for filing agency-approved rules; providing a procedure for the agencies to affirmatively seek renewal of a legislative rule; providing that legislative rules up for termination are not subject to a public comment period; and providing for review by the Legislative Rule-Making Review Committee.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 432**, Relating to municipal home rule.

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

**Com. Sub. for Senate Bill 432** (originating in the Committee on Government Organization)—  
A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to municipal home rule; making legislative findings; establishing the Municipal Home Rule Pilot Program as a permanent program identified as the Municipal Home Rule Program; providing for continuation of plans and amendments approved during Municipal Home Rule Pilot Program; providing that any ordinance, act, resolution, rule, or regulation enacted pursuant to the Municipal Home Rule Pilot Program shall continue until repealed; expanding eligibility to participate in home rule to additional municipalities; establishing annual assessment for participants in Municipal Home Rule Program; establishing penalty for failing to timely pay annual assessment; creating special revenue account for Municipal Home Rule Board; authorizing certain expenditures from special revenue fund; providing suspension of annual assessment when certain conditions are met; clarifying the authority of the Municipal Home Rule Board; requiring Municipal Home Rule Board to reject any application or amendment that does not reasonably demonstrate municipality's ability to manage related costs or liabilities; requiring publication of administrative rules of Municipal Home Rule Board on its website and made available to the public in print upon request; clarifying procedures related to submitting amendment to approved plan; requiring certain notice prior to proposing or amending a plan; requiring public hearing and notice of hearing prior to municipality proposing a plan or amendment; amending certain prohibitions on the powers and duties of municipalities under home rule; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws governing professional licensing or certification of employees; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws, rules, or regulations governing enforcement of building codes or fire codes; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to West Virginia Workplace Freedom Act and Labor-Management Relations Act; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to federal laws, regulations or standards related to transportation that would affect state's required compliance or jeopardize federal funding; prohibiting municipalities from enacting any ordinance, act, resolution, rule or regulation that imposes duties on another governmental entity, providing certain exceptions to that prohibition; modifying reporting requirements; and eliminating automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The bill (Com. Sub. for S. B. 432), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 474** (originating in the Committee on the Workforce), Requiring that certain documents filed pursuant to WV Jobs Act which include records of wages be considered confidential.

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

**Com. Sub. for Com. Sub. for Senate Bill 474** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-4; and to amend and reenact §21-1C-5 of said code, all relating to requiring that certain documents that include records of wages be considered confidential; prohibiting governmental entity that requires private company that is contracting with or is seeking to contract with a governmental entity for a construction project to submit any document that includes records of actual wages paid to employers from disclosing document or information contained therein to any other entity or person; permitting disclosure of such document or information to state or federal agency; providing that any such document containing records of actual wages paid to employees shall be considered confidential and proprietary and may not be considered a public record; defining “governmental entity”; defining contents of certified payroll document; providing that any document containing records of actual wages paid to employees that is filed or submitted pursuant to the West Virginia Jobs Act may not be disclosed by the Division of Labor or a public authority to any other entity or person other than to a state or federal agency; and providing that any document submitted or filed pursuant to the West Virginia Jobs Act that includes records of actual wages paid to employees or information contained therein shall be considered confidential and proprietary and may not be considered a public record.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 500**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund.

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

**Com. Sub. for Senate Bill 500** (originating in the Committee on Government Organization)—A Bill to amend and reenact section one, chapter 180, Acts of the Legislature, regular session, 1985, authorizing the City of White Sulphur Springs, Greenbrier County, West Virginia, to expend both principal and interest from a special interest-bearing fund.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

The bill (Com. Sub. for S. B. 500), under the original double committee reference, was then referred to the Committee on Finance.

Senator Swope, from the Committee on the Workforce, submitted the following report, which was received:

Your Committee on the Workforce has had under consideration

**Senate Bill 504**, Excluding seasonal amusement park workers from definition of “employee”.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Chandler Swope,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with an amendment from the Committee on the Workforce pending.

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

Your Committee on Finance has had under consideration

**Senate Bill 523**, Relating to tax treatment of pollution control facilities and wind power projects.

And,

**Eng. Com. Sub. for House Bill 4142**, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

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

Respectfully submitted,

Craig Blair,  
*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

**Senate Bill 543**, Relating to confidentiality of medical records.

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

**Com. Sub. for Senate Bill 543** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended, relating generally to confidentiality of certain medical records; eliminating disclosure exception for treatment or internal review purposes; eliminating 30-day requirement; eliminating requirement that provider make good faith effort to obtain consent from the patient or legal representative; eliminating requirement that the minimum information necessary is released for a specifically stated purpose; eliminating requirement that prompt notice of the disclosure, the recipient of the information, and the purpose of the disclosure is given to the patient or legal representative; and adopting provisions of federal law which pertain to disclosure of protected health information.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Blair, Boso, Sypolt, and Facemire:**

**Senate Bill 584**—A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Referred to the Committee on Finance.

**By Senators Romano, Facemire, Trump, and Weld:**

**Senate Bill 585**—A Bill to alter and reestablish that part of the division line between Doddridge County and Harrison County so as to place all the grounds of the Salem Correctional Center, formerly the West Virginia Industrial Home, within the boundary of Harrison County for the purpose of resolving venue disputes for criminal offenses on the grounds of the Salem Correctional Center.

Referred to the Committee on Government Organization.

**By Senators Smith, Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Drennan, Gaunch, Jeffries, Maroney, Maynard, Ojeda, Rucker, Swope, and Sypolt:**

**Senate Bill 586**—A Bill to amend and reenact §62-12-9 of the Code of West Virginia, 1931, as amended, relating to requiring probationers who have served 10 or more years to participate

in a work release program and spend six months in a work release center; and providing that 70 percent of their earnings shall be held in an account and provided to them at the successful completion of the six-month period.

