

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
FIFTIETH DAY

Charleston, West Virginia, Wednesday, February 28, 2018

The Senate met at 10:04 a.m.

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

Prayer was offered by Pastor Jerry Murrell, The Way of Holiness, Buckhannon, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable John R. Unger II, a senator from the sixteenth district.

Pending the reading of the Journal of Tuesday, February 27, 2018,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2982—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to allowing draw game winners to remain anonymous; providing that a person entitled to collect proceeds exceeding one million dollars from a winning draw game ticket may remain anonymous in regards to his or her name, personal contact information, and likeness; providing that if a person entitled to collect proceeds exceeding one million dollars from a draw game wishes to remain anonymous, then he or she shall contact the State Lottery Director in writing or appear at the state lottery headquarters in person; providing where such request to remain anonymous may be mailed or emailed; providing that upon such a request, the director will contact the person requesting anonymity and schedule an appointment to meet; providing that a draw game winner who elects to remain anonymous must remit 5% of his or her winnings to the State Lottery Fund; establishing an effective date of January 1, 2019; and providing for new exemptions under the Freedom of Information Act.

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. Com. Sub. for House Bill 4014—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, §5-30-5, §5-30-6, §5-30-7, and §5-30-8; to amend said code by adding thereto a new article, designated §5-30A-1, §5-30A-2, and §5-30A-3; to amend said code by adding thereto a new article, designated §5-30B-1, §5-30B-2, §5-30B-3, §5-30B-4, §5-30B-5, §5-30B-6, §5-30B-7, §5-30B-8, and §5-30B-9; to amend said code by adding thereto a new article, designated §5-30C-1, §5-30C-2, §5-30C-3, §5-30C-4, §5-30C-5, §5-30C-6, §5-30C-7, §5-30C-8, and §5-30C-9; to amend and reenact §5F-1-2 and §5F-1-3a of said code; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §5F-3-2 of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §8-19-18 of said code; by adding thereto a new article, designated §9-10-1 and §9-10-2; to amend and reenact §15-12-2a and §15-12-2b of said code; to amend and reenact §16-1-2 of said code; to amend and reenact §16-3-1 of said code; to amend and reenact §16-5T-2 of said code; to amend and reenact §17-5-4 of said code; to amend and reenact §24-2-5 of said code; by adding thereto a new article, designated §27-10-1, §27-10-2, §27-10-3, §27-10-4, §27-10-5, §27-10-6, §27-10-7, and §27-10-8; by adding thereto a new article, designated §27-10A-1, §27-10A-2, and §27-10A-3; to amend and reenact §30-6-31 of said code; to amend and reenact §31-15A-2 and §31-15A-3 of said code, all relating to reorganization of the West Virginia Department of Health and Human Resources; continuing the Office of Inspector General; setting out qualifications for the Inspector General; setting out powers and duties of the Inspector General; continuing the Office of Health Facility Licensure and Certification; setting out powers and duties of the Office of Health Facility Licensure and Certification; requiring certain licenses from the Office of Health Facility Licensure and Certification; continuing the Medicaid Fraud Control Unit; setting out powers and duties of the Medicaid Fraud Control Unit; setting out certain criminal offenses and civil remedies; requiring the creation of certain programs by the Inspector General; setting forth the requirements and procedures for certain programs; defining certain terms; enumerating certain executive departments; setting compensation for certain cabinet secretaries; creating the Department of Healthcare Facilities; defining the organization, powers and duties of the Department of Healthcare Facilities and its secretary; setting forth the qualifications for certain cabinet secretaries; transferring control of certain facilities to the Department of Healthcare Facilities; setting forth the administration of certain facilities; requiring the secretary of the Department of Healthcare Facilities to propose certain rules; making various technical corrections and removing outdated language and reference to obsolete entities.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 4016—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §6-9B-1, §6-9B-2, §6-9B-3 and §6-9B-4, all relating directing the West Virginia Auditor to develop and maintain a searchable financial transparency website; enumerating certain legislative findings; defining certain terms; setting forth the necessary contents of the website; setting forth the date by which the website is to be developed and made publicly available; requiring that certain governmental agencies provide the Auditor with certain information to be made publicly available on the website; and requiring the Auditor to publicly identify any governmental agency that fails to comply with certain requirements.

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. Com. Sub. for House Bill 4154—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-8-1, §5B-8-2, §5B-8-3, §5B-8-4, §5B-8-5, §5B-8-6, §5B-8-7, §5B-8-8, §5B-8-9, and §5B-8-10, all relating to establishing the 2018 Regulatory Reform Act; providing legislative findings; defining terms; providing for an application process with the Development Office to request a project be classified as a project of critical economic concern; establishing a procedure for the filing of a certificate of critical economic concern with state agencies and the Development Office; providing for written status reports during expedited permit review process; providing that the Development Office shall establish a telephone hotline which permit applicants may utilize to contact the Development Office when a state agency has not timely acted upon a permit application; requiring the executive director to report to the Governor and the Joint Committee on Government and Finance annually regarding the success of this article; and granting the Development Office with procedural rulemaking authority to implement the provisions of this article.

Referred to the Committee on Government Organization.

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. Com. Sub. for House Bill 4166—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-4e, and to amend and reenact §19-12A-6a of said code, all relating to establishing and funding a special revenue fund to be known as the “Capital Improvements Fund—Department of Agriculture Facilities”; identifying expenditures that may be made from the fund; identifying the source of moneys for the fund; eliminating certain deposits in the General Revenue Account; and permitting deposits into certain funds.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 4187—A Bill to amend and reenact §61-7-14 of the code of West Virginia, 1931, as amended, relating to creating the “Business Liability Protection Act”; providing definitions; providing for the right to limit possession of firearms on certain premises; establishing misdemeanor criminal offense and penalty for persons refusing to relinquish firearm or leave premises when requested; prohibiting employers from actions against individuals related to legal possession of firearm in a motor vehicle under certain circumstances; establishing limitations on a duty of care of public and private employers; providing for immunity from liability of public and private employers for compliance with the provisions of this statute; providing enforcement authority of the provisions of this statute to the Attorney General; providing remedies for violations of the provisions of this statute including injunctive relief, civil fines or both; providing for civil action by private persons to enforce provisions of statute; and enumerating remedies.”

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. Com. Sub. for House Bill 4218—A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; clarifying the required qualifications and basis for an expert who signs the screening certificate of merit.

Referred to the Committee on Health and Human Resources; and then 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. Com. Sub. for House Bill 4238—A Bill to amend and reenact §8A-3-3 of the Code of West Virginia, 1931, as amended, relating to authorizing counties and municipalities to establish a joint airport hazard comprehensive plan for the purpose of satisfying requirements of federal aviation law, protecting the public safety, and preventing hazardous conditions; describing requirements for written agreements; requiring submission of a plan and public hearing; providing for modifications to written agreements; and providing just compensation for diminution of property value.

Referred to the Committee on Government Organization.

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 4309—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-417, relating to restricting the sale and trade of dextromethorphan; defining terms, setting age limits; requiring proof of age from a purchaser unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be at least 25 years of age, establishing a crime for violating the provisions of this section; and establishing a criminal fine.

