

JOURNAL
OF THE
HOUSE OF DELEGATES
EIGHTY-SECOND
LEGISLATURE
OF
WEST VIRGINIA



VOLUME I
REGULAR SESSION, 2016

WEST VIRGINIA HOUSE OF DELEGATES
HONORABLE TIM ARMSTEAD
SPEAKER OF THE HOUSE

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF
STEPHEN J. HARRISON
CLERK OF THE HOUSE



CLERK'S OFFICE LEGISLATIVE GROUP

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MEMBERS OF THE HOUSE OF DELEGATES

REGULAR SESSION, 2016

OFFICERS

Speaker – Tim Armstead, Elkview
Clerk – Stephen J. Harrison, Cross Lanes
Sergeant-at-Arms – Marshall Clay, Fayetteville
Doorkeeper – Frank Larese, Belle

District	Name	Address	Occupation or Profession	Legislative Service			
First.	Pat McGeehan (R)	Chester	Business Sales/Author.	79 th ; 82 nd			
	Mark Zatezalo (R)	Wierton	Hydrogeologist.	82 nd			
Second.	Ryan W. Weld (R)	Wellsburg	Legal Assistant.	82 nd			
Third.	Shawn Fluharty (D)	Wheeling	Attorney.	82 nd			
	Erikka Storch (R)	Wheeling	Financial Officer.	80 th - 82 nd			
Fourth.	David A. Evans (R)	Cameron	Retired Teacher.	81 st - 82 nd			
	Michael T. Ferro (D)	McMechen	Retired Educator/Coach.	79 th - 82 nd			
Fifth.	Dave Pethel (D)	Hundred	Retired Teacher	69 th - 71 st ;			
				74 th - 82 nd			
Sixth.	William Roger Romine (R)	Sistersville	Retired School Administrator	75 th - 82 nd			
Seventh.	Lynwood "Woody" Ireland (R)	Pullman	Retired Chemical Engineer/Farmer.	78 th - 82 nd			
Eighth.	W. "Bill" Anderson, Jr. (R)	Williamstown	Educator.	71 st - 82 nd			
Ninth.	Anna Border Sheppard (R)	Davisville	Educator.	Appt. 6/21/2011,			
				80 th - 82 nd			
Tenth.	Mike Azinger (R)	Parkersburg	Manager.	82 nd			
	Frank Deem (R)	Vienna	Businessman.	52 nd - 56 th ;			
				57 th - 62 nd (Senate); 64 th - 65 th (Senate); 69 th ; 72 nd -79 th (Senate); 82 nd			
John R. Kelly (R)	Parkersburg	Retired.	82 nd				
Eleventh.	Martin Atkinson, III (R)	Reedy	Director of Sales.	Appt. 10/2/2015;			
				82 nd			
Twelfth.	Steve Westfall (R)	Ripley	Insurance Agent.	81 st - 82 nd			
Thirteenth.	Scott Cadle (R)	Letart	Trucking/Excavating.	81 st - 82 nd			
	Michael Ihle (R)	Ravenswood	Mayor.	82 nd			
Fourteenth.	Jim Butler (R)	Henderson	Excavating Contractor.	81 st - 82 nd			
Fifteenth.	Geoff Foster (R)	Winfield	Construction Supply.	82 nd			
Sixteenth.	Sean Hornbuckle (D)	Huntington	Financial Services Broker.	82 nd			
				Carol Miller (R)	Huntington	Small Business Owner/ Property Management.	78 th - 82 nd
				Jim Morgan (D)	Huntington	Retired.	69 th - 70 th ; Appt. 2/23/2001, 75 th ;
				76 th - 82 nd			

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Occupation or Profession	Legislative Service
Seventeenth...	Doug Reynolds (D)	Huntington	Engineering and Construction Executive.	78 th - 82 nd
	Matthew Rohrbach (R)	Huntington	Physician	82 nd
Eighteenth...	Kelli Sobonya (R)	Barboursville	Realtor	76 th - 82 nd
Nineteenth...	Kenneth Paul Hicks (D)	Kenova	Attorney	82 nd
	Don C. Perdue (D)	Prichard	Pharmacist	74 th - 82 nd
Twentieth...	Justin J. Marcum (D)	Williamson	Attorney	Appt. 1/18/2012, 80 th - 82 nd
Twenty-first..	Phyllis White (D)	Gilbert	Educator/Principal	Appt. 1/12/2016, 82 nd
Twenty-second.	Jeff Eldridge (D)	Alum Creek	Self Employed	77 th - 79 th ; 81 st - 82 nd
	Michel Moffatt (R)	Hurricane	Former Manufacturing Manager	82 nd
Twenty-third..	Joshua Nelson (R)	Danville	Coal Miner	81 st - 82 nd
Twenty-fourth.	Rupert Phillips, Jr. (D)	Lorado	Sales Manager	80 th - 82 nd
	Ralph Rodighiero (D)	Logan	Delivery Driver	78 th - 80 th ; 82 nd
Twenty-fifth..	Frank L. Blackwell (D)	Mullens	Retired Superintendent of Schools	Appt. 1/12/2016, 82 nd
Twenty-sixth..	Clif Moore (D)	Thorpe	Administrator	77 th - 82 nd
Twenty-seventh.	Joe Ellington (R)	Princeton	Physician	80 th - 82 nd
	Marty Gearheart (R)	Bluefield	Businessman	80 th - 82 nd
	John H. Shott (R)	Bluefield	Attorney	79 th (Appt. Senate and resigned House, May 2010); 81 st - 82 nd
Twenty-eighth.	Roy G. Cooper (R)	Wayside	Retired U. S. Navy	81 st - 82 nd
	John D. O'Neal, IV (R)	Beckley	Businessman	80 th - 82 nd
Twenty-ninth..	Ricky Moye (D)	Crab Orchard	Businessman/School Bus Operator	78 th - 82 nd
Thirtieth....	Mick Bates (D)	Beckley	Physical Therapist	82 nd
Thirty-first...	Karen "Lynne" Arvon (R)	Beckley	Medical Sales/ Social Services	81 st - 82 nd
Thirty-second.	Tom Fast (R)	Fayetteville	Attorney	82 nd
	Kayla Kessinger (R)	Mount Hope	Director of Human Resources	82 nd
	David G. Perry (D)	Oak Hill	Educator	75 th - 82 nd
Thirty-third...	Roger Hanshaw (R)	Wallback	Attorney	82 nd
Thirty-fourth..	Brent Boggs (D)	Gassaway	Railroad Engineer	73 rd - 82 nd
Thirty-fifth...	Andrew D. Byrd (D)	South Charleston	Attorney	82 nd
	John B. McCuskey (R)	Charleston	Attorney	81 st - 82 nd
	Eric Nelson (R)	Charleston	Financial Services/ Management	80 th - 82 nd
	Chris Stansbury (R)	Charleston	Doctor of Optometry	82 nd
Thirty-sixth .	Nancy Peoples Guthrie (D)	Charleston	Former Small Business Owner	78 th - 82 nd

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Occupation or Profession	Legislative Service
	Larry L. Rowe (D)	Charleston	Attorney	73 rd -74 th ; 75 th - 76 th (Senate); 82 nd
	Brad White (R)	Charleston	Insurance Agent	82 nd
Thirty-seventh	Mike Pushkin (D)	Charleston	Taxi Driver / Musician	82 nd
Thirty-eighth	Patrick Lane (R)	Cross Lanes	Attorney/Entrepreneur	77 th - 82 nd
Thirty-ninth	Ron Walters (R)	Charleston	Insurance Executive/ President	71 st - 73 rd ; 75 th - 82 nd
Fortieth	Tim Armstead (R)	Elkview	Attorney	Appt. 9/5/1998, 73 rd , 74 th - 82 nd
Forty-first	Jordan Hill (R)	Mt. Nebo	Human Resources	82 nd
Forty-second	George "Boogie" Ambler (R)	Fort Springs	Businessman/ Educator/Farmer	81 st - 82 nd
	Ray Canterbury (R)	Ronceverte	Internet Entrepreneur	75 th - 82 nd
Forty-third	Denise L. Campbell (D)	Elkins	Licensed Nursing Home Administrator	80 th - 82 nd
	William G. Hartman (D)	Elkins	Retired Independent Insurance Agent	76 th - 82 nd
Forty-fourth	Dana L. Lynch (D)	Webster Springs	Retired	81 st - 82 nd
Forty-fifth	Bill Hamilton (R)	Buckhannon	Retired Independent Insurance Agency Owner	76 th - 82 nd
Forty-sixth	Peggy Donaldson Smith (D)	Weston	Attorney/Professor	79 th - 82 nd
Forty-seventh	Danny Wagner (R)	Philippi	Retired Educator/ Coach	82 nd
Forty-eighth	Danny Hamrick (R)	Clarksburg	Consulting/ Media Production	81 st - 82 nd
	Tim Miley (D)	Clarksburg	Attorney	77 th - 82 nd
	Patsy Samuel Trecoast II (D)	Clarksburg	Telecommunications	82 nd
	Theresa Waxman (R)	Bridgeport	Homemaker	82 nd
Forty-ninth	Amy Summers (R)	Flemington	Registered Nurse	82 nd
Fiftieth	Mike Caputo (D)	Fairmont	UMWA, District 31 Vice-President	73 rd - 82 nd
	Linda Longstreth (D)	Fairmont	Administrator/Educator	77 th - 82 nd
	Tim Manchin (D)	Fairmont	Attorney	76 th - 82 nd
Fifty-first	Barbara Evans Fleischauer (D)	Morgantown	Attorney/Small Business Owner	72 nd - 75 th ; 78 th - 82 nd
	Cindy Frich (R)	Morgantown	Sales/Writer/Consultant	76 th - 77 th ; 81 st - 82 nd
	Brian Kurcaba (R)	Morgantown	Financial Advisor	82 nd
	William Flanigan (R)	Morgantown	Attorney	Appt. 1/15/2016, 82 nd
	Joe Statler (R)	Core	Retired	82 nd