Referred to the Committee on the Judiciary.

**By Senators Mann, Clements, Azinger, Boley, Maroney, Smith, Sypolt, Cline, and Baldwin:**

**Senate Bill 587**—A Bill to amend and reenact §18-9A-2 of the Code of West Virginia, 1931, as amended, relating to providing that counties with less than 1,400 in net enrollment shall be considered to have 1,400 in net enrollment for the purposes of determining the county's basic foundation program only.

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

**By Senators Sypolt, Cline, and Baldwin:**

**Senate Bill 588**—A Bill to amend and reenact §19-23-26 of the Code of West Virginia, 1931, as amended, relating to prohibiting the use of anabolic steroids and certain Class I drugs on racing dogs; providing criminal penalties for violators; making dogs temporarily ineligible to race when testing positive for the drugs; and requiring the Racing Commission to publish certain information regarding the presence of drugs in racing dogs on its website each month and in its annual report.

Referred to the Committee on the Judiciary.

**By Senators Rucker, Arvon, Clements, Cline, Drennan, Gaunch, Maynard, Smith, Sypolt, and Plymale:**

**Senate Bill 589**—A Bill to amend and reenact §17A-10-3a of the Code of West Virginia, 1931, as amended, relating to the issuance of personalized license plates for antique motor vehicles.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Jeffries, Baldwin, Beach, Clements, Cline, Facemire, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, and Woelfel:**

**Senate Bill 590**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to providing a special license plate for curing childhood cancer.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senator Drennan:**

**Senate Bill 591**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-27, relating to increasing the reimbursement rate for certain Medicaid services; setting forth requirements; requiring records be kept; and permitting waiver amendments be filed.

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

**By Senators Sypolt and Boso:**

**Senate Bill 592**—A Bill to amend and reenact §8-15-20a of the Code of West Virginia, 1931, as amended, relating to special examination for firefighter paramedic by adding the examination of Advanced Care Technician.

Referred to the Committee on Government Organization.

**By Senator Ojeda:**

**Senate Bill 593**—A Bill to amend and reenact §60A-2-204 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-4-401 of said code; and to amend said code by adding thereto a new section, designated §60A-4-417, all relating to reducing the criminal penalties and the criminalization of marijuana; removing certain items from Schedule I controlled substances list; and creating new misdemeanor and felony offenses and penalties with respect to marijuana.

Referred to the Committee on the Judiciary.

**By Senator Ojeda:**

**Senate Bill 594**—A Bill to amend and reenact §64-10-5 of the Code of West Virginia, 1931, as amended, relating generally to directing the Division of Natural Resources within the Department of Commerce to file a rule relating to West Virginia wildlife management areas with certain amendments.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senator Azinger:**

**Senate Bill 595**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §1-7-1, §1-7-2, §1-7-3, and §1-7-4, all relating to creating the Protect Our Right to Unite Act; providing its purpose and intent; providing for the protection of privacy of association; authorizing enforcement by state or citizen action; providing for damages and attorneys' fees; and defining terms.

Referred to the Committee on the Judiciary.

**By Senators Gaunch and Boso:**

**Senate Bill 596**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, §11-28-3, §11-28-4, §11-28-5, §11-28-6, and §11-28-7, all relating to establishing the West Virginia Community Investment Tax Credit Program; providing definitions; setting forth criteria for the tax credit against corporate net income tax liability; providing for a carry forward of the tax credit in certain defined circumstances; specifying limitations and disqualification criteria; providing for change in form of business; providing for recapture tax; and authorizing promulgation of rules.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

**By Senators Gaunch, Boso, and Cline:**

**Senate Bill 597**—A Bill to amend and reenact §30-18-2 of the Code of West Virginia, 1931, as amended, relating to prohibiting individuals who have been convicted of a misdemeanor crime of domestic violence or a misdemeanor offense of assault or battery against a family member from being eligible for any license to conduct a private investigation business; and setting forth who are to be included as family members.

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

**By Senators Trump, Ferns, Weld, and Cline:**

**Senate Bill 598**—A Bill to amend and reenact §17-10-17 of the Code of West Virginia, 1931, as amended, relating to civil actions for damages brought against county commissions and municipalities by persons injured by reason of a slip, trip, fall, or similar injury resulting from defect in, disrepair, maintenance of, or failure to maintain or repair any road, bridge, street, sidewalk, alleyway, or public walkway.

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

**By Senators Beach, Baldwin, Mann, Ojeda, Romano, Stollings, and Woelfel:**

**Senate Bill 599**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to county boards of education; and requiring boards to provide free feminine hygiene products in grades six through 12.

Referred to the Committee on Education.

**By Senators Smith, Ferns, Weld, Jeffries, and Prezioso:**

**Senate Bill 600**—A Bill to amend and reenact §24-2-1j of the Code of West Virginia, 1931, as amended, relating to powers and duties of the Public Service Commission; special rates and provisions for energy intensive industrial and manufacturing consumers of electric power; new definitions; and the procedure required for approval of these rates for manufacturing consumers by the commission.

Referred to the Committee on Energy, Industry, and Mining; and then to the Committee on Government Organization.

**By Senator Facemire:**

**Senate Bill 601**—A Bill to amend and reenact §11-21-20 of the Code of West Virginia, 1931, as amended, relating to personal income tax; and alleviating double taxation on foreign income at the state level.

Referred to the Committee on Finance.

**By Senators Drennan, Blair, Gaunch, Maroney, Maynard, Plymale, Trump, Stollings, and Boso:**

**Senate Bill 602**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1, §55-7K-2, and §55-7K-3, all relating to providing immunity from civil liability to facilities and employees providing crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, and/or drug overdoses services on a short-term basis.

Referred to the Committee on the Judiciary.