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. Com. Sub. for House Bill 4394—A Bill to amend and reenact §20-3-5 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §20-3-5a, all relating to forest fires; requiring all flammable material must be removed from the area immediately surrounding material to be burned for a distance which ensures the fire will at all times be contained; requiring that a safety strip shall in no event be less than ten feet wide; establishing a crime for any person or employee who sets or causes to be set any fire which escapes the safety strip and causes damage to the lands of another; and creating a prescribed fire program.

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. Com. Sub. for House Bill 4453—A Bill to amend and reenact §9-2-13 of the Code of West Virginia, 1931, as amended, relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review; correcting an error by changing “not” to “or”; and making other technical changes.

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 4486—A Bill to amend and reenact §32A-2-3 of the Code of West Virginia, 1931, as amended, relating to persons required to obtain a license to engage in the business of currency exchange, transportation, or transmission; and providing an exemption from licensure for certain entities which administer the Electronic Filing Depository system on behalf of state securities regulators.

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. Com. Sub. for House Bill 4509—A Bill to amend and reenact §16-53-1 of the Code of West Virginia, 1931, as amended, relating to the establishment of substance abuse treatment facilities; and permitting the fund to provide funding to facilities that provide peer-support services.

Referred to the Committee on Health and Human Resources.

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

Eng. Com. Sub. for House Bill 4623—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, §16-53-4 and §16-53-5; to amend and reenact §27-1-11 of said code; and to amend and reenact §61-8D-3 of said code, all relating to obtaining substance abuse treatment services; permitting certain testing; requiring reporting to the department; requiring the department to conduct an assessment; permitting a petition for involuntary commitment to be filed in certain circumstances providing rulemaking authority; permitting the department to report abuse and neglect in certain situations; and setting forth a criminal penalty; .

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

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

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

And has amended same.

Eng. Com. Sub. for House Bill 3005, Relating to regulation of unmanned aircraft systems.

And has amended same.

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

And has amended same.

And,

Eng. Com. Sub. for House Bill 4473, Relating to use of state funds for advertising to promote a public official or government office.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

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

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator 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

Eng. Com. Sub. for House Bill 4270, Providing for the timely payment of moneys owed from oil and natural gas production.

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,

Randy E. Smith,
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 Energy, Industry, and Mining pending.

The Senate proceeded to the sixth order of business.

Senator Cline offered the following resolution:

Senate Resolution 56—Recognizing Michael Todd Paynter, a native of Wyoming County, West Virginia, for his dedicated public service to his state and country.

Whereas, Michael Todd Paynter, a native of Wyoming County, West Virginia, graduated from Oceana High School in 1993.

Whereas, Michael Todd Paynter worked for the civilian U. S. forces in Iraq during Operation Iraqi Freedom alongside the Army, Air Force, Marines, Central Intelligence Agency, and the State Department, and has also served on detail at the Pentagon in Arlington, Virginia; and

Whereas, Michael Todd Paynter earned a master's degree in Acquisition Management from the American Graduate University, a master's certificate in Government Contracting from George Washington University, and a bachelor of science in Organizational Leadership and Management from Regent University. He is also a graduate of the Federal Executive Leadership Development Program; and

Whereas, Michael Todd Paynter is a two-time recipient of the U.S. Department of State Meritorious Honor Award; 2016 Meritorious Honor Award - Diplomatic Security, Anti-Terrorism Branch; and 2017 Meritorious Honor Award - Leadership Excellence, Acquisition Management; and

Whereas, Michael Todd Paynter has worked and travelled to over 40 countries, currently works in Washington, D. C. and resides in Arlington, Virginia, with his wife, Ellen Bohon Paynter; and

Whereas, Michael Todd Paynter has donated several relics from his civilian service in Iraq, which are currently on display at the Wyoming County Historical Museum; and

Whereas, Michael Todd Paynter is currently a senior contracting officer directing United States government global projects and missions valued at over \$1 billion, involving diplomatic security, cybersecurity, information technology, and national security through government contracting; and

Whereas, It is fitting that the Senate recognize Michael Todd Paynter for his dedicated public service to his country and state; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes Michael Todd Paynter, a native of Wyoming County, West Virginia, for his dedicated public service to his state and country; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Michael Todd Paynter.

At the request of Senator Cline, 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 Cline regarding the adoption of Senate Resolution 56 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 10:21 a.m., the Senate recessed to present Senate Resolution 56.

The Senate reconvened at 10:25 a.m. today and proceeded to the seventh order of business.

Senate Concurrent Resolution 41, Home of Coach Bob Bolen Mountain State University 2004 NAIA Champions road marker.

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

Senate Resolution 53, Recognizing Glenville State College for its efforts in making education more affordable.

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

At the request of Senator Ferns, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar.

The Senate proceeded to the eighth order of business.

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

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 27, 2018, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Smith, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page two, section four-c, line nine, by striking out the words "Not more than 10 percent of these additional" and inserting in lieu thereof the words "None of these";

On page three, section two, lines thirteen and fourteen, by striking out the words "Not more than 10 percent of these additional" and inserting in lieu thereof the words "None of these";

On page twenty, section twenty-d, lines three and four, by striking out the words “and any funds transferred pursuant to §31-18d-15 of this code”;

And,

On page twenty-one, section twenty-d, line six, after the words “Development Fund,” by inserting the following: Additionally, the West Virginia Housing Development Fund shall deposit an additional amount at least equal to the funds received pursuant to §31-18-29 of this code.

Following discussion,

The question being on the adoption of Senator Smith’s amendments to the bill, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 261 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Rucker, Smith, Swope, Sypolt, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Takubo, Unger, and Woelfel—14.

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. 261) 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 282, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery.

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. 282) 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 295, Relating to Local Powers Act.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 295 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Prezioso, Romano, and Stollings—4.

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. 295) passed with its title.

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

Com. Sub. for Senate Bill 360, Clarifying oil and gas permits not be on flat well royalty leases.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 27, 2018, for amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 360 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 360 pass?”

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com Sub. for S. B. 360) passed.

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

Eng. Com. Sub. for Senate Bill 360—A Bill to amend and reenact §22-6-8 of the Code of West Virginia, 1931, as amended, relating to flat well royalty leases generally; modifying the permit issuance prohibition from one-eighth interest of the total amount paid to or received at the well head for oil and gas extracted to not less than one-eighth of the gross proceeds free from any deduction for post-production expenses; providing that a permit applicant may file with its application an affidavit which certifies that the affiant is authorized by the owner of the working interest in the well to tender to the owner of the oil or gas a certain royalty of the gross proceeds, free from certain deductions, received at the first point of sale to an unaffiliated third-party purchaser in an arm's length transaction.

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 401, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 401 pass?"

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 401) 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 Com. Sub. for Senate Bill 402, Creating exemption from certain contract and common carrier laws for 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, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Palumbo—1.

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 Com. Sub. for S. B. 402) 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 403, Licensing advance deposit wagering.

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, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Facemire, Prezioso, Romano, and Smith—5.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 403) 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 419, Establishing classification and base salaries of certain civilian employees of WV State Police Forensic Laboratory.

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. 419) 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 421, Relating to crossbow hunting.

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. 421) 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 432, Relating to municipal home rule.

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

Pending discussion,

(Senator Ferns in the Chair.)

On the passage of the bill, the yeas were: Arvon, Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Woelfel—29.