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Occupation or Profession	Legislative Service
Fifty-second.	Steven Shaffer (D)	Tunnelton	Attorney	Appt. 4/29/2015, 82 nd
Fifty-third.	Randy E. Smith (R)	Terra Alta	Coal Miner	81 st - 82 nd
Fifty-fourth.	Allen V. Evans (R)	Petersburg	Poultry Producer/Farmer	70 th - 82 nd
Fifty-fifth.	Isaac Sponaugle (D)	Franklin	Attorney	81 st - 82 nd
Fifty-sixth.	Gary G. Howell (R)	Keyser	Small Business Owner	80 th - 82 nd
Fifty-seventh.	Ruth Rowan (R)	Points	Retired Educator	77 th - 82 nd
Fifty-eighth.	Daryl E. Cowles (R)	Berkeley Springs	Businessman	78 th - 82 nd
Fifty-ninth.	Saira Blair (R)	Martinsburg	Student	82 nd
Sixtieth.	Larry W. Faircloth (R)	Inwood	Small Business Consulting	81 st - 82 nd
Sixty-first.	Walter E. Duke (R)	Martinsburg	Retired Educator	76 th - 80 th ; 82 nd
Sixty-second.	John Overington (R)	Martinsburg	Public Relations/ Former Educator	67 th - 82 nd
Sixty-third.	Michael "Mike" Folk (R)	Martinsburg	Airline Pilot/Farmer	81 st - 82 nd
Sixty-fourth.	Eric L. Householder (R)	Martinsburg	Small Business Owner	80 th - 82 nd
Sixty-fifth.	Jill Upson (R)	Charles Town	Former Retail Manager/ Student	82 nd
Sixty-sixth.	Paul Espinosa (R)	Charles Town	General Manager, Telecommunications	81 st - 82 nd
Sixty-seventh.	Stephen Skinner (D)	Shepherdstown	Attorney	81 st - 82 nd

MEMBERS OF THE SENATE

REGULAR SESSION, 2016

OFFICERS

President – William P. Cole, III, Bluefield

Clerk – Clark S. Barnes, French Creek

Sergeant-at-Arms – Howard L. Wellman, Bluefield

Doorkeeper – Jeffrey L. Branham, Cross Lanes

District	Name	Address	Occupation or Profession	Legislative Service
First.	Ryan Ferns (R)	Wheeling.	Physical Therapist.	82 nd
	Jack Yost (D)	Wellsburg.	Retired.	(House 76 th - 78 th); 79 th - 82 nd
Second.	Jeffrey V. Kessler (D)	Glen Dale.	Attorney.	Appt. 11/1997, 73 rd ; 74 th - 82 nd
	Kent Leonhardt (R)	Fairview.	Retired USMC/farmer.	82 nd
Third.	Bob Ashley (R)	Spencer.	Insurance Agent.	67 th - 73 rd , (House 75 th - 82 nd) Appt. 9/15/2016; 82 nd
	Donna J. Boley (R)	St. Marys.	Retired.	Appt. 5/14/1985, 67 th ; 68 th - 82 nd
Fourth.	Mitch B. Carmichael (R)	Ripley.	Director of Commercial Sales.	(House 75 th - 80 th); 82 nd
	Mike Hall (R)	Winfield.	Businessman.	(House 72 nd - 74 th); 78 th - 82 nd
Fifth.	Robert H. Plymale (D)	Ceredo.	Businessman.	71 st - 82 nd
	Mike Woelfel (D)	Huntington.	Attorney.	82 nd
Sixth.	William P. Cole III (R)	Bluefield.	Automobile Dealer.	(House Appt. 5/28/2010, 79 th); 82 nd
	Mark R. Maynard (R)	Genoa.	Automobile Dealer.	82 nd
Seventh.	Art Kirkendoll (D)	Chapmanville.	Self Employed.	Appt 11/14/2011, 80 th ; 82 nd
	Ron Stollings (D)	Madison.	Physician.	78 th - 82 nd
Eighth.	Ed Gaunch (R)	Charleston.	Retired.	82 nd
	Chris Walters (R)	Nitro.	Insurance.	81 st - 82 nd
Ninth.	Sue Cline (R)	Brenton.	Real Estate Agent.	Appt. 1/22/2016, 82 nd
	Jeff Mullins (R)	Shady Spring.	Insurance.	82 nd
Tenth.	William Laird IV (D)	Oak Hill.	Retired/Self-Employed.	(House 73 rd - 75 th); 79 th - 82 nd
	Ronald F. Miller (D)	Lewisburg.	Self-Employed.	80 th - 82 nd

MEMBERS OF THE SENATE - Continued

District	Name	Address	Occupation or Profession	Legislative Service
Eleventh.	Greg Boso (R).	Summersville.	Civil Engineer.	Appt. 1/16/2015, 82 nd
	Robert L. Karnes (R).	Tallmansville.	Information and Technology Field Services.	82 nd
Twelfth.	Douglas Facemire (D).	Sutton.	Grocery Chain Owner.	79 th - 82 nd
	Mike Romano (D).	Clarksburg.	Attorney/CPA.	82 nd
Thirteenth.	Robert D. Beach (D).	Morgantown.	Executive Director of College Foundation.	(House, Appt. 5/1998, 73 rd ; 74 th - 79 th); 80 th - 82 nd
	Roman W. Prezioso, Jr. (D).	Fairmont.	Administrator.	(House 69 th - 72 nd); 73 rd - 82 nd
Fourteenth.	Dave Sypolt (R).	Kingwood.	Professional Land Surveyor.	78 th - 82 nd
	Bob Williams (D).	Grafton.	Real Estate Appraiser.	79 th - 82 nd
Fifteenth.	Craig P. Blair (R).	Martinsburg.	Small Business Owner/President.	(House 76 th - 79 th); 82 nd
	Charles S. Trump IV (R).	Berkeley Springs.	Attorney.	House 71 st - 78 th ; 81 st - 82 nd
Sixteenth.	Herb Snyder (D).	Shenandoah Junction.	Director, Environmental Chemistry.	73 rd - 76 th ; 79 th - 82 nd
	John R. Unger II (D).	Martinsburg.	Pastor.	74 th - 82 nd
Seventeenth.	Corey Palumbo (D).	Charleston.	Attorney.	(House 76 th - 78 th); 79 th - 82 nd
	Tom Takubo (R).	Charleston.	Physician.	82 nd

HOUSE OF DELEGATES COMMITTEES

COMMITTEES OF THE HOUSE OF DELEGATES
Regular Session, 2016

STANDING

AGRICULTURE AND NATURAL RESOURCES

A. Evans (*Chair of Agriculture*), Romine (*Vice Chair of Agriculture*), Hamilton (*Chair of Natural Resources*), Ambler (*Vice Chair of Natural Resources*), Anderson, Atkinson, Border, Cadle, Canterbury, Cooper, Folk, Ireland, Miller, R. Smith, Summers, Wagner, Blackwell, Eldridge (*Minority Chair of Agriculture*), Sponaugle (*Minority Vice Chair of Agriculture*), Lynch (*Minority Chair of Natural Resources*), Guthrie (*Minority Vice Chair of Natural Resources*), Campbell, Rodighiero, Shaffer and P. White.

BANKING AND INSURANCE

Walters (*Chair of Banking*), Frich (*Vice Chair of Banking*), McCuskey (*Chair of Insurance*), Westfall (*Vice Chair of Insurance*), Azinger, Deem, Flanigan, Hamrick, Kurcaba, McGeehan, E. Nelson, O'Neal, Shott, Upson, Waxman, B. White, Moore (*Minority Chair of Banking*), Morgan (*Minority Vice Chair of Banking*), Skinner (*Minority Chair of Insurance*), Bates (*Minority Vice Chair of Insurance*), Hicks, Manchin, Perdue, Perry and Rowe.

EDUCATION

Espinosa (*Chair*), Duke (*Vice Chair*), Ambler, Cooper, Ellington, D. Evans, Hamrick, Kelly, Kurcaba, Rohrbach, Romine, Rowan, Statler, Upson, Wagner, Westfall, Perry (*Minority Chair*), Moye (*Minority Vice Chair*), Blackwell, Campbell, Hicks, Hornbuckle, Perdue, Rodighiero and Trecost.

HOUSE OF DELEGATES COMMITTEES

ENERGY

Ireland (*Chair*), R. Smith, (*Vice Chair*), Ambler, Anderson, Border, Cadle, Canterbury, D. Evans, Kessinger, McCuskey, J. Nelson, Romine, Statler, Storch, Upson, Zatezalo, Caputo (*Minority Chair*), Pethtel (*Minority Vice Chair*), Boggs, Eldridge, Lynch, Miley, Phillips, Reynolds and P. White.

FINANCE

E. Nelson (*Chair*), Householder (*Vice Chair*), Anderson, Butler, Canterbury, Espinosa, A. Evans, Frich, Gearheart, Hamilton, Miller, O'Neal, Storch, Walters, Waxman, Westfall, Boggs (*Minority Chair*), Guthrie (*Minority Vice Chair*), Bates, Reynolds, Longstreth, Moye, Perry, Pethtel and P. Smith.

GOVERNMENT ORGANIZATION

Howell (*Chair*), Arvon (*Vice Chair*), Atkinson, Blair, Border, Cadle, Faircloth, Flanigan, Hamrick, Hill, Ihle, McGeehan, Moffatt, J. Nelson, R. Smith, Stansbury, Morgan (*Minority Chair*), Ferro (*Minority Vice Chair*), Caputo, Eldridge, Hartman, Lynch, Pushkin, Sponaugle and P. White.

HEALTH AND HUMAN RESOURCES

Ellington (*Chair*), Summers (*Vice Chair*), Arvon, Atkinson, Cooper, Faircloth, Hill, Householder, Kurcaba, Lane, Rohrbach, Sobonya, Stansbury, Waxman, Westfall, B. White, Fleischauer (*Minority Chair*), Campbell (*Minority Vice Chair*), Bates, Fluharty, Longstreth, Moore, Perdue, Pushkin and Rodighiero.