**By Senators Drennan, Blair, Gaunch, Maroney, Maynard, Plymale, and Trump:**

**Senate Bill 603**—A Bill to amend and reenact §27-5-2 of the Code of West Virginia, 1931, as amended, relating to proceedings for involuntary custody for examination; and adding licensed professional counselors to the list of professionals that may examine an individual by order of a circuit court, mental hygiene commissioner, or magistrate.

Referred to the Committee on the Judiciary.

**By Senator Drennan:**

**Senate Bill 604**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-30-22a, relating to temporary permits to perform social work functions within community mental health centers; establishing qualifications for temporary permits; and providing for revocation of permit.

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

**By Senators Mann, Drennan, and Cline:**

**Senate Bill 605**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-40; and to amend said code by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, and §18-33-4, all relating to vocational and technical education programs; requiring State Board and Commerce Department create lists of apprenticeships, certifications, and credentials to provide students; requiring county school districts to provide certain information to students; establishing the Governor's Workforce Credential; establishing requirements for the Governor's Workforce Credential; mandating graduation recognition for recipients of credential; and creating monetary incentive for schools who graduate recipients of credential.

Referred to the Committee on Education; and then to the Committee on Finance.

**By Senators Swope, Rucker, Smith, and Cline:**

**Senate Bill 606**—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to admissibility of certain evidence in a civil action for damages; and allowing the admission of the use or nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence, and failure to mitigate damages.

Referred to the Committee on the Judiciary.

**By Senators Swope, Rucker, Smith, Boso, and Cline:**

**Senate Bill 607**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §47-28-1, §47-28-2, §47-28-3, and §47-28-4, all relating to prohibiting certain misleading lawsuit advertising practices; providing for certain disclosures and warnings in lawsuit advertising for the protection of patients; and imposing criminal penalties.

Referred to the Committee on the Judiciary.

**By Senators Ojeda, Baldwin, Beach, Facemire, Palumbo, Plymale, Romano, Stollings, Swope, Unger, Woelfel, Prezioso, and Cline:**

**Senate Bill 608**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-1-10, relating to creating a misdemeanor offense of impersonating a member of the military; setting forth restrictions; and detailing the criminal penalty.

Referred to the Committee on Military; and then to the Committee on the Judiciary.

**By Senators Facemire, Baldwin, Beach, Jeffries, and Romano:**

**Senate Bill 609**—A Bill to amend and reenact §11-1C-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-3-24 and §11-3-25 of said code; and to amend and reenact §11-10A-8 of said code, all relating generally to the valuation of natural resources property; establishing a yield capitalization process as an alternative method for the determination of the fair market value of oil, gas, and natural gas liquids producing properties; providing an

alternate method of appeal concerning the valuation of natural resources property for ad valorem tax purposes; granting jurisdiction to the West Virginia Office of Tax Appeals to hear an appeal; and defining a term.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senators Romano, Beach, Drennan, Facemire, Gaunch, Jeffries, Mann, Palumbo, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Plymale, and Cline:**

**Senate Bill 610**—A Bill to amend and reenact §60A-4-401 of the Code of West Virginia, 1931, as amended, relating to providing that the penalty for possession of marijuana carries a fine of no more than \$1,000 without confinement.

Referred to the Committee on the Judiciary.

**By Senators Drennan, Boso, Cline, Takubo, and Woelfel:**

**Senate Bill 611**—A Bill to amend and reenact §27-2A-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §27-9-1 of said code; and to amend and reenact §27-17-3 of said code, all relating to licensing of mental health facilities; and providing for the renewal of the license of a behavioral health center without reapplication or inspection if the behavioral health center has national accreditation.

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

**By Senators Boley, Boso, and Maynard:**

**Senate Bill 612**—A Bill to amend and reenact §8-12-18 of the Code of West Virginia, 1931, as amended, relating to the sale of municipal property; allowing municipalities to sell real or personal property by using an Internet-based public auction service; and requiring notice of sale include notice of the time, terms, manner, and place of sale or the Internet-based public auction service to be used.

Referred to the Committee on Government Organization.

**By Senators Takubo, Baldwin, Beach, Clements, Facemire, Jeffries, Maroney, Ojeda, Palumbo, Romano, Stollings, Swope, Weld, Plymale, Prezioso, and Cline:**

**Senate Bill 613**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, and §47-12-6, all relating to the Youth Mental Health Protection Act; providing for legislative findings; setting out a purpose; defining terms; providing for a prohibition on conversion therapy; setting forth a prohibition for referral services for conversion therapy; and providing for discipline of providers for a violation.

Referred to the Committee on Health and Human Resources.

**By Senators Drennan, Boso, and Cline:**

**Senate Bill 614**—A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-11-6 of said code; and to amend and reenact §62-1D-8 of said code, all relating to crimes involving acts of violence; making it a crime for a spouse, parent, step-parent, grandparent, sibling, half-sibling, child, step-child, or grandchild, whether related by blood or marriage, of a person under investigation to impede or obstruct a law-enforcement officer by knowingly and willfully making a materially false statement in the conduct of an investigation of a felony when the offense that is being investigated involves an act of

violence; allowing certain family members to be prosecuted as an accessory after the fact if they aid or assist a principal felon, or accessory before the fact, to avoid or escape from prosecution or punishment when offense that is being investigated involves an act of violence; and allowing orders authorizing the interception of wire, oral, or electronic communications when the prosecuting attorney or special prosecutor has shown reasonable cause to believe the interception would provide evidence of the commission of any crime of violence.

Referred to the Committee on the Judiciary.

**By Senators Drennan and Woelfel:**

**Senate Bill 615**—A Bill to amend and reenact §16-5Y-3 and §16-5Y-4 of the Code of West Virginia, 1931, as amended, all relating to licensing and registering opioid treatment programs and office-based, medication-assisted treatment programs; and establishing a deemed-qualified status for renewal when the provider is also licensed by the state as a behavioral health center and the provider has a federally approved accredited and registered opioid treatment program.