The nays were: Baldwin, Facemire, Jeffries, and Romano—4.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members present and voting having voted in the affirmative, Senator Ferns declared the bill (Eng. Com. Sub. for S. B. 432) passed.

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

Eng. Com. Sub. for Senate Bill 432—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 subject to appropriation

by the Legislature and providing an exception; 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 a copy of the notice be sent to the board and cabinet secretary of every state department; 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; eliminating automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019; and redefining the term "distribute".

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 442, Establishing universal forms and deadlines when submitting prior authorization electronically.

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

Pending discussion

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

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. 442) passed with its title.

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

Com. Sub. for Senate Bill 445, Allowing DOH acquire real or personal property for utility accommodation.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 27, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

On page two, after line thirty-eight, by inserting a new article, designated article two-e, to read as follows:

ARTICLE 2E. DIG ONCE POLICY.

§17-2E-1. Legislative findings.

(a) The Legislature finds that it is in the public interest to accommodate telecommunications facilities on Division of Highways right-of-way when the use of the right-of-way does not adversely affect the safety of the traveling public or impair the highway or its aesthetic quality or conflict with any federal, state or local laws, rules, regulations or policies.

(b) The Legislature further finds that a broadband connection is an essential part of developing the state and local economies, enhancing the transportation system and creating a safer and more secure environment for our citizens.

(c) The Legislature further finds that expanding telecommunication facilities will allow the state to participate in the E-Rate Program of funding for digital education in America to provide reliable services opportunities for education and training.

(d) The Legislature further finds that fast, reliable broadband connections enhance telemedical opportunities for our rural doctors and hospitals, linking them to our major medical centers. Thereby overcoming distance barriers, and improving access to medical services that often are not consistently available in rural communities.

(e) The Legislature further finds that instituting a dig once policy encourages telecommunications carriers to coordinate installation of broadband conduit to minimize costs to the carriers and minimize disruption and inconvenience to the traveling public.

§17-2E-2. Definitions.

For the purposes of this article:

“Broadband conduit” or “conduit” means a conduit, innerduct or microduct for fiber optic cables that support facilities for broadband service.

“Longitudinal access” means access to or the use of any part of a right-of-way that extends generally parallel to the traveled way.

“Permit” means an encroachment permit issued by the West Virginia Division of Highways that specifies the requirements and conditions for performing work in a right-of-way.

“Right-of-way” means land, property or any interest therein acquired or controlled by the West Virginia Division of Highways for transportation facilities or other transportation purposes or specifically acquired for utility accommodation.

“Telecommunications facility” means any cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system or device that is used to transmit, receive, produce or distribute a signal for telecommunications purposes via wireless, wireline, electronic or optical means.

“Telecommunications carrier” means a telecommunications provider as determined by the Public Service Commission of West Virginia or that meets the definition of telecommunications carrier with respect to the Federal Communications Commission, as contained in 47 U.S.C. §153

“Utility facility” has the meaning ascribed to it in §17-2A-17a of this code.

“Wireless access” means access to and use of a right-of-way for the purpose of constructing, installing, maintaining, using or operating telecommunications facilities for wireless telecommunications.

§17-2E-3. Use of rights-of-way.

(a) Before granting longitudinal access or wireless access to a right-of-way the Division of Highways shall first enter into an agreement with a telecommunications carrier that is competitively neutral and nondiscriminatory as to other telecommunications carriers. Upon receipt of any required approval or concurrence by the Federal Highway Administration the division may issue a permit granting access under this section: *Provided*, That the Division of Highways shall comply with all applicable federal regulations with respect to approval of an agreement, including but not limited to 23 C.F.R. § 710.403 and 23 C.F.R. §710.405. The agreement shall be approved by the West Virginia Commissioner of Highways in order to be effective and, without limitation:

- (1) Specify the terms and conditions for renegotiation of the agreement;
- (2) Set forth the maintenance requirements for each telecommunications facility;
- (3) Be nonexclusive; and
- (4) Be for a term of not more than 30 years.

(b) Unless specifically provided for in an agreement entered into pursuant to this subsection (a) of this section, the West Virginia Division of Highways may not grant a property interest in a right-of-way pursuant to this article.

(c) A telecommunications carrier shall compensate the Division of Highways for access to a right-of-way for the construction, installation and maintenance of telecommunication facilities, the use of spare conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section. The compensation must be, without limitation:

- (1) At fair market value;

(2) Competitively neutral;

(3) Nondiscriminatory;

(4) Open to public inspection;

(5) Calculated based on the geographic region of this State, taking into account the population and the impact on private right-of-way users in the region;

(6) Paid in cash or with in-kind compensation, or a combination of cash and in-kind compensation;

(7) Paid in a lump-sum payment or in annual installments, as agreed to by the telecommunications carrier and the Division of Highways.

(d) The division may consider adjustments for areas the division determines, in conjunction with the Broadband Enhancement Council, are unserved or underserved areas.

(e) For the purpose of determining the amount of compensation a telecommunications carrier must pay the Division of Highways for the use of spare conduit or excess conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section, the division shall:

(1) Conduct an analysis once every 5 years, in accordance with the rules, policies or guidelines of the Division of Highways, to determine the fair market value of a right-of-way to which access has been granted pursuant to this section; and

(2) If compensation is paid in-kind, determine the fair market value of the in-kind compensation based on the incremental costs for the installation of conduit and related facilities,

(e) The value of in-kind compensation or a combination of money and in-kind compensation must be equal to or greater than the amount of monetary compensation that the West Virginia Division of Highways would charge if the compensation were paid solely with money.

§17-2E-4. Highway safety.

(a) The West Virginia Division of Highways, in its sole discretion, may deny any longitudinal access or wireless access if such access would compromise the safe, efficient and convenient use of any road, route, highway or interstate in this State for the traveling public.

(b) Any longitudinal access or wireless access to a right-of-way granted by the Division of Highways pursuant to this article does not abrogate, limit, supersede or otherwise affect access granted or authorized pursuant to the division's rules, policies and guidelines related to accommodation of utilities on highways right-of-way and adjustment and relocation of utility facilities on highway projects.

§17-2E-5. Joint use.

(a) The Division of Highways shall provide for the proportionate sharing of costs between telecommunications carriers for joint trenching or trench sharing based on the amount of conduit innerduct space or excess conduit that is authorized in the agreements entered into pursuant to

this article. If the division plans to use the trench it shall pay its proportional share unless it is utilizing the trench as in-kind payment for use of the right-of-way.

(b) Upon application for a permit, the carrier will notify, by email, the West Virginia Broadband Enhancement Council and all other carriers on record with the West Virginia Broadband Enhancement Council of the application. Other carriers have 30 calendar days to notify the applicant if they wish to share the applicant's trench. This requirement extends to all underground construction technologies.

(c) The carrier shall also meet the following conditions for a permit:

(1) The telecommunications carrier will be required to place, at its sole expense, a Class II legal advertisement, in accordance with §59-3-2(a) of this code, and of a form and content approved by the Division of Highways, in the local project area newspaper, in the Charleston newspaper, on industry and the Division of Highways websites, and within other pertinent media, announcing the general scope of the proposed installation within the right-of-way and providing competing telecommunications carriers the opportunity to timely express an interest in installing additional telecommunication facilities during the initial installation. The legal advertisement is to run at least two consecutive weeks, and the telecommunications carrier is to notify the division of any interest of other parties received.