HOUSE OF DELEGATES COMMITTEES

INDUSTRY AND LABOR

Overington (*Chair*), Sobonya (*Vice Chair*), Azinger, Blair, Cowles, Ellington, Fast, Householder, Ihle, Kurcaba, McCuskey, J. Nelson, Shott, R. Smith, Statler, B. White, Ferro (*Minority Chair*), Fluharty (*Minority Vice Chair*), Byrd, Caputo, Hicks, Manchin, Pushkin, Reynolds and Rowe.

INTERSTATE COOPERATION

Storch (*Chair*), Faircloth (*Vice Chair*), Ellington, Hamrick, Romine, Ferro and P. Smith.

JUDICIARY

Shott (*Chair*), Lane (*Vice Chair*), Azinger, Deem, Fast, Folk, Foster, Hanshaw, Ireland, Kessinger, McCuskey, Overington, Sobonya, Summers, Weld, Zatezalo, Manchin (*Minority Chair*), Skinner (*Minority Vice Chair*), Byrd, Fleischauer, Fluharty, Marcum, Moore, Rowe and Shaffer.

PENSIONS AND RETIREMENT

Canterbury (*Chair*), Folk (*Vice Chair*), Hamilton, Kurcaba, Walters, Marcum and Pethtel.

POLITICAL SUBDIVISIONS

Storch (*Chair*), Butler (*Vice Chair*), Anderson, Cowles, Duke, Folk, Gearheart, Hanshaw, Householder, Ihle, Lane, Moffatt, O'Neal, Sobonya, Stansbury, Weld, Moye (*Minority Chair*), Trecoast (*Minority Vice Chair*), Boggs, Byrd, Hartman, Hornbuckle, Manchin, Morgan and Perry.

HOUSE OF DELEGATES COMMITTEES

ROADS AND TRANSPORTATION

Gearheart (*Chair*), Hamrick (*Vice Chair*), Ambler, Arvon, Butler, Cadle, Espinosa, A. Evans, D. Evans, Fast, Foster, Howell, Moffatt, Rohrbach, Statler, Wagner, Trecost (*Minority Chair*), Guthrie (*Minority Vice Chair*), Blackwell, Boggs, Longstreth, Moye, Reynolds, P. Smith and Sponaugle.

RULES

Armstead (*Chair*), Anderson, Cowles, Espinosa, Howell, Ireland, Lane, Miller, E. Nelson, O'Neal, Overington, Shott, Sobonya, Boggs, Campbell, Caputo, Fleischauer, Guthrie, Manchin and Miley.

PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Ellington (*Chair*), Stansbury (*Vice Chair*), Frich, Hanshaw, Sobonya, Storch, Upson, Bates, Boggs, Perdue and Shaffer.

SENIOR CITIZEN ISSUES

Rowan (*Chair*), Border (*Vice Chair*), Canterbury, Deem, Duke, Faircloth, Hamilton, Hill, Kelly, E. Nelson, Overington, Rohrbach, Romine, Walters, B. White, Zatezalo, Moye (*Minority Chair*), Pethel (*Minority Vice Chair*), Campbell, Ferro, Hartman, Moore, Perry, Phillips and Shaffer.

HOUSE OF DELEGATES COMMITTEES

**SMALL BUSINESS, ENTREPRENEURSHIP AND
ECONOMIC DEVELOPMENT**

Miller (*Chair*), Hill (*Vice Chair*), Blair, Ellington, Espinosa, Faircloth, Flanigan, Hanshaw, Kelly, Kessinger, Lane, Stansbury, Storch, Waxman, Westfall, Zatezalo, Skinner (*Minority Chair*), Rowe (*Minority Vice Chair*), Bates, Hartman, Hornbuckle, Manchin, Miley, Morgan and P. White.

VETERANS' AFFAIRS AND HOMELAND SECURITY

J. Nelson (*Chair of Veterans' Affairs*), Cooper (*Vice Chair of Veterans' Affairs*), D. Evans (*Chair of Homeland Security*), McGeehan (*Vice Chair of Homeland Security*), Arvon, Atkinson, Foster, Frich, Howell, Ireland, Kelly, Kessinger, Rowan, Upson, Wagner, Weld, Longstreth (*Minority Chair of Veterans' Affairs*), Hornbuckle (*Minority Vice Chair of Veterans' Affairs*), P. Smith (*Minority Chair of Homeland Security*), Pushkin (*Minority Vice Chair of Homeland Security*), Byrd, Ferro, Fleischauer, Lynch and Trecost.

ENROLLED BILLS

McCuskey (*Chair*), Westfall (*Vice Chair*), Hanshaw, Marcum and Sponaule.

SENATE COMMITTEES

COMMITTEES OF THE SENATE
Regular Session, 2016

STANDING

AGRICULTURE AND RURAL DEVELOPMENT

Senators Karnes (*Chair*), Leonhardt (*Vice Chair*), Blair, Cline, Maynard, Sypolt, Beach, Laird, Miller, Williams and Woelfel.

BANKING AND INSURANCE

Senators Gaunch (*Chair*), Ashley (*Vice Chair*), Cline, Ferns, Hall, Mullins, Trump, Facemire, Palumbo, Prezioso, Romano, Snyder and Woelfel.

CONFIRMATIONS

Senators Boley (*Chair*), Ashley, Boso, Mullins, Takubo, Kessler, Miller, Palumbo and Plymale.

ECONOMIC DEVELOPMENT

Senators Takubo (*Chair*), Ferns (*Vice Chair*), Ashley, Blair, Cline, Maynard, Mullins, Walters, Kessler, Plymale, Romano, Stollings, Woelfel and Yost.

EDUCATION

Senators Sypolt (*Chair*), Boley (*Vice Chair*), Carmichael, Cline, Hall, Karnes, Takubo, Trump, Beach, Laird, Plymale, Romano, Stollings and Unger.

SENATE COMMITTEES

ENERGY, INDUSTRY AND MINING

Senators Boso (*Chair*), Blair (*Vice Chair*), Boley, Gaunch, Maynard, Mullins, Sypolt, Facemire, Kirkendoll, Snyder, Williams, Woelfel and Yost.

ENROLLED BILLS

Senators Maynard (*Chair*), Gaunch (*Vice Chair*), Boso, Miller and Unger.

FINANCE

Senators Hall (*Chair*), Walters (*Vice Chair*), Blair, Boley, Boso, Carmichael, Mullins, Sypolt, Takubo, Facemire, Kessler, Laird, Plymale, Prezioso, Stollings, Unger and Yost.

GOVERNMENT ORGANIZATION

Senators Blair (*Chair*), Walters (*Vice Chair*), Boso, Ferns, Gaunch, Leonhardt, Maynard, Mullins, Facemire, Miller, Palumbo, Snyder, Williams and Yost.

HEALTH AND HUMAN RESOURCES

Senators Ferns (*Chair*), Takubo (*Vice Chair*), Ashley, Karnes, Leonhardt, Trump, Walters, Laird, Palumbo, Plymale, Prezioso, Stollings and Unger.

INTERSTATE COOPERATION

Senators Gaunch (*Chair*), Karnes (*Vice Chair*), Boso, Maynard, Kirkendoll, Palumbo and Unger.

SENATE COMMITTEES

JUDICIARY

Senators Trump (*Chair*), Ferns (*Vice Chair*), Ashley, Carmichael, Cline, Gaunch, Karnes, Leonhardt, Maynard, Beach, Kirkendoll, Miller, Palumbo, Romano, Snyder, Williams and Woelfel.

LABOR

Senators Ferns (*Chair*), Trump (*Vice Chair*), Blair, Gaunch, Karnes, Maynard, Laird, Prezioso, Stollings, Williams and Yost.

MILITARY

Senators Leonhardt (*Chair*), Boley (*Vice Chair*), Ashley, Sypolt, Walters, Facemire, Laird, Romano and Yost.

NATURAL RESOURCES

Senators Karnes (*Chair*), Maynard (*Vice Chair*), Ashley, Boso, Hall, Leonhardt, Takubo, Beach, Facemire, Laird, Miller, Snyder and Williams.

PENSIONS

Senators Gaunch (*Chair*), Trump (*Vice Chair*), Hall, Mullins, Kirkendoll, Plymale and Unger.

RULES

Senators Cole (*Chair*), Blair, Carmichael, Hall, Sypolt, Trump, Kessler, Plymale, Prezioso, Stollings and Williams.

SENATE COMMITTEES

TRANSPORTATION AND INFRASTRUCTURE

Senators Walters (*Chair*), Leonhardt (*Vice Chair*), Boley, Gaunch, Mullins, Beach, Kirkendoll, Plymale and Woelfel.