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

**By Senators Boso and Cline:**

**Senate Bill 616**—A Bill to amend and reenact §17C-17-9a of the Code of West Virginia, 1931, as amended, relating to establishing the maximum gross weight for wood-bearing trucks equipped with six axles and two additional brakes at 94,000 pounds.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

**By Senators Boso and Cline:**

**Senate Bill 617**—A Bill to amend and reenact §8-15-11 of the Code of West Virginia, 1931, as amended, relating to appointment of members of municipal fire departments and providing for a position of deputy fire chief to serve at the will and pleasure of the municipal fire chief.

Referred to the Committee on Government Organization.

**By Senators Weld (By Request) and Boso:**

**Senate Bill 618**—A Bill to amend and reenact §11A-3-19, §11A-3-20, §11A-3-22, §11A-3-23, §11A-3-27, §11A-3-28, §11A-3-52, §11A-3-55, §11A-3-56, §11A-3-59, and §11A-3-60 of the Code of West Virginia, 1931, as amended, all relating generally to the sale of tax liens; requiring personal service of process when a notice to redeem is returned as undeliverable, unclaimed, or refused; amending dates for securing deeds subject to tax liens; and requiring payment of funds sufficient to pay for personal service of process.

Referred to the Committee on Finance.

**By Senators Ferns and Boso:**

**Senate Bill 619**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-4A-1, §7-4A-2, §7-4A-3, §7-4A-4, §7-4A-5, §7-4A-6, §7-4A-7, §7-4A-8, §7-4A-9, and §7-4A-10, all relating to creating the Prosecuting Attorney's Detectives Act; providing a short title; making legislative findings; providing for law-enforcement titles; setting forth the duties and powers of detectives; providing for compensation of detectives; permitting prosecuting attorneys to hire detectives; establishing arrest power of detectives; setting forth requirements; limiting off-duty employment; and providing miscellaneous provisions.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

**By Senator Baldwin:**

**Senate Bill 620**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-53-4, relating to creating the opioid crisis recovery fine program; detailing the implementation of the program; requiring opioid manufacturers or wholesalers that manufactured opioids for distribution or distributed opioids in this state between 2007 and 2017 to register with the Office of Drug Control Policy; and creating a sunset date.

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

**By Senator Trump:**

**Senate Bill 621**—A Bill to amend and reenact §46A-6L-102 of the Code of West Virginia, 1931, as amended, relating to prohibiting a consumer-reporting agency from charging a fee to a consumer who elects to place, remove, or temporarily lift a security freeze on the consumer's credit report.

Referred to the Committee on the Judiciary.

**By Senator Boso:**

**Senate Bill 622**—A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to imposing additional costs on violations of statutes requiring safety-belt usage in motor vehicles; creating a special revenue fund in the State Treasury to be known as the Emergency Medical Services Equipment and Training Fund; specifying the purposes for which amounts in the fund may be expended; providing that balances in the fund at the end of a fiscal year do not revert to the General Revenue Fund; and authorizing the Office of Emergency Medical Services to expend amounts deposited into the fund.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

**By Senators Takubo, Maroney, Gaunch, and Boso:**

**Senate Bill 623**—A Bill to amend and reenact §9-5-11 of the Code of West Virginia, 1931, as amended, relating to Medicaid subrogation liens of the Department of Health and Human Resources; harmonizing subrogation law with recent changes to federal laws by removing restrictions on amounts subject to recovery by the department; adding certain insurance coverage as subject to subrogation; removing all provisions relating to allocation for medical expenses in a judgment or settlement; permitting negotiation to reduce amount of department's claim; and setting effective date.

Referred to the Committee on Health and Human Resources.

**By Senator Unger:**

**Senate Bill 624**—A Bill to amend and reenact §29-22A-10, §29-22A-10b, §29-22A-10d, and §29-22A-10e of the Code of West Virginia, 1931, as amended, all relating to racetrack video lottery; and changes in distribution of net terminal income to the thoroughbred and greyhound development funds at the licensed racetracks of origin.

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

Senators Maynard, Plymale, and Stollings offered the following resolution;

**Senate Concurrent Resolution 29**—Requesting the Division of Highways name bridge number 30-3/5-16.65 (30A020), 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 30-3/5-16.65 (30A020), 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.

Which, under the rules, lies over one day.

Senators Maynard, Stollings, Boso, and Cline offered the following resolution;

**Senate Concurrent Resolution 30**—Requesting the Joint Committee on Government and Finance study legal procedures and fiscal means for the state to acquire additional idle railway property for use as public recreational rail-trails.

Whereas, The State of West Virginia has seen significant benefits from the conversion of former railroad rights-of-way into recreational rail-trails in several areas of the state and has even been able to incorporate two rail-trail areas into popular and scenic additions to our state parks system; and

Whereas, Rail-trail development in West Virginia has provided recreational opportunities that are attractive to families and to persons of all ages from both within and outside of the state; and

Whereas, Other railway properties, routes, and rights-of-way remain idle at various locations around the state and these locations would directly benefit from the development of new tourism opportunities; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is requested study legal procedures and fiscal means for the state to acquire additional idle railway property for use as public recreational rail-trails; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance study legal procedures and fiscal means for the state to acquire additional idle railway property such as trackways, rights-of-way, and other real property through lease, purchase, easement, grant, gift, and other methods for use as public recreational rail-trails, including methods for relieving or protecting the railway owners of liability, and to identify those properties with the greatest potential for beneficial development as rail-trails; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance enlist the assistance of the Commissioner of Tourism and the Commissioner of the Division of Natural Resources in conducting the study; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, prepare a report, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Maynard, Stollings, and Cline offered the following resolution;

**Senate Concurrent Resolution 31**—Requesting the Joint Committee on Government and Finance study the elimination of “dead spots” in wireless coverage in West Virginia.