(2) If a competing telecommunications carrier expresses interest in participating in the project, an agreement between the two (or more) telecommunications carriers will be executed by those entities, outlining the responsibilities and financial obligations of each, with respect to the installation within the right-of-way. A copy of the executed agreement shall be provided to the Division of Highways.

(3) The telecommunications carrier that placed the legal advertisement is responsible for resolving in good faith all disputes between any competing telecommunications carriers that timely responded to the advertisement and that wishes to install facilities within the same portion of the rights-of-way to be occupied. Should a dispute arise between the initial telecommunications carrier and a competing telecommunications carrier, the initial telecommunications carrier will attempt to mediate the dispute. Any dispute that is not resolved by the telecommunications carriers shall be adjudicated by the Public Service Commission of West Virginia.

(d) If two or more telecommunications carriers are required or authorized to share a single trench, each carrier in the trench must share the cost and benefits of the trench in a fair, reasonable, competitively neutral and nondiscriminatory manner. This requirement extends to all underground construction technologies.

§17-2E-6. Monetary and in-kind compensation.

(a) All monetary compensation collected by the Division of Highways pursuant to this article shall be deposited in the State Road Fund.

(b) In-kind compensation paid to the West Virginia Division of Highways under an agreement entered into pursuant to this article may include, without limitation:

(1) Conduit or excess conduit;

(2) Innerduct;

(3) Dark fiber;

(4) Access points;

(5) Telecommunications equipment or services;

(6) Bandwidth; and

(7) Other telecommunications facilities as a component of the present value of the trenching.

(c) The West Virginia Division of Highways shall value any in-kind compensation based on fair market value at the time of installation or review.

(d) In-kind compensation paid to the Division of Highways may be disposed of if both of the following conditions are met:

(1) The telecommunications facility received as in-kind payment has not been used within 10 years of its installation;

(2) The Commissioner of the Division of Highways determines that the division does not have an immediately foreseeable need for the telecommunications facility.

(e) Upon determining that it is appropriate to dispose of the telecommunications facility, the division shall determine its current fair market value. The division shall offer the provider or providers who made the in-kind payment the option to purchase any telecommunications facility obtained from such provider. If the provider or providers do not purchase the telecommunications facility, it shall be offered for public auction in the same manner as the division auctions excess right-of-way.

§17-2E-7. Multiple carriers in a single trench.

(a) If the Division of Highways enters into an agreement with two or more telecommunications carriers, a consortium or other entity whose members, partners or other participants are two or more telecommunications carriers, or, if the division requires or allows two or more telecommunications carriers to share a single trench, the agreements entered into pursuant to this article shall require that the telecommunications carriers share the obligation of compensating the Division of Highways on a fair, reasonable and equitable basis, taking into consideration the proportionate uses and benefits to be derived by each telecommunications carrier from the trench, conduits and other telecommunications facilities installed under the agreements.

(b) The provisions of §17-2E-7(a) of this code do not prevent the Division of Highways from requiring every participating telecommunications carrier to bear joint and several liability for the obligations owed to the West Virginia Division of Highways under the agreements.

(c) Any agreement requiring two or more telecommunications carriers to share the obligation of compensating the Division of Highways shall provide the division the right to review and audit the records and contracts of and among the participating carriers to ensure compliance with §17-2E-7(a) of this code.

§17-2E-8. Existing policies.

(a) The requirements set forth in this article do not alter existing rules, policies, and procedures relating to other utility facilities within a right-of-way or for accommodating utility facilities or other facilities under the control of the Division of Highways.

(b) The Division of Highways may consider the financial and technical qualifications of a telecommunications carrier when determining specific insurance requirements for contractors authorized to enter a right-of-way to construct, install, inspect, test, maintain or repair telecommunications facilities with longitudinal access or wireless access to the right-of-way.

(c) If the Division of Highways authorizes longitudinal access, wireless access or the use of and access to conduit or related facilities of the division for construction and installation of a telecommunications facility, the division may require an approved telecommunications carrier to install the telecommunications facility in the same general location as similar facilities already in place, coordinate their planning and work with other contractors performing work in the same geographic area, install in a joint trench when two or more telecommunications carriers are performing installations at the same time and equitably share costs between such carriers.

(d) The placement, installation, maintenance, repair, use, operation, replacement and removal of telecommunications facilities with longitudinal access or wireless access to a right-of-way or that use or access conduit or related facilities of the division shall be accommodated only when in compliance with this code and West Virginia Division of Highways rules, policies and guidelines.

(e) Access to a right-of-way must be administered in compliance with the Telecommunications Act of 1996, 47 U.S.C. §151, et seq., as amended.

Following discussion,

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

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 445 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 445 pass?"

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

The nays were: Rucker—1.

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. 445) passed.

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

Eng. Com. Sub. for Senate Bill No. 445—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-17a; to amend said code by adding thereto a new article, designated §17-2E-1, §17-2E-2, §17-2E-3, §17-2E-4, §17-2E-5, §17-2E-6, §17-2E-7 and §17-2E-8; to amend said code by adding thereto two new sections, designated §17-4-17b and §17-4-17e; and to amend said code by adding thereto a new section, designated §24-2-20, all relating to public utilities; creating new legislative findings; defining terms; providing for longitudinal access on Division of Highways rights-of-way; setting forth terms for certain agreements including how they must relate to other telecommunications carriers; requiring the Division of Highways comply with certain federal requirements as to fair market value and obtaining certain Federal Highway Administration approvals; setting forth requirements for fair and reasonable compensation for access to the right-of-way; authorizing compensation to be monetary, in-kind, or a combination of both; providing for reevaluation of the compensation every five years; providing that the Division of Highways has sole discretion to deny access if the safe, efficient and convenient use of highway, road or interstate would be compromised; providing that the access granted herein does not affect previous access granted by the division; promoting joint use and proportionate cost sharing; requiring a carrier seeking a permit to notify the Broadband Enhancement Council and other carriers of record of the permit application; setting forth notice requirements; providing that a carrier seeking the permit must resolve any disputes among other carriers seeking access; providing that the Public Service Commission will resolve disputes the carriers are not able to resolve; requiring all carriers sharing a trench to share the cost and benefits; requiring the division deposit any compensation collected for access to its right-of-way be deposited in the State Road Fund; authorizing in-kind compensation and listing allowable telecommunications facilities for in-kind payment; requiring the division to value in-kind compensation at fair market value; providing that in-kind compensation may be disposed of after 10 years if it is not being used; giving the carrier providing the in-kind compensation right of first refusal; providing for public auction in certain circumstances; providing that multiple carriers in the same trench have obligation to compensate the division; allowing the division to hold each carrier jointly and severally liable for obligations owed to the division; requiring carriers allow the division to audit records and contracts to ensure compliance; providing that existing policies, rules and procedures relating to other utilities within the right-of-way are not altered by this act; allowing the division to consider the financial and technical qualifications of a carrier when setting insurance requirements; allowing the division to require carriers to install telecommunications in the same general location, coordinate planning and work with other contractors in the same area; requiring placement, installation, maintenance, repair, use, operation and related activities on the right-of-way be in compliance with the division's rules, policies and guidelines; and requiring that access to a right-of-way be administered in compliance with the Telecommunications Act of 1996, 47 U.S.C. §151, et seq.; establishing a method by which the Commissioner of the Division of Highways may acquire certain rights-of-way and easements for the purpose of increasing public access to utilities; establishing a procedure for the Division of Highways to lease acquisitions to utilities for fair market value; and establishing a cost-sharing procedure for determining how relocation costs are to be paid by the utility.