**SCHEDULE SHOWING LEGISLATIVE DAYS
AND CALENDAR DAYS
AND PAGES OF JOURNAL COVERING SAME**

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28 th Day.	Tuesday.	February 9.	539
29 th Day.	Wednesday.	February 10.	575
30 th Day.	Thursday.	February 11.	609
31 st Day.	Friday.	February 12.	655
34 th Day.	Monday.	February 15.	721
35 th Day.	Tuesday.	February 16.	747
36 th Day.	Wednesday.	February 17.	795
37 th Day.	Thursday.	February 18.	841
38 th Day.	Friday.	February 19.	1011
39 th Day.	Saturday.	February 20.	1063
41 st Day.	Monday.	February 22.	1101
42 nd Day.	Tuesday.	February 23.	1173
43 rd Day.	Wednesday.	February 24.	1225
44 th Day.	Thursday.	February 25.	1329
45 th Day.	Friday.	February 26.	1389
46 th Day.	Saturday.	February 27.	1437
48 th Day.	Monday.	February 29.	1485
49 th Day.	Tuesday.	March 1.	1609
50 th Day.	Wednesday.	March 2.	1681

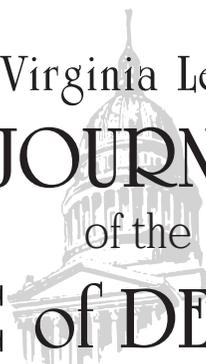
51 st Day.	Thursday.	March 3.	1719
52 nd Day.	Friday.	March 4.	1781
53 rd Day.	Saturday.	March 5.	1841
55 th Day.	Monday.	March 7.	1879
56 th Day.	Tuesday.	March 8.	1955
57 th Day.	Wednesday.	March 9.	2091
58 th Day.	Thursday.	March 10.	2183
59 th Day.	Friday.	March 11.	2793
60 th Day.	Saturday.	March 12.	3011
61 st Day.	Sunday.	March 13.	3681
62 nd Day.	Monday.	March 14.	3683
63 rd Day.	Tuesday.	March 15.	3687

FIRST EXTRAORDINARY SESSION

1 st Day.	Monday.	May 16.	3739
2 nd Day.	Tuesday.	May 17.	3747
3 rd Day.	Wednesday.	May 18.	3749
4 th Day.	Thursday.	May 19.	3751
5 th Day.	Friday.	May 20.	3755
6 th Day.	Monday.	May 23.	3757
7 th Day.	Tuesday.	May 24.	3763
8 th Day.	Wednesday.	May 25.	3771
9 th Day.	Thursday.	May 26.	3775
10 th Day.	Friday.	May 27.	4033
11 th Day.	Tuesday.	May 31.	4037
12 th Day.	Wednesday.	June 1.	4039
13 th Day.	Thursday.	June 2.	4049
14 th Day.	Saturday.	June 11.	4277
15 th Day.	Sunday.	June 12.	4289
16 th Day.	Monday.	June 13.	4295
17 th Day.	Tuesday.	June 14.	4535

SECOND EXTRAORDINARY SESSION

1 st Day.	Sunday.	September 18.	4579
2 nd Day.	Monday.	September 19.	4589
3 rd Day.	Tuesday.	September 20.	Senate only



West Virginia Legislature
JOURNAL
of the
HOUSE of DELEGATES

Eighty-Second Legislature
Second Regular Session

Charleston, Wednesday, January 13, 2016

This being the day fixed by Section 18, Article VI of the Constitution of the State of West Virginia for the annual assembly of the Legislature, the members of the House of Delegates met in their Chamber in the Capitol Building in the City of Charleston, and at 12 o'clock meridian were called to order for the Second Regular Session of the Eighty-Second Legislature by the Speaker, the Honorable Tim Armstead.

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

**Messages from the Executive
and other Communications**

Various communications were laid before the House of Delegates, which were read by the Clerk as follows:

House of Delegates
West Virginia Legislature
Building 1, Room 258-M
1900 Kanawha Blvd., East
Charleston, WV 25305

April 13, 2015

The Honorable Tim Armstead, Speaker
West Virginia House of Delegates
Building 1, Room 234-M
Charleston, West Virginia 25305

Dear Mr. Speaker:

I am resigning as a member of the West Virginia House of Delegates, effective midnight, April 15, 2015. I am so grateful and honored to have had the opportunity to serve the citizens of Preston County for these past twenty-one years.

It has been a wonderful experience and I will always cherish the House of Delegates and the many friendships that I made while serving here.

As a farmer, I'd like to leave members with one parting thought, when you sow compromise and bi-partisanship you grow a better state, when you sow partisanship and political gamesmanship, you grow disdain for our democracy. It is my sincere hope that the House of Delegates continues its long tradition of working together for the benefit of the citizens of this great state.

Sincerely,

Larry A. Williams,
52nd District

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 29, 2015

The Honorable Natalie Tennant
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Tennant:

Pursuant to W. Va. Code §3-10-5, I have this day appointed Steven Shaffer, 411 Bonafield Street, Tunnelton, Preston County, West Virginia 26444, as a delegate representing the 52nd Delegate District, to fill the vacancy created by the resignation of the Honorable Larry Williams from this day through the remainder of the unexpired term of said office.

Sincerely,

Earl Ray Tomblin,
Governor.

The Clerk announced that Delegate Shaffer had taken and subscribed to the several oaths of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on May 5, 2015.

House of Delegates
West Virginia Legislature
Building 1, Room 472-M
1900 Kanawha Blvd., East
Charleston, WV 25305

September 15, 2015

The Honorable Tim Armstead, Speaker
West Virginia House of Delegates
State Capitol
Charleston, West Virginia 25305

Dear Mr. Speaker:

Effective at 2:30 p.m. on this date, I hereby submit my resignation as a member of the House of Delegates from the Eleventh Delegate District representing Roane and Jackson counties.

I have enjoyed serving with you and want to thank you for all of the courtesies extended to me during the past year. I look forward to continuing to work with you in my capacity as a State Senator and wish you and all the members and staff of the House of Delegates the very best of luck in the future.

Respectfully yours,

Robert G. "Bob" Ashley

State of West Virginia
Office of the Governor
1900 Kanawha Boulevard, East
Charleston, WV 25305

October 2, 2015

The Honorable Natalie Tennant
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Tennant:

Pursuant to W. Va. Code §3-10-5, I have this day appointed Martin “Rick” Atkinson, III, 4250 Ripley Road, Reedy, Roane County, West Virginia 25270, as a Delegate representing the Eleventh District of the House of Delegates, to fill the vacancy created by the resignation of the Honorable Bob Ashley.

Sincerely yours,

Earl Ray Tomblin,
Governor.

The Clerk announced that Delegate Atkinson had taken and subscribed to the several oaths of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on October 6, 2015.

Harry Keith White
Post Office Box 1985
Gilbert, WV 25621

January 4, 2016

Speaker Tim Armstead and Steve Harrison, Clerk
West Virginia House of Delegates
1900 Kanawha Boulevard East
Charleston, West Virginia 25305

Dear Clerk Harrison and Speaker Tim Armstead:

I am tendering my resignation to the House of Delegates effective midnight tonight January 4, 2016. My reason for resigning is so that I may dedicate more of my professional and personal time towards economic development efforts for southern West Virginia. I am working with others in an effort to recruit projects to Mingo County and southern West Virginia. If our efforts bear fruit they will help our local economy begin to rebound.

Being a member of the West Virginia House of Delegates has been an honor for me. During the last twenty years plus we have seen many changes and improvements in our state. I have been proud to be part of the legislative process.

As always if you need to get with me please feel free to contact me at my office at the Bank of Mingo or at home.

Sincerely yours,

Harry Keith White

State of West Virginia
Office of the Governor
1900 Kanawha Boulevard, East
Charleston, WV 25305

January 12, 2016

The Honorable Natalie Tennant
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Tennant:

Pursuant to W. Va. Code §3-10-5, I have this day appointed Phyllis M. White, Box 1985, Gilbert, Mingo County, West Virginia 25621, as a Delegate representing the Twenty-First District of the House of Delegates, to fill the vacancy created by the resignation of the Honorable Harry Keith White.

Sincerely yours,

Earl Ray Tomblin,
Governor.

The Clerk announced that Delegate P. White had taken and subscribed to the several oaths of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on January 13, 2016.

House of Delegates
West Virginia Legislature
Building 1, Room 4R
1900 Kanawha Blvd.
Charleston, WV 25305

December 21, 2015

The Honorable Tim R. Armstead, Speaker
West Virginia House of Delegates
Room 228-M, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Mr. Speaker,

I am resigning from the House of Delegates effective December 31, 2015.

Sincerely yours,

Linda Goode Phillips,
25th District

State of West Virginia
Office of the Governor
1900 Kanawha Boulevard, East
Charleston, WV 25305

January 12, 2016

The Honorable Natalie Tennant
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Tennant:

Pursuant to W. Va. Code §3-10-5, I have this day appointed Frank L. Blackwell, 1801 Moran Avenue, Mullens, Wyoming County, West Virginia 25582, as a Delegate representing the Twenty-fifth District of the House of Delegates, to fill the vacancy created by the resignation of the Honorable Linda Goode Phillips.

Sincerely yours,

Earl Ray Tomblin,
Governor.

The Clerk announced that Delegate Blackwell had taken and subscribed to the several oaths of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on January 13, 2016.

House of Delegates
West Virginia Legislature
1900 Kanawha Blvd.
Charleston, WV 25305

January 5, 2016

The Honorable Stephen Harrison
Clerk of the West Virginia House of Delegates
Office of the Clerk
West Virginia House of Delegates
West Virginia Capitol
Charleston, WV 25305

Dear Mr. Clerk:

Please allow this letter to serve as my official resignation notice of the West Virginia House of Delegates serving the 51st District. Please accept my resignation effective immediately.

Thank you for your kindness and service to the members of the House. It was a pleasure to serve with you. I wish you all the best going forward.

Sincerely yours,

Amanda Pasdon

The foregoing communications were received and were filed in the Clerk's Office.

The roll was then called (**Roll No. 1**), and 97 Delegates having answered to their names, the Speaker declared the presence of a quorum.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had assembled for the Second Regular Session of the 82nd Legislature, as provided by Section 18, Article VI of the Constitution of the State, with a quorum present, and was ready to proceed to the business of the session.

Whereupon,

The Speaker appointed as members of such committee the following:

Delegates Stansbury, R. Smith and Boggs.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to join with a similar committee of the Senate to inform His Excellency, the Governor, that the Legislature had assembled in Regular Session as provided by Section 18, Article VI of the Constitution of the State, with a quorum of each house present, was ready to enter into the business of the session and to convey to him that it would be pleased to receive any communication he may desire to present.

Whereupon,

The Speaker appointed as members of such committee the following:

Delegates Border, Duke and Hartman.

At the request of Delegate Cowles, and by unanimous consent, the applicable provisions of House Rule 136, relating to privileges of the floor, were suspended for the remainder of the day to permit families of members and invited guests the privileges of the floor for the remainder of the day's proceedings.

Messages from the Senate

A message from the Senate, by

Senators Blair, Ferns and Plymale announced that the Senate had assembled for the Second Regular Session of the 82nd Legislature, with a quorum present, and was ready to proceed to the business of the session.

Subsequently,

Delegate Border, from the Committee to inform His Excellency, the Governor, that the Legislature had assembled for the Second Regular Session of the 82nd Legislature, reported that the Committee had completed its assigned task.