Whereas, Telecommunications infrastructure is essential for all economies to compete in a global marketplace; and

Whereas, As a rural state, West Virginia is particularly dependent on wireless communication services to connect West Virginia businesses and communities to the global community; and

Whereas, A strong telecommunications infrastructure can be a catalyst for encouraging entrepreneurial activity, expanding cultural and tourism opportunities, creating new technology and financial sector jobs, rebuilding our downtown areas, and enhancing the overall economic health of our communities; and

Whereas, A strong telecommunications infrastructure is not possible when West Virginia’s wireless communications network is plagued by poor service quality and it is common that even when a carrier generally offers coverage in a geographic area, service for individual calls are not available due to the existence of numerous areas within the coverage area where service is not

available because the signal between the handset and the cell tower is blocked, commonly referred to as “dead spots”; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the elimination of “dead spots” in wireless coverage in West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance consider ways it can encourage wireless carriers to work collectively in eliminating these “dead spots” to provide seamless wireless coverage throughout West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the 2019 regular session of the Legislature on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Takubo, Palumbo, Plymale, Stollings, and Boso offered the following resolution:

**Senate Resolution 45**—Congratulating Glen Chestnut, of Belle, West Virginia, as West Virginia’s Outstanding Tree Farmer for 2018.

Whereas, Glen Chestnut owns and manages a 320-acre tree farm in Kanawha County, West Virginia; and

Whereas, Glen Chestnut was selected as West Virginia’s Outstanding Tree Farmer for 2018 by the West Virginia Tree Farm Committee and its state sponsor, the West Virginia Forestry Association; and

Whereas, This outstanding tree farmer made a formal commitment to sound forest management practices by enrolling in the West Virginia Tree Farm Program; and

Whereas, Glen Chestnut is committed to the long-term productivity of his property by controlling invasive species of tree-of-heaven and autumn olive; and

Whereas, The Glen Chestnut property is in the West Virginia Agricultural Enhancement Program, with a recent focus on a cerulean warbler 10-acre project; and

Whereas, The primary objectives of tree farming are being successfully met to enhance wildlife and recreation; and

Whereas, It is fitting for this body to recognize and commend outstanding West Virginians; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates Glen Chestnut, of Belle, West Virginia, as West Virginia's Outstanding Tree Farmer for 2018; and be it

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

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Takubo regarding the adoption of Senate Resolution 45 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:42 a.m., the Senate recessed to present Senate Resolution 45.

The Senate reconvened at 11:46 a.m. today and resumed business under the sixth order.

### Petitions

Senator Sypolt presented a petition from Charles Cropp and thirty-one fourteenth senatorial district residents, opposing Senate Bill 270 (*Authorizing DNR implement silvicultural management for state park lands*).

Referred to the Committee on Natural Resources.

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the fourth order of business.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

**Senate Bill 625** (originating in the Committee on Government Organization)—A Bill to amend and reenact §5A-3-8 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5A-3-8a; to amend and reenact §5H-1-2 of said code; to amend and reenact §7-1-3d of said code; to amend said code by adding thereto a new section, designated §11-21-25; to amend and reenact §16-4C-6 and §16-4C-8 of said code; to amend said code by adding thereto a new section, designated §16-4C-24; to amend said code by adding thereto a new section, designated §17-2A-8d; to amend and reenact §29-3-12 of said code; to amend said code by adding thereto two new sections, designated §29-3-5e and §29-3-8; to amend and reenact §33-3-33 of said code; and to amend said code by adding thereto a new section, designated §33-3-33b; all relating to creating the West Virginia Volunteer Fire and Rescue Act of 2018; requiring director of Purchasing Division make facilities and services of division available to fire departments and companies and certain emergency medical services agencies; authorizing director to provide for implementation by legislative rules or other agreement; authorizing payment of death benefits to survivors of firefighter, EMS or law-enforcement provider who dies in the performance of, or as a result of the performance of, his or her duties; increasing death benefits to be paid; providing for written designation of beneficiary to be made with State Fire Marshal or Commissioner of the Bureau for Public Health; requiring any