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 448, Relating generally to professional associations.

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. 448) 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 452, Exempting hunting license information from public disclosure.

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. 452) 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 Com. Sub. for Senate Bill 472, Providing funds to DHHR for local boards of health employee pay raises.

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 Com. Sub. for S. B. 472) 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 485, Terminating Workers Compensation Debt Reduction Fund assessment on self-insured employers.

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. 485) 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 504, Excluding seasonal amusement park workers from definition of “employee”.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 504 pass?”

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

The nays were: Ojeda—1.

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. 504) 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 508, Establishing State Trail Authority.

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. 508) passed with its title.

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

Eng. Com. Sub. for Senate Bill 510, Designating hospitals for stroke treatment.

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. 510) passed.

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

Eng. Com. Sub. for Senate Bill 510—A Bill to amend and reenact §16-5B-18 of the Code of West Virginia, 1931, as amended, relating to designation of hospitals for stroke treatment; adding a designation as a thrombectomy-capable stroke center; modifying the makeup of the advisory committee; eliminating rulemaking authority; providing for a database; and prohibiting certain inspections of hospitals conducted by the Department of Health and Human Resources.

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

Eng. Senate Bill 530, Requiring Secretary of State provide database for registered corporations and sole proprietorship.

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. 530) 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 531, Eliminating required waiting period for municipal court notifications to DMV.

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. 531) 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 534, Increasing penalty for tobacco-related offenses on public school property.

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

On the passage of the bill, the yeas were: Arvon, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger—1.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 534) 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 548, Authorizing county commissions to pay election officials.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Gaunch, unanimous consent was granted to offer an amendment to the bill on third reading.

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

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

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-44. Compensation of election officials; expenses.

(a) Each ballot commissioner is to be paid a sum, to be fixed by the county commission, ~~not exceeding \$125~~ for each day he or she serves as ballot commissioner, but in no case may a ballot commissioner receive allowance for more than 10 days' services for any one primary, general or special election.

(b) Each commissioner of election and poll clerk is to be paid a sum, to be fixed by the county commission, ~~not exceeding \$125~~ for one day's services for attending the school of instruction for election officials if the commissioner or poll clerk provides at least one day's service during an election and a sum ~~not exceeding \$175~~ for his or her services at any one election: *Provided*, That each commissioner of election and poll clerk is to be paid a sum ~~not exceeding \$175~~ for his or her services at any of the three special elections described in §3-1-44(f) of this code.

(c) Each alternate commissioner of election and poll clerk may be paid a sum, to be fixed by the county commission, ~~not exceeding \$50~~ for one day's services for attending the school of instruction for election officials: *Provided*, That no alternate may be eligible for compensation for election training unless the alternate is subsequently appointed as an election official or is instructed to attend and actually attends training as an alternate and is available to serve on election day.

(d) The commissioners of election or poll clerks obtaining and delivering the election supplies, as provided in §3-1-24 of this code, and returning them, as provided in §3-5-1 *et seq.* and §3-6-1 *et seq.* of this code, are to be paid an additional sum, fixed by the county commission, ~~not exceeding \$125~~ for his or her services pursuant to this subsection at any one election. In addition, he or she is to be paid mileage up to the rate of reimbursement authorized by the travel management rule of the Department of Administration for each mile necessarily traveled in the performance of his or her services.

(e) The compensation of election officers, cost of printing ballots and all other expenses incurred in holding and making the return of elections, other than the three special elections described in §3-1-44(f) of this code, are to be audited by the county commission and paid out of the county treasury.

(f) All persons within a class of election officials, as classified in this section, shall be paid the same amount within the county.

(g) The compensation of election officers, cost of printing ballots, and all other reasonable and necessary expenses in holding and making the return of a special election for the purpose of taking the sense of the voters on the question of calling a constitutional convention, of a special election to elect members of a constitutional convention, and of a special election to ratify or reject the proposals, acts, and ordinances of a constitutional convention are obligations of the state incurred by the ballot commissioners, clerks of the circuit courts, clerks of the county commissions, and county commissions of the various counties as agents of the state. All

expenses of these special elections are to be audited by the Secretary of State. The Secretary of State shall prepare and transmit to the county commissions forms on which the county commissions shall certify all expenses of these special elections to the Secretary of State. If satisfied that the expenses as certified by the county commissions are reasonable and were necessarily incurred, the Secretary of State shall requisition the necessary warrants from the Auditor of the state to be drawn on the state Treasurer and shall mail the warrants directly to the vendors of the special election services, supplies, and facilities.

(h) Notwithstanding the authority granted to county commissions to set compensation for election officials in this section, the Secretary of State may set maximum rates of compensation of the election officials identified in this section at any election for which the obligations incurred by the ballot commissioners, clerks of the county commissions, and county commissions of the various counties are determined to be obligations of the state.

§3-1-48. Legislative findings; State Election Fund; loans to counties; availability of funds; repayment of loans; grants to counties for election systems.

(a) *Legislative findings.* — The “Help America Vote Act of 2002”, PL 107-252, 42 U.S.C. §15301, *et seq.*, provides funding so that all states will be able to implement some form of electronic voting system to replace punch card and lever machines by 2006. The new voting systems must meet several requirements including notifying the voter of over votes and permitting each voter to review his or her ballot and correct errors before casting the vote. The limited, finite funding available to the state will not be sufficient to meet current and future needs for equipment and services as equipment needs to be obtained, repaired or replaced as technology changes. It is the intent of the Legislature to maximize the available funds by establishing a no-interest loan program to assist any county, regardless of its current voting system, in purchasing necessary electronic voting equipment and services. As the loans are repaid funds will continue to be available to meet future needs. It is not the intent of the Legislature to mandate any technology for voting systems to be utilized in this state and this section is intended only to establish terms and conditions for providing loan assistance to counties in accordance with the provisions of this section.

(b) *State Election Fund.* — The special revenue account created in the State Treasury and known as the “State Election Fund” account is continued. Expenditures from the account shall be used by the Secretary of State for the administration of this chapter in accordance with the provisions of 42 U.S.C. §15301, *et seq.*, the Help America Vote Act of 2002, PL 107-252, in accordance with the provisions of article eleven, chapter four of this code.

(c) *Establishment of special revenue account.* — There is created in the State Treasury a special revenue revolving fund account known as the “county assistance voting equipment fund” which shall be an interest-bearing account. The fund shall consist of an initial transfer not to exceed \$8,500,000 from the State Election Fund established under subsection (b) of this section pursuant to legislative appropriation; any future funds received from the federal government under the “Help America Vote Act of 2002”, PL 107-252, 42 U.S.C. §15301, *et seq.*, or subsequent acts providing funds to states to obtain, modify or improve voting equipment and obtain necessary related services including voting systems, technology and methods for casting and counting votes; any funds appropriated by the Legislature or transferred by any public agency as contemplated or permitted by applicable federal or state law; and any accrued interest or other return on the moneys in the fund. The balance remaining in the fund at the end of each fiscal year shall remain in the fund and not revert to the State General Revenue Fund.