Delegate Stansbury, from the Committee to notify the Senate that the House of Delegates had assembled and was ready to proceed to the business of the session, reported the performance of that duty.

Resolutions Introduced

Delegate Cowles announced the reintroduction and references to the various standing committees of the following House Joint Resolutions from the First Regular Session of the 82nd Legislature:

House Joint Resolutions 2, 3, 4, 5, 8, 9, 10, 12, 13, 14, 16, 18, 20, 21, 22, 23, 24, 25 and 26.

Mr. Speaker, Mr. Armstead, offered the following resolution, which was read by the Clerk as follows:

H. C. R. 1 - "Extending an invitation to His Excellency, the Governor, to deliver an address to the Legislature and raising a Joint Assembly therefor."

Whereas, His Excellency, the Governor, has advised that he will be pleased to address a Joint Assembly of the Senate and House of Delegates at the convenience of the two houses; therefore, be it

Resolved by the Legislature of West Virginia:

That His Excellency, the Governor, be hereby invited to address a Joint Assembly of the Legislature at 7:00 o'clock postmeridian this day; and, be it

Further Resolved, That the President of the Senate and the Speaker of the House of Delegates appoint three members of each of the respective houses of the Legislature as a committee to wait upon His Excellency, the Governor, and escort him into the Hall of the House of Delegates at the time herein appointed for hearing the address.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. C. R. 1) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Whereupon,

In accordance with the provisions of the resolution, the Speaker appointed as members of the Committee to Wait upon His Excellency, the Governor, the following:

Delegates Ireland, Kessinger and Perdue.

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

Mr. Speaker, Mr. Armstead, offered the following resolution, which was read by the Clerk as follows:

H. R. 1 - “Authorizing the appointment of employees for this, the Second Regular Session of the Eighty-second Legislature, two thousand sixteen.”

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby, authorized to appoint employees to perform technical, clerical, stenographic, custodial and other services for this session of the Legislature to receive the per diems and salaries as herein provided, as follows:

(1) For per diem employees, the following rates:

Thirteen Legislative Assistants at \$65.00 - \$125.00

Three Committee Clerks at \$75.00 - \$135.00

Four Committee Assistant Clerks at \$65.00 - \$115.00

Four Messengers at \$65.00 - \$105.00

Seven Attorneys at \$175.00 - \$360.00

One Doorkeeper at \$150.00

Six Assistant Doorkeepers at \$80.00

One Sergeant at Arms at \$150.00

Two Assistant Sergeants at Arms at \$80.00

One Head Page at \$85.00

One Assistant Page at \$75.00

Two Maintenance Assistants at \$65.00

One Clerk Assistant at \$150.00

One Office Assistant to the Clerk's Office at \$85.00

One Administrative Assistant to the Clerk's Office at \$153.00

(2) For salaried full-time employees, the following employees at the following rates, in addition to and exclusive of any experience increment or pay in lieu of an experience increment as may be payable under Section 2, Article 5, Chapter 5 of the Code of West Virginia of 1931, as amended:

One Chief Clerk at seven thousand four hundred sixteen dollars and sixty-seven cents per month;

One Assistant Clerk/Parliamentarian at five thousand dollars per month;

One Bill Status Clerk at three thousand three hundred ninety-three dollars and twenty-two cents per month;

One Journal Clerk at three thousand three hundred thirty-four dollars and thirty-three cents per month;

One Documents Clerk at three thousand five hundred eighty-three dollars and sixty-seven cents per month;

One Administrative Assistant to the Clerk's Office at Two Thousand nine hundred seventy-eight dollars and forty-two cents per month;

One Fiscal Officer at three thousand five hundred eighty-three dollars and thirty-three cents per month;

One Assistant Fiscal Officer at two thousand nine hundred sixty-six dollars and sixty-seven cents per month;

One Purchasing Agent at three thousand four hundred seventy-eight dollars and forty-two cents per month;

One Mail Clerk at two thousand four hundred fifty-eight dollars and thirty-three cents per month;

One Communications Director to the House at four thousand eight hundred thirty-three dollars and thirty-three cents per month;

One Policy Analyst to the Speaker at three thousand nine hundred sixteen dollars and sixty-seven cents per month;

One Policy Analyst to the Majority Whip Office at three thousand five hundred eighty-three dollars and thirty-three cents per month;

One Counsel/Chief of Staff to the Speaker at nine thousand five hundred eighty-three dollars and thirty-three cents per month;

One Assistant to the Speaker at six thousand six hundred sixty-six dollars and sixty-seven cents per month;

One Policy Analyst to the Majority Office at three thousand five hundred eighty-three dollars and thirty-three cents per month;

One Director of Supplies at three thousand four hundred fifty-eight dollars and thirty-three cents per month;

One Maintenance Staff at two thousand two dollars and twenty-nine cents per month;

One Maintenance Staff at two thousand nine hundred forty-two dollars and eighty-one cents per month;

One Maintenance Staff at one thousand nine hundred sixteen dollars and sixty-seven cents per month;

One Chief Counsel to the Committee on the Judiciary at seven thousand six hundred sixty-six dollars and sixty-seven cents per month;

One Counsel to the Committee on the Judiciary at six thousand nine hundred dollars per month;

One Legislative Analyst to the Committee on the Judiciary at three thousand eight hundred fifty dollars and twenty-four cents per month;

One Administrative Assistant to the Committee on the Judiciary at three thousand three hundred thirty-three dollars and thirty-three cents per month;

One Chief Counsel to the Committee on Education at seven thousand five hundred dollars per month;

One Legislative Assistant to the Committee on Education at three thousand three hundred twenty-two dollars and thirty-seven cents per month;

One Chief Counsel to the Committee on Finance at eight thousand two hundred eight dollars and thirty-three cents per month;

One Policy Analyst to the Committee on Finance at six thousand dollars per month;

One Budget Analyst to the Committee on Finance at three thousand three hundred thirty-three dollars and thirty-three cents per month;

One Budget Analyst to the Committee on Finance at three thousand three hundred thirty-three dollars and thirty-three cents per month;

One Committee Clerk to the Committee on Finance at four thousand twenty-five dollars and forty-eight cents per month;

One Chief Counsel to the Committee on Government Organization at five thousand eight hundred thirty-three dollars per month;

One Administrative Assistant to the Committee on Government Organization at two thousand nine hundred sixteen dollars and sixty-seven cents per month;

One Legislative Analyst to the Committee on Government Organization at three thousand three hundred thirty-three dollars and thirty-three cents per month;

One Chief Counsel to the Committee on Health and Human Resources at six thousand four hundred sixteen dollars and sixty-seven cents per month;

One Legislative Analyst to the Committee on Health and Human Resources at three thousand five hundred forty-seven dollars and eleven cents per month;

One Administrative Assistant to the Committee on Health and Human Resources at two thousand nine hundred fifty-eight dollars and thirty-three cents per month;

One Chief Counsel to the Minor Committees at seven thousand five hundred forty-one dollars and sixty-seven cents per month;

One Analyst to the Minor Committees at three thousand eighty-three dollars and thirty-three cents per month;

One Analyst to the Minor Committees at two thousand nine hundred sixteen dollars and sixty-seven cents per month;

One Chief Counsel to the Energy Committee at six thousand dollars per month;

One Clerk to the Energy Committee at three thousand one hundred forty-three dollars and thirty-nine cents per month;

One Counsel to Minority Office at eight thousand five hundred dollars and thirty-three cents per month;

One Policy Analyst to the Minority Leader at three thousand six hundred sixty-nine dollars and thirty-three cents per month;

The Speaker is authorized to appoint or assign additional or present employees and to determine the rate of compensation therefor as he may deem necessary to expedite the work of the House of Delegates; and, be it

Further Resolved, That, in accordance with Chapter 4, Article 2A of the code, the Clerk of the House is hereby authorized to draw his requisitions upon the Auditor for travel expenses and compensation of members of the House of Delegates; and, be it

Further Resolved, That all appointments made under authority of the foregoing provisions of this resolution shall be certified to the Auditor and Treasurer by the Clerk of the House, and the Clerk of the House of Delegates is hereby authorized to draw his requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such requisitions when presented and charge same to the "per diem of officers and employees" fund or "contingent" fund of the House of Delegates. The Clerk shall draw his requisitions in favor of employees for consecutive days or months from the date of their employment at the per diem or salary herein set out until such time as their services shall cease. The Speaker may remove any employee and appoint another in his or her place, and he shall require each of said employees to perform such duties as shall be assigned him or her, and he is hereby given authority to dispense with the services of any

employee or employees for any such time or number of days as their services shall not be needed during the session, and they shall not be paid for such time, nor shall other persons be appointed into their places for any such time as they may be suspended when not needed; and, be it

Further Resolved, That the Speaker is hereby authorized to assign employees to such positions and duties as he may deem proper to secure the most efficient and expeditious work during the session of the Legislature; and, be it

Further Resolved, That no person appointed under authority of this resolution and receiving pay hereunder shall concurrently receive compensation from any other department or agency of state government and no person who availed himself or herself of early retirement under the provisions of Senate Bill 10, First Extraordinary Session, 1988, may be appointed under the provisions of this resolution. Notwithstanding designation of positions or duties herein prescribed, any employee may be assigned additional duties by the person by whom appointed, and may be assigned to such positions and duties, as may be deemed proper to serve the most efficient and expeditious work; and, be it

Further Resolved, That following the session, the Speaker is authorized until superceded by subsequent House Resolution, to remove or appoint any employee of the House, and establish such duties and compensation as is deemed appropriate for each employee; and, be it

Further Resolved, That any and all provisions of House Rule 9 in conflict with this resolution are hereby suspended.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 1) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Mr. Speaker, Mr. Armstead, offered the following resolution, which was read by the Clerk as follows:

H. R. 2 – “Authorizing printing and distribution of Acts of the Legislature and Journals of the House of Delegates.”

Resolved by the House of Delegates:

That under authority of section thirteen, article one, chapter four of the Code of West Virginia, the Clerk of the House of Delegates is hereby authorized to have printed not to exceed 150 copies of the Acts of the 2016 Regular Session of the Legislature, bound in buckram, and to include therein the Acts of any extraordinary session which may not have been printed.