county fire prevention units to be formed and recognized under the regulations of the State Fire Commission for local fire departments; increasing authorized reimbursement rate amount; providing exception for incidents or accidents involving hazardous materials; requiring payment of amounts owed as reimbursement within thirty days; authorizing written agreements between fire department or company and responsible party; permitting fire company or department to proceed to recover costs if payment or agreement not reached within ninety days; defining terms; creating volunteer first responder tax credit against an individual's personal property taxes based on number of activities an individual engages in with his or her first responder organization; requiring notarized certification by the chief officer of the first responder organization; making tax credit nonrefundable; requiring Tax Commissioner to develop forms for certification; authorizing Commissioner of the Bureau for Public Health to establish one or more statewide contracts for equipment and supplies utilized by emergency medical services agencies; requiring statewide contracts be made available to certain emergency medical services agencies; authorizing development of uniform standards for equipment and supplies used by emergency medical services agencies; giving legislative rulemaking authority to Commissioner of the Bureau for Public Health to implement provisions; requiring Commissioner of the Bureau for Public Health to recognize and give full credit for all continuing education credits approved or recognized by state or nationally recognized accrediting body; establishing special revenue fund known as Emergency Medical Services Equipment and Training Fund; authorizing use of fund for grants to equip emergency medical service providers and train emergency medical services personnel; requiring Commissioner of the Bureau for Public Health establish grant program for equipment and training of emergency medical services providers and personnel; setting eligibility and certain priorities for grant program; granting rulemaking authority to implement grant program; authorizing Commissioner of Division of Highways enter into reimbursement agreements with certain fire departments for services provided relating to tree or debris removal from state highways and rights of ways when requested; granting legislative rulemaking authority to implement reimbursement program; setting minimum provisions for legislative rule; authorizing State Fire Marshal establish one or more statewide contracts for equipment and supplies utilized by fire companies and departments; requiring statewide contracts be made available to certain fire companies and departments as well as any other agency or subdivision with a need for those equipment or supplies; authorizing development of uniform standards for equipment and supplies used by fire companies and departments; giving legislative rulemaking authority to State Fire Commission to implement provisions; establishing special revenue fund known as Fire Service Equipment and Training Fund; authorizing use of fund for grants to equip volunteer and part volunteer fire companies and departments and their members and train volunteer and part volunteer firefighters; requiring State Fire Marshal establish grant program for equipment and training of volunteer and part volunteer fire companies and departments and volunteer firefighters; setting eligibility and certain factors for State Fire Marshal to consider in making grants; granting rulemaking authority to implement grant program; requiring State Fire Marshal prepare certain reports and make certain recommendations; increasing surcharge on fire and casualty insurance policies; exempting certain casualty insurance policies from surcharge; prohibiting premium taxes, agent commissions and other assessments from being charged against surcharge; designating where funds collected from surcharge are to be deposited; requiring study and report from Insurance Commissioner regarding issues related to workers' compensation for volunteer and part volunteer fire departments; eliminating obsolete language; and making technical corrections.

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

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

At the request of Senator Gaunch, and by unanimous consent, the bill (S. B. 625) contained in the foregoing report from the Committee on Government Organization was then referred to the Committee on Finance.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

**Senate Bill 626** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by amending and reenacting §22-3-9 and §22-3-20; by amending and reenacting §22-11-7a; by amending and reenacting §22A-1-36; by amending said code by adding thereto a new section, designated §22A-1-42; by amending an reenacting §22A-2-2, §22A-2-3, §22A-2-4, §22A-2-4a, §22A-2-5, §22A-2-25, §22A-2-26, §22A-2-37, and §22A-2-55; and by amending and reenacting §22A-2A-1001, all relating to coal mining generally; establishing new notice requirements regarding permit applications under the Surface Coal Mining and Reclamation Act; clarifying when a certification is granted under the Water Pollution Control Act; clarifying that a comprehensive mine safety program is no longer subject to annual review; creating a new section establishing the use of the MSHA-approved ground control plan for surface operations; requiring automated external defibrillators be present on surface operations; requiring the Director of the Office of Miners' Health, Safety, and Training to promulgate emergency rules; providing for one MSHA-approved plan be submitted to the state in lieu of separate plans for ventilation, seals, roof control, belt air, self-contained self-rescuer storage, tracking and communication, and emergency shelters; requiring that the MSHA-approved comprehensive safety plan be forwarded to the director in a timely manner; and permitting the use of diesel-powered generators in underground mines.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 28**, Requesting study to consider removing solid waste facilities from jurisdiction of PSC.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Government Organization; and then to the Committee on Rules.

**Senate Resolution 44**, Urging House of Delegates investigate impeachment of Chief Justice Allen Loughry.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 47**, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child.

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. S. B. 47) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 87**, Allowing purchase of Class XS resident senior hunting, fishing and trapping licenses at age 65.

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 S. B. 87) passed with its title.

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

**Eng. Senate Bill 339**, Relating to WV Retirement Health Benefit Trust Fund within PEIA.

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. S. B. 339) passed with its title.

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

**Eng. Senate Bill 398**, Relating to requirements for making consumer loans.

Having been read a third time on Friday, February 16, 2018, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Senate Bill 398 pass?”

Pending extended discussion and a point of inquiry to the President,

Senator Romano arose to a point of order that debate had digressed to discussion of a member’s conduct on the floor and not the merits of the bill in question.

Which point of order, the President ruled not well taken.

Pending discussion,

The question being “Shall Engrossed Senate Bill 398 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Plymale, Rucker, Smith, Swope, Takubo, Trump, Weld, and Carmichael (Mr. President)—23.

The nays were: Baldwin, Beach, Jeffries, Ojeda, Palumbo, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—11.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 398) passed with its title.

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

**Eng. Senate Bill 444**, Repealing antiquated code sections regarding safety glass and lighting in motor vehicles.

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. S. B. 444) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Com. Sub. for Senate Bill 319**, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma.

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

**Senate Bill 406**, Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement.

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

**Com. Sub. for Senate Bill 415**, Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities.

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

On motions of Senators Unger, Prezioso, Baldwin, Facemire, Ojeda, Plymale, Romano, Stollings, and Woelfel, the following amendment to the bill was reported by the Clerk:

On page twenty-five, section seventeen, lines nineteen through twenty-one, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

(2) Distribution of net profit. — Net profit shall be deposited into the State Lottery Fund created by §29-22-18 of this code until a total of \$15 million is deposited; thereafter, the remainder shall be deposited into the Public Employees Insurance Agency Financial Stability Fund to stabilize and preserve the future solvency of PEIA, and such amount may not be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

Following discussion,

The question being on the adoption of the amendment offered by Senators Unger, Prezioso, Baldwin, Facemire, Ojeda, Plymale, Romano, Stollings, and Woelfel to the bill, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, 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 those present and voting having voted in the affirmative, the President declared the amendment offered by Senators Unger, Prezioso, Baldwin, Facemire, Ojeda, Plymale, Romano, Stollings, and Woelfel to the bill adopted.

The bill (Com. Sub. for S. B. 415), as amended, was then ordered to engrossment and third reading.

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

The Senate resumed consideration of its second reading calendar, the next bill coming up in numerical sequence being

**Com. Sub. for Senate Bill 450**, Collecting and analyzing statistical information pertaining to terminating pregnancies under Medicaid Program.