(d) *Use of funds.* — The money in the fund shall be used only in the manner and for the purposes prescribed in this section. Notwithstanding any provision of law to the contrary, funds in the county assistance voting equipment fund may not be designated or transferred for any purpose other than those set forth in this section.

(e) *Administration of the fund.* — The Secretary of State shall administer the fund with the approval of the State Election Commission.

(f) *Investment of fund.* — The moneys of the fund shall be invested pursuant to article six, chapter twelve of this code and in such a manner that sufficient moneys are available as needed for loans authorized under this section.

(g) *Loans to counties.* — The county assistance voting equipment fund shall be used to make no-interest loans to counties to obtain, modify or replace voting equipment, software and necessary related services including voting systems, technology and methods for casting and counting votes: *Provided*, That any county commission that purchased an electronic voting system prior to November 13, 2004, is eligible to apply for matching funds under this section to upgrade the system: *Provided, however*, That matching funds available for an upgrade shall not exceed the amount available under subdivision (1) of this subsection for the purchase of a new electronic voting system under the Secretary of State's authorized contract. The loans shall be made under the following terms and conditions:

(1) The State Election Commission shall, subject to availability of funds, loan no more than fifty percent of the cost of the voting equipment or services to any county commission: *Provided*, That a portion or all of the county matching requirement may be waived in limited circumstances as determined by the State Election Commission pursuant to this section.

(2) The county commission shall provide sufficient documentation to establish to the satisfaction of the State Election Commission that the county commission has at least 50 percent of the money necessary to obtain the voting equipment, software or services for which the loan is sought.

(3) The county commission shall enter into a contract with the State Election Commission for the repayment of the loan over a period not to exceed five years or the length of the contract to obtain the equipment, software or services, whichever is less.

(4) The county commission shall use the loan for voting equipment and services certified by the State Election Commission pursuant to the provisions of article four-a of this chapter and authorized for use by the Secretary of State.

(5) A county commission may apply for a loan on a form provided by the Secretary of State. The form shall, in addition to requesting information necessary for processing the application, state the deadline for submitting the application and the eligibility requirements for obtaining a loan.

(6) The State Election Commission may waive a portion or all of the matching money required by this subsection for a county commission that can establish that it has exercised due diligence in raising its share of the costs but has been unable to do so. On forms provided by the Secretary of State the county commission shall request a waiver and shall make a full financial disclosure of its assets and liabilities as well as potential for future income when applying for a waiver. The county commission shall demonstrate, to the satisfaction of the State Election Commission, its

inability to meet the matching requirements of this subsection and its ability to repay the loan in a timely manner. Notwithstanding the provisions of subdivision (3) of this subsection, the State Election Commission may extend the repayment period on a year-to-year basis for a repayment period not to exceed five additional years.

(h) *Application.* — An application for a loan shall be approved by the State Election Commission if the requirements of this section have been met.

(i) *Rulemaking.* — The Secretary of State shall propose for promulgation in accordance with article three, chapter twenty-nine-a of this code emergency and legislative rules necessary to effectuate the purposes of this section.

(j) *Availability of loans.* — The State Election Commission may not approve a loan under this section until final standards for electronic voting equipment with a voter verified paper ballot have been established by the Secretary of State or the national institute for standards and technology. The State Election Commission may not approve a loan for the purchase, lease, rental or other similar transaction to obtain electronic voting equipment, software or necessary related services unless obtained under a contract authorized by the Secretary of State pursuant to rules promulgated under this section.

(k) *Repayment of loans.* — The Secretary of State may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a county commission of all the terms and conditions of the loan agreement between the state and that county commission including periodic reduction of any moneys due the county from the state.

(l) Notwithstanding the provisions of this section relating to loan procedures, the State Election Commission may, with a recommendation from the HAVA Grant Board, and consistent with the legislative rules of the program, approve a grant to a county for the purchase of election systems, or election system upgrades, payable from the “county assistance voting equipment fund”. Provided, That the Secretary of State shall issue emergency rules setting forth the criteria for the issuance of grants to the counties.

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 548 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 548) passed.

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

Eng. Com. Sub. for Senate Bill No. 548—A Bill to amend and reenact §3-1-44 and §3-1-48 of the Code of West Virginia, 1931, as amended, all relating generally to the conduct of elections; authorizing compensation for election officials be fixed by county commission; requiring all election officials within a classification to be paid the same amount within each county; authorizing Secretary of State to set maximum compensation rates in certain elections where costs are determined to be obligations of the state; declaring compensation above maximum compensation set by Secretary of State in certain elections to be county obligation; and permitting State Election Commission, with recommendation from HAVA Grant Board and consistent with legislative rules of the program, approve grant to a county for the purchase of election systems or upgrades from the county assistance voting equipment fund; and directing Secretary of State issue emergency rules setting criteria for issuance of grants.

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

Eng. Senate Bill 551, Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB.

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

Pending extended discussion,

The question being “Shall Engrossed Senate Bill 551 pass?”

On the passage of the bill, the yeas were: Arvon, Baldwin, Beach, Blair, Boley, Boso, Cline, Ferns, Gaunch, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Azinger, Clements, Drennan, Facemire, Jeffries, Karnes, Mann, Romano, and Sypolt—9.

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. 551) passed.

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

Eng. Senate Bill 551—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10D-13; and to amend and reenact §61-10-20 of said code, all relating to failure of an employer to make contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board; requiring the Consolidated Public Retirement Board to certify a delinquency lasting for 60 days to the State Auditor, the county commission, and sheriff of the county in which the employer is located; authorizing the State Auditor, county commission, or sheriff of the county in which the employer is located to withhold moneys due to an employer who is delinquent until the delinquency and regular interest thereon is satisfied; authorizing withheld moneys to be applied to the retirement system to which the delinquent payments are due; making it a criminal offense for an employer to knowingly and willfully fail to make required contributions; providing criminal penalties; and providing that conviction of such offense is prima facie evidence of official misconduct.

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 556, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority.

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. 556) 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 565, Clarifying authority of State Fire Commission.

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. 565) 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 567, Including treason, murder, armed robbery, and organized crimes for which communications can be intercepted.

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. 567) 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 568, Deferring further proceedings for certain first offenses upon completion of Motor Vehicle Alcohol Test and Lock Program within 12 months.

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. 568) 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 582, Allowing candidate for political party executive committee serve as election official.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 582 pass?”

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

The nays were: Palumbo—1.

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. 582) passed with its title.

Senator Clements 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, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Palumbo—1.

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. 582) takes effect from passage.

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

Eng. Senate Bill 584, Finding certain claims against state to be moral obligations of state.

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. 584) passed with its 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. S. B. 584) takes effect from passage.

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

Eng. Senate Bill 585, Altering boundary line between Doddridge and Harrison counties.

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. 585) passed with its 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. S. B. 585) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 589, Relating to issuance of personalized plates for antique 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. Com. Sub. for S. B. 589) 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 590, Providing special license plate for curing childhood cancer.

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. 590) 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 592, Adding examination of advanced care technician for firefighter paramedic.

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. 592) passed with its title.

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

Com. Sub. for Senate Bill 595, Creating Protect Our Right to Unite Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 27, 2018, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Romano, Azinger, and 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 7. THE PROTECT OUR RIGHT TO UNITE ACT.