The Clerk of the House of Delegates is also authorized to publish not to exceed 150 copies of the Journal of the House of Delegates for the Second Regular Session of the 82nd Legislature and to include therein the unpublished Journals of any extraordinary sessions. In addition, there shall be printed twelve official copies of any Journal published, properly bound and designated. A copy of the Journal and a copy of said Acts shall be furnished to each member of the Legislature, upon request of each such member. The Clerk shall retain sufficient copies of the buckram bound Acts to supply legislative offices and the remaining copies shall be retained by the Clerk, for sale by his department.

The Clerk of the House shall provide copies of said Acts for distribution as provided by section six, article eight, chapter fifty-one of the code insofar as such distribution is practicable.

Copies of the Acts of the Legislature or Journals of the House of Delegates may be provided in electronic format if requested or if demand exceeds the number of available printed volumes.

For the work required in indexing, printing and distributing said Acts and in the publication of said Journal of the House of Delegates and for completing other work of the session, the Speaker is hereby authorized to appoint such persons as he may deem necessary to perform technical, clerical, stenographic, custodial and other services required by the House of Delegates.

The Speaker shall certify a list of persons entitled to compensation under authority of this resolution to the Clerk of the House of Delegates, and the Clerk shall draw his requisition in favor of such persons at per diems or at monthly salaries, which shall be paid from the Per Diem of Officers and Employees Fund or the Contingent Fund of the House of Delegates.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 2) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Mr. Speaker, Mr. Armstead, offered the following resolution, which was read by the Clerk as follows:

H. R. 3 – “Creating a Select Committee on Drugs Abuse Prevention”.

Whereas, The State of West Virginia is currently experiencing an epidemic relating to the issue of substance abuse; and

Whereas, West Virginia has the highest rate of drug overdose deaths in the United States at more than double the national average; and

Whereas, Nearly 2,900 West Virginians have overdosed on prescription painkillers or heroin during the past five years; and

Whereas, Drug overdoses have become the leading cause of injury in West Virginia surpassing motor vehicle related injuries; therefore, be it

Resolved by the House of Delegates:

That for the remainder of the 82nd Legislature, there is hereby created a Select Committee on Prevention and Treatment of Substance Abuse, consisting of not more than eleven members of the House of Delegates, to be appointed by the Speaker. Notwithstanding the provisions of any House rule to the contrary, the Select Committee hereby created shall receive testimony, consider legislation, and recommend action to the Speaker of the House regarding all issues relating to and regarding the prevention and treatment of substance abuse in the State of West Virginia; and, be it

Further Resolved, That the rules of the House governing Standing Committees shall govern the actions and proceedings of this Select Committee insofar as applicable.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 3) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Bills Introduced

Delegate Cowles announced the reintroduction and references to the various standing committees of the following bills from the First Regular Session of the 82nd Legislature: House Bills 2009, 2017, 2018, 2020, 2024, 2026, 2028, 2029, 2030, 2031, 2032, 2038, 2039, 2040, 2041, 2042, 2043, 2048, 2049, 2050, 2052, 2054, 2057, 2058, 2059, 2061, 2062, 2063, 2064, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2080, 2081, 2082, 2096, 2101, 2102, 2104, 2109, 2110, 2111, 2112, 2113, 2119, 2120, 2121, 2122,

2123, 2127, 2129, 2130, 2135, 2136, 2137, 2144, 2147, 2150, 2151, 2154, 2163, 2164, 2165, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2178, 2180, 2183, 2184, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2202, 2203, 2204, 2205, 2206, 2214, 2222, 2223, 2225, 2230, 2235, 2238, 2241, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2256, 2257, 2258, 2259, 2261, 2262, 2264, 2265, 2267, 2269, 2270, 2271, 2275, 2366, 2369, 2371, 2373, 2374, 2375, 2378, 2379, 2380, 2383, 2384, 2389, 2390, 2393, 2394, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2410, 2412, 2414, 2415, 2417, 2418, 2419, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2433, 2435, 2436, 2437, 2439, 2440, 2444, 2446, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2458, 2459, 2460, 2463, 2464, 2465, 2466, 2468, 2470, 2472, 2473, 2474, 2475, 2476, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2490, 2494, 2498, 2499, 2501, 2508, 2510, 2511, 2512, 2514, 2517, 2518, 2519, 2520, 2522, 2528, 2529, 2530, 2531, 2532, 2548, 2551, 2552, 2553, 2554, 2555, 2556, 2560, 2561, 2569, 2570, 2572, 2573, 2577, 2578, 2579, 2580, 2582, 2584, 2585, 2588, 2590, 2594, 2597, 2599, 2600, 2602, 2604, 2605, 2609, 2611, 2615, 2617, 2618, 2619, 2620, 2622, 2624, 2628, 2630, 2633, 2634, 2635, 2638, 2639, 2642, 2643, 2646, 2647, 2649, 2653, 2654, 2656, 2659, 2660, 2661, 2665, 2668, 2671, 2672, 2675, 2677, 2679, 2682, 2683, 2687, 2689, 2693, 2694, 2695, 2696, 2697, 2699, 2703, 2704, 2707, 2709, 2711, 2713, 2715, 2718, 2721, 2724, 2725, 2730, 2731, 2739, 2747, 2749, 2750, 2756, 2774, 2775, 2777, 2781, 2785, 2787, 2788, 2791, 2794, 2795, 2796, 2799, 2800, 2801, 2802, 2803, 2804, 2807, 2808, 2809, 2812, 2813, 2818, 2819, 2820, 2821, 2823, 2825, 2826, 2832, 2834, 2838, 2839, 2841, 2842, 2843, 2845, 2847, 2848, 2849, 2852, 2855, 2856, 2859, 2862, 2864, 2865, 2866, 2868, 2869, 2870, 2873, 2890, 2891, 2897, 2899, 2900, 2901, 2903, 2904, 2905, 2906, 2911, 2912, 2913, 2917, 2918, 2919, 2920, 2921, 2924, 2925, 2928, 2930, 2936, 2937, 2938, 2940, 2942, 2951, 2952, 2953, 2954, 2955, 2956, 2959, 2960, 2961, 2963, 2966, 2967, 2969, 2970, 2971, 2972, 2975, 2977, 2978, 2979, 2981, 2984, 2986, 2987, 2988, 2989, 2993, 2994, 2996, 3000, 3001, 3002, 3004, 3005, 3007, 3010, 3012, 3013, 3015 and 3019.

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Upson, Mr. Speaker (Mr. Armstead), Hamilton, Hill, Kurcaba, Weld, McCuskey, Rohrbach, Stansbury, Storch and Zatezalo:

H. B. 4001 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15, relating to candidates or candidate committees for legislative office disclosing contributions received while the Legislature is in session; requiring timely disclosure of certain contributions from persons while the Legislature is in session; clarifying that the legislative session includes interim and special session; requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; defining terms; imposing the same reporting requirements upon former candidates or candidate committees for legislative office who are still in office; requiring the Secretary of State to create a form for disclosure; requiring the Secretary of State to publish information on the Secretary of State’s website; authorizing the Secretary of State to establish a means for electronic filing and disclosure in the alternative; and authorizing the Secretary of State to promulgate legislative and emergency rules”; to the Committee on the Judiciary.

By Delegates Howell, Anderson, Mr. Speaker (Mr. Armstead), Faircloth, Frich, Hanshaw, McCuskey, Rohrbach, Summers, Shott and Walters:

H. B. 4002 - “A Bill to amend and reenact §29A-3-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §29A-3A-2 of said code; and to amend and reenact §29A-3B-2 of said code, all relating to rule making under the state Administrative Procedures Act; providing for a sunset of rules five years after the effective date of this amendment and legislation approving rules and five years after the effective date of all new or modified rules”; to the Committee on the Judiciary.

By Delegates E. Nelson, Shott, Hanshaw, Ireland, R. Smith, Storch, Phillips, B. White, McCuskey, Waxman and Summers:

H. B. 4003 - “A Bill to amend and reenact §11-13V-4 of the Code of West Virginia, 1931, as amended, relating to expiring certain severance taxes that are dedicated to the Workers’ Compensation Debt Reduction Fund effective no later than February 1, 2016; and removing expired provisions”; to the Committee on Finance.

By Delegates Arvon, Blair, Border, Cooper, Fast, Frich, Ireland, Kessinger, Romine, Rowan and Sobonya:

H. B. 4004 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-31, relating to the creation of the ‘Unborn Child Protection from Dismemberment Abortion Act’; providing definitions; making it unlawful for any person to purposely perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child’s mother; hearing before West Virginia Board of Medicine; persons not liable for performing or attempting to perform a dismemberment abortion; who may seek injunctive relief; who may seek cause of action for civil damages against a person who has performed a dismemberment abortion; what damages may be awarded; requiring the court to rule whether the anonymity of any woman upon whom an abortion has been performed or attempted to be performed shall be preserved from public disclosure if she does not give her consent to such disclosure; declaring that section may not be construed as creating or recognizing a right to abortion, nor a right to a particular method of abortion; creating a felony offense for violations; and providing criminal penalties”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Householder, Cowles, Duke, Foster, Gearheart, Miller, Overington, Shott, Walters, Waxman and Westfall:

H. B. 4005 - “A Bill to repeal §21-5A-1, §21-5A-2, §21-5A-3, §21-5A-5, §21-5A-6, §215A-7, §21-5A-8, §21-5A-9, §21-5A-10,

§21-5A-11 and §21-5A-12 of the Code of West Virginia, 1931, as amended, all relating to repealing prevailing hourly rate of wages requirements by or on behalf of public authorities engaged in construction of public improvements”; to the Committee on Government Organization.