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

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

On page three, section twelve-a, line sixty-two, after the word "analysis." by inserting the following: The Department of Health and Human Resources shall prevent any of the information from being included in this report that could reasonably lead to the identification of any physician who performed or treated an abortion, or any female who has had an abortion.

Following discussion,

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

The bill (Com. Sub. for S. B. 450), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 451**, Relating generally to hunting and fishing.

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

**Com. Sub. for Senate Bill 475**, Industrial Hemp Development Act.

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

**Senate Bill 479**, Establishing local government monitoring by Auditor.

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

**Senate Bill 494**, Considering members of State Teachers Retirement System absent while serving as officer with statewide professional association.

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

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

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

## **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

### **§18-7A-17. Statement and computation of teachers' service.**

(a) Under rules adopted by the retirement board, each teacher and nonteaching member shall file a detailed statement of his or her length of service as a teacher or nonteacher for which he or she claims credit. The retirement board shall determine what part of a year is the equivalent of a year of service. In computing the service, however, it shall credit no period of more than a month's duration during which a member was absent without pay, nor shall it credit for more than one year of service performed in any calendar year.

(b) For service as a teacher in the employment of the federal government, or a state or territory of the United States, or a governmental subdivision of that state or territory, the retirement board shall grant credit to the member: *Provided*, That the member shall pay to the system 12 percent of that member's gross salary earned during the first full year of current employment whether a member of the Teachers Retirement System or the Teachers' Defined Contribution Retirement System, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. The interest shall be deposited in the reserve fund and service credit granted at the time of retirement shall not exceed the lesser of 10 years or 50 percent of the member's total service as a teacher in West Virginia. Any purchase of out-of-state service, as provided in this article, shall not be used to establish eligibility for a retirement allowance and the retirement board shall grant credit for the purchased service as additional service only: *Provided, however*, That a purchase of out-of-state service is prohibited if the service is used to obtain a retirement benefit from another retirement system: *Provided further*, That salaries paid to members for service prior to entrance into the retirement system shall not be used to compute the average final salary of the member under the retirement system.

(c) No members shall be considered absent from service while serving as a member or employee of the Legislature of the State of West Virginia during any duly constituted session of that body or while serving as an elected member of a county commission during any duly constituted session of that body.

(d) No member shall be considered absent from service as a teacher or nonteacher while serving as an officer with a statewide professional teaching association, or who has served in that capacity, and no retirant, who served in that capacity while a member, shall be considered to have been absent from service as a teacher by reason of that service: *Provided*, That the period of service credit granted for that service shall not exceed ten years: *Provided, however*, That a member or retirant who is serving or has served as an officer of a statewide professional teaching association shall make deposits to the Teachers Retirement System, for the time of any absence, in an amount double the amount which he or she would have contributed in his or her regular assignment for a like period of time: *Provided further*, This subsection shall only apply to any member serving as an officer with a statewide professional teaching association who was an officer on or before January 1, 2018.

(e) The Teachers Retirement System shall grant service credit to any former or present member of the West Virginia Public Employees Retirement System who has been a contributing member of the Teachers Retirement System for more than three years, for service previously credited by the Public Employees Retirement System upon his or her written request and: (1) Shall require the transfer of the member's Public Employees Retirement System accumulated contributions to the Teachers Retirement System; or (2) shall require a repayment of the amount withdrawn from the Public Employees Retirement System, plus interest at a rate to be determined by the retirement board, compounded annually from the date of withdrawal to the date of payment, any time prior to the member's effective retirement date: *Provided*, That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Teachers Retirement System during the period of his or her membership in the Public Employees Retirement System, plus interest at a rate determined by the retirement board, compounded annually from the date the additional contribution would have been made had the member been under the Teachers Retirement System to the date of payment. All interest paid or transferred shall be deposited in the reserve fund.

(f) For service as a teacher in an elementary or secondary parochial school, located within this state and fully accredited by the West Virginia Department of Education, the retirement board shall grant credit to the member: *Provided*, That the member shall pay to the system 12 percent of that member's gross salary earned during the first full year of current employment whether a member of the Teachers Retirement System or the Teachers' Defined Contribution Retirement System, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. The interest shall be deposited in the reserve fund and service granted at the time of retirement shall not exceed the lesser of 10 years or 50 percent of the member's total service as a teacher in the West Virginia public school system. Any purchase of parochial school service, as provided in this section, may not be used to establish eligibility for a retirement allowance and retirement board shall grant credit for the purchase as additional service only: *Provided, however*, That a purchase of parochial school service is prohibited if the service is used to obtain a retirement benefit from another retirement system.

(g) Active members who previously worked in Comprehensive Employment and Training Act (CETA) may receive service credit for time served in that capacity: *Provided*, That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within 120 days following the termination of the member's CETA employment; (2) the retirement board must receive evidence that establishes to a reasonable degree of certainty as determined by the retirement board that the member previously worked in CETA; and (3) the member shall pay to the retirement board an amount equal to the employer and employee contribution plus interest at the amount set by the retirement board for the amount of service credit sought pursuant to this subsection: *Provided, however*, That the maximum service credit that may be obtained under the provisions of this subsection is two years: *Provided further*, That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: *And provided further*, That the retirement board shall exercise due diligence to notify affected employees of the provisions of this subsection.

(h) If a member is not eligible for prior service credit or pension as provided in this article, then his or her prior service shall not be considered a part of his or her total service.

(i) A member who withdrew from membership may regain his or her former membership rights as specified in §18-7A-13 of this code only in case he or she has served two years since his or her last withdrawal.