§1-7-1. Purpose; intent.

(a) The purpose of this article is to protect an individual's right to support nonprofit organizations that represent their beliefs and the nonprofit organization's right to keep the names and addresses of its supporters confidential by codifying the landmark United States Supreme Court decision in *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958). If a public agency actor violates this protection by making an individual's name, address, and support for nonprofit groups public, either by publication on a public website or other type of broadcast, this article gives the citizen a right to bring suit for relief.

(b) It is the intent of this article to recognize that compelled disclosure of membership lists by a public agency actor is a trespass upon fundamental freedoms protected by the Due Process Clause of the Fourteenth Amendment, as held by the United States Supreme Court in *NAACP v. Alabama ex rel. Patterson*. Therefore, this article should be liberally construed in favor of the individual right to association to ensure that private association is not discouraged or suppressed by any actions of the public servants of this state.

§1-7-2. Definitions.

For the purposes of this article:

"Citizen" means an individual who is a United States citizen and any entity domiciled in the United States, but does not include any foreign agent, foreign government, or non-citizen.

"Donor information" means any record which identifies the association of a citizen with an entity, including information that does not directly identify the citizen but which, in combination with other information, would allow a reasonable person to identify the citizen involved. Donor information includes, but is not limited to, a citizen's name, address, occupation, employer, or any electronic or technical data, including social media accounts, email accounts, location data, or other identifying information.

"Public agency" means any department, office, commission, board, or division of state government; and any county, city, district, or other political subdivision or municipal corporation or any department, office, commission, court, or board or any other state or local government unit, however designated.

§1-7-3. Protecting privacy of association.

(a) Except as otherwise provided in chapters three and six-b of this code, or as specified in §1-7-3(c) and §1-7-3(d) of this code, no public agency may require any entity organized under Section 501(c) of the Internal Revenue Code to provide it with donor information: *Provided*, That where the state or a public agency nevertheless obtains donor information, it may not be released unless otherwise permitted in chapters three and six-b of this code or as otherwise permitted under this section.

(1) The state or public agency may not release, allow to be released, nor be required to release any record which identifies the association of a citizen with an entity organized under Section 501(c) of the Internal Revenue Code, or which identifies the type or level of financial or nonfinancial support of a citizen for such an entity, without the express written permission of the entity or citizen or at the request of the citizen.

(2) All donor information is exempt from production under the state's Freedom of Information Act, §29B-1-1 *et seq.* of this code.

(b) The state or a public agency may satisfy §1-7-3(a) of this code by redacting from a record any donor information that would tend to show association of citizens, including nonspecific information that would allow a reasonable person to identify the citizen or citizens involved.

(c) This section does not preclude any lawful order or request for information issued by a court of competent jurisdiction.

(d) This section does not preclude any lawful request for discovery by a public agency in litigation: *Provided*, That both of the following qualifications are met:

(1) The requesting party demonstrates a compelling need for the donor information; and

(2) The donor information is subject to a protective order barring distribution of the donor information to any individual not directly involved in the litigation.

§1-7-4. Enforcement by state or private citizen action.

(a) A citizen has a cause of action to enjoin any violation of this article and to recover any actual damages incurred by him or her as a result of the violation.

(b) If the plaintiff prevails, he or she is entitled to be reimbursed by the state or public agency for costs and attorneys' fees he or she has incurred. If the defendant state or public agency prevails, each party is responsible for their own attorneys' fees and costs, except as determined by any applicable statutes or common law rule concerning frivolous cases.

(c) If the judge or jury finds that the violation by the state or public agency was intentional, the amount of the judgment, which for this purpose includes costs and attorneys' fees, may be trebled as punitive damages.

Following discussion,

The question being on the adoption of the amendment offered by Senators Romano, Azinger, and Trump, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 595 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 595) 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 598, Relating to civil actions against county commissions and municipalities for injuries.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 598 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Palumbo, Plymale, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: Facemire, Jeffries, Ojeda, Prezioso, Romano, and Woelfel—6.

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. 598) passed.

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

Eng. Com. Sub. for 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; providing an effective date; providing that a person who sustains injury as a result of any defect in, disrepair or maintenance of, or failure to maintain or repair certain county or municipal property may recover civil damages, subject to certain requirements and limitations; providing certain requirements and limitations for actions against the county commission or municipality; providing that county commissions and municipalities owe no duty to protect against, and are not liable for certain dangers or conditions that are open and obvious or reasonably apparent; providing a standard of application by courts; and providing that the section does not diminish or limit certain protections otherwise afforded in the code.

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 600, Relating to powers and duties of PSC.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 600 pass?”

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Takubo, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Arvon, Baldwin, Beach, Drennan, Facemire, Jeffries, Mann, Maroney, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—17.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 600) rejected on a tie vote.

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Facemire regarding the passage of Engrossed Committee Substitute for Senate Bill 600 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for Senate Bill 601, Relating to personal income tax.

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, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 601) 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 612, Relating to sale of municipal property.

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

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 612) 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 616, Establishing maximum gross weight for certain wood-bearing trucks.

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, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Drennan, Sypolt, and Woelfel—3.

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. 616) 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 629, Expanding conditions of permanent disability required for Class Q permit.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 629 pass?”

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 629) 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 630, Relating to changes in distribution of certain racetrack video lottery net terminal income and excess lottery fund.

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

On the passage of the bill, the yeas were: 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. 630) 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 631, Relating generally to one-call system.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 631) 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 Joint Resolution 7, Supervision of Free Schools Modification Amendment.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the resolution was referred to the Committee on Finance.

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 4022, Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 4024, Relating generally to direct cremation or direct burial expenses for indigent persons.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

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.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

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

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 4385, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

The Senate proceeded to the tenth order of business.

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

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

Eng. Com. Sub. for House Bill 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

Eng. Com. Sub. for House Bill 2696, Relating to crossbow hunting.

Eng. Com. Sub. for House Bill 2843, Permitting Class III municipalities to be included in the West Virginia Tax Increment Act.

Eng. Com. Sub. for House Bill 2890, Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects.

Eng. Com. Sub. for House Bill 2916, Authorizing certain first responders to carry firearms.

Eng. Com. Sub. for House Bill 3104, Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund.

Eng. Com. Sub. for House Bill 4079, Promulgating administrative rules by various executive or administrative agencies of the state.

Eng. Com. Sub. for House Bill 4138, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

Eng. Com. Sub. for House Bill 4175, Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment.

Eng. Com. Sub. for House Bill 4199, Permitting a nursing home to use trained individuals to administer medication.

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

Eng. House Bill 4285, Relating to the West Virginia Safe Mortgage Licensing Act.

Eng. House Bill 4332, Relating to home peritoneal renal dialysis.

Eng. House Bill 4433, Declaring certain claims against an agency of the state to be moral obligations of the state.

And,

Eng. Com. Sub. for House Bill 4619, Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Unger, Ojeda, Karnes, and Facemire.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Unger, Ojeda, Karnes, and Facemire were ordered printed in the Appendix to the Journal.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 1:15 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:30 p.m. today and, without objection, returned to the third order of business.