By Delegates Overington, Blair, Butler, Cowles, Gearheart, Hamrick, Householder, E. Nelson, Espinosa, Waxman and Zatezalo:

H. B. 4006 - “A Bill to amend and reenact §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6, §21-5G-7 and §21-5G-8, all relating to establishing the West Virginia Workplace Freedom Act; eliminating language allowing employment agreements to require membership in a labor organization as a condition of employment; prohibiting any requirement that a person become or remain a member of a labor organization as condition of employment; prohibiting any requirement that a person must pay dues or other fees to a labor organization as a condition of employment; prohibiting any requirement that a person contribute to a charity in lieu of paying dues or other fees to a labor organization; providing that certain agreements or practices between labor organizations and employers are unlawful; providing for criminal penalties; providing for administrative remedies; providing for civil relief, including damages, attorney’s fees and injunctive relief; providing exceptions; requiring prosecuting attorneys and the Attorney General to investigate complaints; defining terms; construction; applicability, and severability”; to the Committee on the Judiciary.

By Delegates Cowles, Rohrbach, Weld, Espinosa, Cooper, Butler, Waxman, Moffatt, Arvon, Hill and Anderson:

H. B. 4007 - “A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §53-3a, all relating generally

to appointment of attorneys to assist the Attorney General; establishing competitive bidding process for the use of private attorneys on a contingency fee basis by the Attorney General; requiring written determinations for the Attorney General's selection of private attorneys to represent the state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and the Attorney General; establishing supervision requirements for private lawyers representing the state on a contingency fee basis; requiring the posting of certain documents relating to the Attorney General's retention of private attorneys to represent the state on a contingency fee basis; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; updating and removing outdated provisions; and defining terms"; to the Committee on the Judiciary.

By Delegates Miller, Rohrbach, Summers, Sobonya, Espinosa, Cooper, Moffatt, Ambler, Waxman, Butler and Arvon:

H. B. 4008 - "A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §55-7-13e; and to amend and reenact §55-7B-5 of said code, all relating to the establishment of a wrongful conduct rule; providing legislative findings and purposes; prohibiting the recovery of damages that arise, in whole or in part, out of a plaintiff's commission or attempted commission of illegal or immoral acts or transactions; defining 'illegal or immoral act or transaction'; providing for the burden of proof for establishing the commission of illegal or immoral acts or transactions; requiring proximate cause for a bar on recovery; setting forth exceptions to wrongful conduct rule; providing for the applicability of the wrongful conduct rule to all civil actions for personal injury and wrongful death, including any and all claims brought against a health care provider under the Medical Professional Liability Act; applicability; and severability"; to the Committee on the Judiciary.

By Delegates Statler, Ambler, Cooper, Ellington, D. Evans, Moffatt, Romine, Storch, Wagner, Weld and Zatezalo:

H. B. 4009 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-26-1, §7-26-2, §7-26-3, §7-26-4, §7-26-5, §7-26-6, §7-26-7, §7-26-8, §7-26-9, §7-26-10, §7-26-11, §7-26-12, §7-26-13, §7-26-14, §7-26-15, §7-26-16, §7-26-17, §7-26-18, §7-26-19, §7-26-20, §7-26-21, §7-26-22, §7-26-23, §7-26-24, §7-26-25, §7-26-26, §7-26-27, §7-26-28, §7-26-29, §7-26-30, §7-26-31, §7-26-32, §7-26-33, §7-26-34, §7-26-35, §7-26-36, §7-26-37, §7-26-38, §7-26-39, §7-26-40, §7-26-41, §7-26-42, §7-26-43, §7-26-44 and §7-26-45, all relating generally to the role of county commissions and Commissioner of Highways in construction and financing of road and bridge projects in counties; providing a short title, legislative purpose and findings; defining terms; authorizing county commissions to develop road construction project plans; specifying process for development and approval of road construction project plans and plan amendments; allowing joint road construction project plans; requiring county commissions to submit road construction project plans and plan amendments approved by the voters to Commissioner of Highways for approval; specifying contents of application and approval process; creating a new account and subaccounts in State Road Fund; allowing road construction projects to be financed on cash basis or by special revenue bonds issued by the Commissioner of Highways; giving the Commissioner of Highways jurisdiction over all road construction projects accepted into state road system; specifying that road construction projects are public improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds and refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions, are negotiable instruments, and are exempt from taxation; specifying that persons executing bonds have no personal liability; providing that powers relating to road construction project plans, construction of projects and issuance of special revenue bonds

are additional powers; allowing county commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; requiring transactions and uses subject or exempt from county sales and use taxes to conform to state consumers sales and service tax and use tax requirements except that county tax may not apply to sales of motor vehicles, motor fuels or to purchases where local taxation is prohibited by federal law; requiring the Tax Commissioner to administer, collect and enforce county transportation sales and use tax and for that purpose, specifying a fee allowed for commissioner's services, making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act and to West Virginia Tax Crimes and Penalties Act; requiring that definitions, taxable transactions and exemptions from county transportation sales and use taxes automatically update when state consumers sales and service tax and use tax laws are amended; requiring county commissions to develop and maintain county rate and boundary databases; notifying tax of adoption of order imposing taxes or changing rate of tax and to provide commissioner with county rate and boundary database; specifying when collection of county transportation sales and use taxes begins; requiring that net collection of county transportation sales and use taxes be deposited in a subaccount of a county in a county road improvement account in the State Road Fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; and providing criminal penalties"; to the Committee on Roads and Transportation then Finance.

At 12:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 6:50 p.m.

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Evening Session

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Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 1, Extending an invitation to His Excellency, the Governor, to deliver an address to the Legislature and raising a Joint Assembly therefor.

JOINT ASSEMBLY

The Sergeant-at-Arms, the Honorable Marshall Clay, of the County of Fayette, announced the Honorable William P. Cole, III, President, and the members of the West Virginia Senate, who entered the Hall of the House of Delegates.

The Speaker invited the President to be seated to his right and the other members to be seated in the places reserved for them in the Well of the House.

The Sergeant-at-Arms announced the Board of Public Works, who were escorted to the seats reserved for them.

The Sergeant-at-Arms then announced the Honorable Menis Ketchum, II, Justice Brent Benjamin and Justice Allen Loughry, who entered the Hall of the House of Delegates and took the seats reserved for them.

The Speaker then recognized the Sergeant-at-Arms, who announced the special Committee to Wait upon His Excellency, the Governor, and escort him into the Chamber.

Delegate Ireland, from such Committee, announced that, pursuant to the invitation of the Legislature, His Excellency, the Governor, was present for the purpose of addressing the Joint Assembly.

The Sergeant-at-Arms then introduced the Governor.

The Committee then escorted His Excellency, the Governor, to the Clerk's Desk. (The Members rising)

The Speaker presented the Honorable Earl Ray Tomblin, who addressed the Joint Assembly as follows:

Address by the Governor

THE GOVERNOR. Mr. Speaker, Mr. President, members of the Board of Public Works, Justices of the Supreme Court of Appeals, members of the Legislature, distinguished guests, and my fellow West Virginians.

Five years ago, when I first addressed this chamber as Governor, I called on our state's Legislature to get to work and put West Virginia first.

Although many things have changed, including the makeup of this Legislature, our commitment to the people who call our beautiful state home has remained steadfast. Since 2011, we have created a number of new opportunities for future generations, and we have faced our fair share of challenging times.

Tonight, our state is at a crossroads, and I stand before you with a plan that preserves the best of our past while charting a bold new plan for our future.

Since 2011, we have welcomed more than 250 companies and \$10 billion in major investments, providing hardworking West Virginians with more 11,000 good-paying jobs.

We've worked hard to create a business climate that makes West Virginia a strong competitor for major economic development projects. And we're not just competing, we're seeing huge success. Nationally and internationally recognized companies like Macy's, Amazon, Quad Graphics and Toyota already know that West Virginia is a great place to do business.

And tonight, I'm proud to announce polymer additive company Addivant has reaffirmed its commitment to our state and plans to expand. (Applause)

After receiving FDA approval for a groundbreaking polymer to be used in food packaging, the company was on the hunt for a new location to expand its production facility. Major players from the Gulf Coast actively pursued Addivant, but our state's Development Office stepped up and showed company executives that West Virginia is the right place to invest.

This new expansion project not only saves nearly 100 jobs, but it brings at least \$12 million in new investments and additional opportunities for employment. Plastics manufacturing is just one of the downstream industries we are working to attract, and this expansion project is just the beginning of that growth. (Applause)

Addivant chose to stay in West Virginia because of our strong business climate and a highly trained experienced workforce that's ready to get to work.

These types of investments don't happen overnight. They're a result of the hard work and positive changes we've made over the years.

We overhauled workers' compensation, and companies operating here have saved more than \$323 million since the program was privatized in 2006. We've reformed medical malpractice and improved our legal climate. We've enacted gradual reductions in our business and consumer taxes, and since I took office, we've saved employers and West Virginians more than \$225 million. (Applause)

We rank higher than each of our neighboring states in this year's Business Tax Climate Index. Companies are noticing

these changes, and they are paying off in big ways in regions across the state.

This September, we joined officials from Procter & Gamble to celebrate the groundbreaking of the company's newest manufacturing plant – the first of its kind built in the United States since the 1970s.

Projects of this size and scope strengthen our economy, create new jobs and serve as an investment in both our state and our people. This factory – located in the Eastern Panhandle – will create 1,000 jobs during the initial construction phase. Once fully operational, it is projected to employ the company's fifth largest workforce in the country.

We've worked hard to bring these jobs to West Virginia for West Virginians, and now, they need filled.

That's why more than a year before production begins, P&G has partnered with BlueRidge Community and Technical College to create specialized training programs to meet workforce needs. These certificate and degree programs are preparing students for careers in engineering, computer science, and electronics and training students to become skilled chemical operator technicians.

BlueRidge President Dr. Peter Checkovich and his team are working hard to make sure our students can compete for these good-paying jobs. P&G construction manager Luis Gutierrez is already working with crews on the ground as part of the company's initial construction efforts. He and his family love calling West Virginia home.

Please join me in thanking Dr. Checkovich for his continued efforts and welcoming Luis and his family to West Virginia. (Applause)

In 2012, we launched a new workforce training program called Learn and Earn.