(j) Subject to the provisions of §18-7A-17(a) through §18-7A-17(k) of this code, the retirement board shall verify as soon as practicable the statements of service submitted. The retirement board shall issue prior service certificates to all persons eligible for the certificates under the provisions of this article. The certificates shall state the length of the prior service credit, but in no case shall the prior service credit exceed 40 years.

(k) Notwithstanding any provision of this article to the contrary, when a member is or has been elected to serve as a member of the Legislature, and the proper discharge of his or her duties of public office require that member to be absent from his or her teaching or administrative duties, the time served in discharge of his or her duties of the legislative office are credited as time served for purposes of computing service credit: *Provided*, That the retirement board may not require any additional contributions from that member in order for the retirement board to credit him or her with the contributing service credit earned while discharging official legislative duties: *Provided, however*, That nothing in this section may be construed to relieve the employer from making the employer contribution at the member's regular salary rate or rate of pay from that employer on the contributing service credit earned while the member is discharging his or her official legislative duties. These employer payments shall commence as of June 1, 2000: *Provided further*, That any member to which the provisions of this subsection apply may elect to pay to the retirement board an amount equal to what his or her contribution would have been for those periods of time he or she was serving in the Legislature. The periods of time upon which the member paid his or her contribution shall then be included for purposes of determining his or her final average salary as well as for determining years of service: *And provided further*, That a member using the provisions of this subsection is not required to pay interest on any contributions he or she may decide to make.

(l) The Teachers Retirement System shall grant service credit to any former member of the State Police Death, Disability, and Retirement System who has been a contributing member for more than three years for service previously credited by the State Police Death, Disability, and Retirement System; and: (1) Shall require the transfer of the member's contributions to the Teachers Retirement System; or (2) shall require a repayment of the amount withdrawn any time prior to the member's retirement: *Provided*, That the member shall add to the amounts transferred or repaid under this paragraph an amount which is sufficient to equal the contributions he or she would have made had the member been under the Teachers Retirement System during the period of his or her membership in the State Police Death, Disability, and Retirement System plus interest at a rate to be determined by the retirement board compounded annually from the date of withdrawal to the date of payment. The interest paid shall be deposited in the reserve fund.

Following discussion,

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

The bill (S. B. 494), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 512**, Authorizing certain WV courthouse security officers carry concealed weapons.

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

**Eng. House Bill 4380**, Making a supplementary appropriation to the Department of Agriculture.

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

**Eng. House Bill 4381**, Making a supplementary appropriation to the Department of Education.

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

**Eng. House Bill 4384**, Making a supplementary appropriation to the Department of Transportation.

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

**Eng. House Bill 4386**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services.

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.

**Com. Sub. for Senate Bill 477**, Relating to five-year sunset on tax credits and incentives.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Unger, Drennan, Ferns, Boso, Takubo, and Romano.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Unger, Drennan, Ferns, and Boso were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, unanimous consent being granted, the remarks by Senators Takubo and Romano were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 552** (*Making Pierpont Community and Technical College a division of Fairmont State University*).

At the request of Senator Swope, the name of Senator Swope was removed as a sponsor of **Senate Bill 613** (*Relating to Youth Mental Health Protection Act*).

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Ferns, at 1:07 p.m., the Senate adjourned until tomorrow, Tuesday, February 20, 2018, at 11 a.m.

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## SENATE CALENDAR

Tuesday, February 20, 2018  
11:00 AM

### UNFINISHED BUSINESS

- S. C. R. 29 - US Army SGT Benny Fleming Memorial Bridge
- S. C. R. 30 - Requesting study of legal procedures and fiscal means for state to acquire idle railway property
- S. C. R. 31 - Requesting study of eliminating "dead spots" in wireless coverage in WV

### THIRD READING

- Eng. Com. Sub. for Com. Sub. for S. B. 319 - Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma
- Eng. S. B. 406 - Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement
- Eng. Com. Sub. for S. B. 415 - Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities (original similar to HB4396)
- Eng. Com. Sub. for S. B. 450 - Collecting and analyzing statistical information pertaining to terminating pregnancies under Medicaid Program
- Eng. Com. Sub. for S. B. 451 - Relating generally to hunting and fishing
- Eng. Com. Sub. for S. B. 475 - Industrial Hemp Development Act (original similar to HB4500)
- Eng. S. B. 479 - Establishing local government monitoring by Auditor
- Eng. S. B. 494 - Considering members of State Teachers Retirement System absent while serving as officer with statewide professional association
- Eng. Com. Sub. for S. B. 512 - Authorizing certain WV courthouse security officers carry concealed weapons
- Eng. H. B. 4380 - Making a supplementary appropriation to the Department of Agriculture
- Eng. H. B. 4381 - Making a supplementary appropriation to the Department of Education
- Eng. H. B. 4384 - Making a supplementary appropriation to the Department of Transportation

Eng. H. B. 4386 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services

### **SECOND READING**

Com. Sub. for S. B. 477 - Relating to five-year sunset on tax credits and incentives

### **FIRST READING**

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

Com. Sub. for Com. Sub. for S. B. 474 - Requiring that certain documents filed pursuant to WV Jobs Act which include records of wages be considered confidential

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

S. B. 523 - Relating to tax treatment of pollution control facilities and wind power projects (original similar to HB 4286, HB 4517, SB 150)

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

S. B. 626 - Relating generally to coal mining (original similar to HB 4340)

Eng. Com. Sub. for H. B. 4142 - Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment

## **ANNOUNCED SENATE COMMITTEE MEETINGS**

### **Regular Session 2018**

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#### **Tuesday, February 20, 2018**

10 a.m.	Transportation & Infrastructure	(Room 451M)
1 p.m.	Health & Human Resources	(Room 451M)
1 p.m.	Energy, Industry & Mining	(Room 208W)
2 p.m.	Education	(Room 451M)
4 p.m.	Rules	(Room 451M)