Executive Communications

The following communication from His Excellency, the Governor, was reported by the Clerk:

Jim Justice
Governor of West Virginia

February 28, 2018

The Honorable Mitch Carmichael
 President, West Virginia Senate
 Building 1, Room M-229
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

Dear President Carmichael:

The following amends and replaces the "FY 2019 Official Estimate General Revenue – Statement of Revenues by Source" which I submitted to you on January 10, 2018 as part of my Budget Document for the fiscal year ending June 30, 2019:

General Revenue Fund
 Statement of Revenues by Source
 (Expressed in Thousands)

<u>Source of Revenue</u>	FY 2019 Official <u>Estimate Revised</u>
Business and Occupation Tax	\$ 117,500
Consumers Sales and Use Tax ¹	1,303,500
Personal Income Tax ¹	2,004,000
Liquor Profit Transfers	20,800
Beer Tax and Licenses	7,500
Tobacco Products Tax (Cigarette & Other)	179,700
Business Franchise Fees	670
Charter Tax	0
Property Transfer Tax	13,000
Property Tax	6,900
Insurance Tax	123,500
Departmental Collections	23,600
Corporate Income/Business Franchise Tax	142,100
Miscellaneous Transfers	1,000

Interest Income	23,000
Severance Tax	361,700
Miscellaneous Receipts	10,700
HB102 - Lottery Transfers	65,000
Special Revenue Transfer	0
Senior Citizen Tax Credit Reimbursement	<u>10,000</u>
Total	<u>\$ 4,414,170</u>

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice
Governor

¹ Revised due to anticipated road construction activity from future bond sales and positive feedback associated with federal tax reform.

Which communication was received and referred to the Committee on Finance.

The Senate again 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 632 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-9-10 of said code, all relating to allowing retired judicial officers recalled to service to avoid the limit on the temporary employment payments where a circumstance such as a significant illness, suspension, or other long absence of a sitting judicial officer requires a longer period of service by the retired judicial officer than the current cap would allow.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 632) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Ferns, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Arvon, Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Baldwin, Takubo, and Woelfel—3.

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

Engrossed Senate Bill 632 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Baldwin, Takubo, and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 632) passed with its title.

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

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the resolution (Com. Sub. for S. J. R. 8) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

And reports the same back with the recommendation that it be adopted; but under the original double committee reference first be referred to the Committee on Rules.

Respectfully submitted,

C. Edward Gaunch,
Chair.

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration

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

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2654, Expanding county commissions' ability to dispose of county or district property.

Eng. Com. Sub. for House Bill 4180, Relating to wildlife resources.

And,

Eng. Com. Sub. for House Bill 4236, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2983, Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress.

Eng. House Bill 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System.

Eng. Com. Sub. for House Bill 4289, Relating to disability pensions of municipal employees.

Eng. Com. Sub. for House Bill 4347, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

Eng. House Bill 4422, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

Eng. House Bill 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses.

And,

Eng. House Bill 4621, Relating to removing reference to certain entities with respect to work.

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

Eng. Com. Sub. for House Bill 4230, Relating to credit for reinsurance.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4343, Relating to the delivery of financial statements to bank shareholders.

And reports the same back with the recommendation that it 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

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

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Gaunch, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 4401) contained in the foregoing report from the Committee on Government Organization was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

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

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

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

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

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

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

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

And has amended same.

And,

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

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 5:42 p.m., the Senate adjourned until tomorrow, Thursday, March 1, 2018, at 11 a.m.

SENATE CALENDAR

Thursday, March 01, 2018
11:00 AM

UNFINISHED BUSINESS

S. R. 53 - Recognizing Glenville State College for its efforts in making education more affordable

SECOND READING

Com. Sub. for S. J. R. 8 - County Economic Development Amendment

Eng. Com. Sub. for H. B. 2483 - Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2694 - Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas

Eng. Com. Sub. for H. B. 2696 - Relating to crossbow hunting - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2843 - Permitting Class III municipalities to be included in the West Virginia Tax Increment Act

Eng. Com. Sub. for H. B. 2890 - Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects

Eng. Com. Sub. for H. B. 2916 - Authorizing certain first responders to carry firearms - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3104 - Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund

Eng. Com. Sub. for H. B. 4022 - Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft (original similar to SB131, SB311)

Eng. Com. Sub. for H. B. 4024 - Relating generally to direct cremation or direct burial expenses for indigent persons - (Com. amend. pending)

Eng. Com. Sub. for H. B. 4079 - Promulgating administrative rules by various executive or administrative agencies of the state - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4138 - Requiring certain public or private schools and daycare centers to install carbon monoxide detectors - (Com. amends. pending)

- 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
- Eng. Com. Sub. for H. B. 4169 - Requiring certain establishments and facilities to post human trafficking assistance notices - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4175 - Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment
- Eng. Com. Sub. for H. B. 4199 - Permitting a nursing home to use trained individuals to administer medication - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4207 - Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement - (Com. amends. pending)
- Eng. H. B. 4285 - Relating to the West Virginia Safe Mortgage Licensing Act
- Eng. H. B. 4332 - Relating to home peritoneal renal dialysis - (Com. amend. and title amend. pending)
- Eng. H. B. 4385 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services
- Eng. H. B. 4433 - Declaring certain claims against an agency of the state to be moral obligations of the state
- Eng. Com. Sub. for H. B. 4619 - Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth

FIRST READING

- Eng. Com. Sub. for H. B. 2607 - Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2654 - Expanding county commissions' ability to dispose of county or district property
- Eng. Com. Sub. for H. B. 2693 - Relating to state ownership of wildlife - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2983 - Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress
- Eng. Com. Sub. for H. B. 3005 - Relating to regulation of unmanned aircraft systems - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4180 -	Relating to wildlife resources (original similar to SB345)
Eng. Com. Sub. for H. B. 4186 -	Relating generally to guaranteed asset protection waivers - (Com. amend. and title amend. pending)
Eng. H. B. 4219 -	Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System
Eng. Com. Sub. for H. B. 4230 -	Relating to credit for reinsurance
Eng. Com. Sub. for H. B. 4236 -	Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division (original similar to SB342)
Eng. Com. Sub. for H. B. 4268 -	Co-tenancy Modernization and Majority Protection Act - (Com. title amend. pending)
Eng. Com. Sub. for H. B. 4289 -	Relating to disability pensions of municipal employees
Eng. Com. Sub. for H. B. 4343 -	Relating to the delivery of financial statements to bank shareholders
Eng. Com. Sub. for H. B. 4347 -	Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.
Eng. H. B. 4402 -	Relating to the prevention of sexual abuse of children - (Com. amend. pending)
Eng. H. B. 4410 -	Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids - (Com. amends. pending)
Eng. H. B. 4422 -	Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds
Eng. H. B. 4436 -	Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department - (Com. amends. pending)
Eng. Com. Sub. for H. B. 4444 -	Clarifying the authority of the State Fire Commission in adopting a State Building Code - (Com. title amend. pending)
Eng. Com. Sub. for H. B. 4473 -	Relating to use of state funds for advertising to promote a public official or government office - (Com. amend. and title amend. pending)
Eng. H. B. 4539 -	Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses
Eng. H. B. 4621 -	Relating to removing reference to certain entities with respect to work
Eng. H. B. 4624 -	Relating to West Virginia coordinate systems - (Com. amends. and title amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Thursday, March 1, 2018

9 a.m. Education (Room 451M)

9 a.m. Government Organization (Room 208W)