This program helps students receive classroom instruction and hands-on experience, while earning a competitive salary, and gives employers a cost-effective way to recruit and train new employees.

We know this program is incredibly successful, and companies like Gestamp – which manufactures auto parts for some of the world’s best known brands – are taking advantage of these training opportunities.

Since Gestamp first opened in 2013, the South Charleston plant has tripled production and more than doubled its total workforce. Today, Gestamp employs more than 700 West Virginians. These are real jobs, and the company is already seeing a real return-on-investment.

Through a partnership with BridgeValley Community and Technical College, students can get hands-on training and earn a one-year certificate, an associate’s degree and a journeyman’s card.

With us tonight are Paul Lezanic, Gestamp’s new plant manager, and Jamie Thompson, a Learn & Earn graduate who is already training 12 new students. Please join me in welcoming Paul to West Virginia and congratulating Jamie on his success. (Applause, the members rising in ovation)

These partnerships are essential to helping those investing here train the workforce they need to grow. Tonight, I’m introducing legislation to expand the Learn and Earn program statewide by redirecting nearly \$300,000 of the current budget to create new, valuable learning experiences for our students.

We know we must do more to improve our state’s workforce participation rate. I’m proud that today there are more job training programs in place than ever before.

With the help of more than \$40 million in federal grant funding, Workforce West Virginia is helping coal miners, their families and those who have exhausted their unemployment benefits find careers in growing industries. These programs help employers train workers their way at their worksites and provide up to \$5,000 in tuition assistance for classroom instruction and on-the-job training.

As we recognize these efforts to train our workforce, I ask you to remember those who call our state’s southern coalfields home.

As a son of these coalfields, I have dedicated my life and my years of public service to supporting our miners and their families. Despite the difficult times we find ourselves in, West Virginia remains the fourth largest producer of electricity in the country, and I believe our coal industry will continue to support our families well into the future.

However, we cannot ignore the unprecedented shift that has taken place in our state and our nation. Forces beyond our control have severely damaged our coal industry, and even the most optimistic among us realize it is unlikely coal will ever reach production levels of the past.

For generations, our miners unearthed the coal used to produce the low-cost energy that fueled this country's Industrial Revolution – one that remains unmatched anywhere in the world. This nation owes these West Virginians a debt of gratitude and we are ready to cash in on that substantial IOU. (Applause, the members rising in ovation)

This fall, we submitted an application to the National Disaster Resilience Competition seeking more than \$140 million in funding from the United States Department of Housing and Urban Development. This competition has the potential to help six counties in our southern coalfields adjust, adapt and advance their communities.

If we're successful, these federal funds will help us rebuild aging infrastructure, promote land use planning and hazard reduction efforts and stimulate housing and economic development in areas outside of the region's floodplains.

We are also proposing to develop the largest industrial site in West Virginia history at the former Hobet surface mine in Boone and Lincoln counties. (Applause, the members rising in ovation) With 12,000 acres located just off Corridor G, this site is large enough to fit virtually every major economic development project in recent history – including Toyota, Procter & Gamble, Gestamp, Macy's, Amazon and more – with thousands of acres left over.

We know this is a major undertaking, and with the help of local landowners Marshall University, West Virginia University and the Virginia Conservation Legacy Fund, we

are working together to find new uses for this site while mining activity continues.

Please join me in welcoming this outstanding team: interim Marshall University President Gary White, new Marshall University president Jerry Gilbert, WVU President E. Gordon Gee, and Tom Clarke and Ken McCoy of the Virginia Conservation Legacy Fund. (Applause, the members rising in ovation)

Tom and his team at VCLF also are helping us develop new and innovative ideas to include in the state's Clean Power Plan submission. While the DEP continues to work on a feasibility study, we anticipate our final plan may include ideas such as reforestation and the replacement of boilers to increase power plant efficiency.

Tom, thank you for your assistance on both of these important projects.

This is just the beginning of what we can do to help diversify the economy of not only this region, but our entire state.

When pursuing large-scale projects, our talented team at the Development Office consistently runs into one major obstacle – a lack of flat land. Redeveloped surface mine lands offer endless opportunities for residential, commercial and industrial development and in many cases all three.

As part of our federal grant application, we have identified at least five sites in each of Boone, Lincoln, Logan, Mingo, McDowell and Wyoming counties, which are all strong candidates for similar redevelopment efforts. (Applause)

Much like the country owes West Virginia for our contributions over the years, we – as West Virginians – owe the people who call this region home the opportunity to do better for themselves and their families.

For years, taxes on the coal mined from our southern coalfields and the timber taken from our mountain sides have paid for our children's schools, the roads our residents drive on and the services on which so many West Virginians rely.

It's time we reinvest in these communities and give these families every opportunity to make a good living in the places they have called home for generations. Tonight, I hope you will join me in making that commitment for the betterment of our state and our people. (Applause)

As hardworking West Virginians continue to mine the coal that powers our nation and drill for the natural gas that offers new opportunities for growth, we must guarantee these natural resources meet our needs here at home.

As the ninth largest producer of natural gas in the country, we must work with those operating here to create the processing and pipeline infrastructure necessary to ensure this industry's continued growth. (Applause)

The ongoing development of the Marcellus and Utica shale – and the Rogersville formation just being explored – is already bringing new revenues and new jobs for West Virginians.

That's one reason I sent a letter to the Federal Energy Regulatory Commission in support of the Columbia Gas Mountaineer Xpress pipeline project. This \$2 billion investment will transport a significant amount of natural gas to new markets.

Much like similar pipeline projects by EQT, Dominion and Momentum Mid-Stream, this investment has the potential to create thousands of good paying construction jobs, while generating significant tax revenues for counties to fund local schools, roads and other worthy endeavors.

While these announcements grab headlines, we can't forget our state's small business owners who work day in and day out to support that same growth in our local communities. Ninety-six percent of West Virginia's employers are small business owners, and they are the backbone of our economy.

While we work to help tens of thousands of West Virginians on unemployment find new opportunities to succeed, we can't overlook the training and skills they already have.

That's why tonight I'm introducing the Self-Employment Assistance Act, a new program to strengthen our local economies, and make it easier for West Virginians receiving unemployment benefits to get the help they need to open a business.

Starting a new business can be hard. No matter how great the idea may be or how hard the owner works to make it a success.

With this exemption, new business owners will be able to reinvest in their company and their employees, while continuing to receive unemployment benefits to support their families.

For 14 years, Matt Dolin worked as a diesel mechanic at a local coal mine just outside of Charleston. When the mine closed, he lost his job. Matt knew he could earn a good income using the skills he already had, but he needed help starting his own business.

Earlier this year, Matt attended a West Virginia Small Business Development Center workshop in Putnam County. He sat down with business coach Bryan Shaw to develop a business plan and find a good location for his new venture.

A few months ago, Matt opened D&D Truck Shop, a full-service diesel truck and heavy equipment repair shop. Not long after he opened, Matt hired his first two employees – two mechanics who worked alongside him at the coal mine. With the help of the Governor's Guaranteed Workforce Program, Matt is in the process of getting additional support to train new employees.

Although D&D Truck Shop has only been open for a few months, Matt is seeing tremendous growth, and he's already looking to expand.

Matt, Casey and Ronnie, please stand so we may recognize you and congratulate you on the success of your new business. (Applause, the members rising in ovation)

Helping our residents develop the skills to find a new career is important, but keeping them off drugs is critical to our state's continued growth. Substance abuse has become

one of the greatest struggles our state has ever faced, and it is destroying the lives of far too many of our family members, friends and neighbors.

We must continue to make the fight against substance abuse a top priority.

In 2011, I established my Advisory Council on Substance Abuse to help us find more localized ways to combat this epidemic. Since then, we have updated our prescription drug monitoring program, cracked down on the sale of drugs used to make meth and put an end to doctor shopping. We have shut down pill mills for irresponsible prescription practices, and my administration is committed to continuing the fight against drug companies that oversupply pain medication without proper orders. (Applause, the members rising in ovation)

Last year, we invested significant state funding to expand critical substance abuse treatment and recovery services.

In your seats tonight, you received a brochure that details 150 service providers in every region of the state. This brochure is available online and at local courthouses, hospitals, schools, churches, DHHR offices and libraries in all 55 counties.

This September, we launched 844-HELP-4-W-V, the state's first 24-hour substance abuse help line. This call line gives people the opportunity to speak with certified professionals and receive referral support in their local communities. So far, the call line has connected more than 700 West Virginians with treatment and recovery services across the state.

In October, I welcomed President Obama and DHHS Secretary Sylvia Mathews Burwell for an honest discussion about the devastating toll this epidemic is causing West Virginia families and communities.

A few weeks later, I traveled to Martinsburg – what some consider ground zero of our state's heroin epidemic – to host my own Substance Abuse Summit. We brought together a panel of West Virginians to share their experiences in the fight against substance abuse, recognize the progress we've

made and identify ways we can work together to create a brighter, drug-free future for our residents.

We want people to find help and hope in West Virginia. And that starts with making sure treatment facilities are providing comprehensive care.

Tonight, I'm introducing legislation to establish licensing requirements for medication-assisted treatment facilities. Research shows us that the use of Suboxone and Methadone alone does not support long-term recovery. These medications don't treat the root cause of an addiction, and only continue the addiction cycle.

This legislation requires counseling and behavioral therapies be used in conjunction with these medications to make sure those seeking treatment have the support they need to begin the recovery process. (Applause)

Last year, I urged this Legislature to expand access to Narcan to help our state's first responders, friends and families of those struggling with addiction reverse the effects of a heroin overdose. Since May, we've coordinated training sessions in regions across the state to teach first responders and others how to administer this drug safely. Today, more than 100 people are certified to host these sessions in their local communities.

In 2015, first responders administered more than 3,000 doses of Narcan – giving those struggling with an opioid addiction the opportunity to get help.

When an overdose happens, every second counts. And in many cases, fire and EMS crews aren't always first on the scene.

This November, Patrolman Nick Castleman and Patrolman Seth Johnson found themselves first on the scene of a drug overdose on Charleston's West Side. The officers administered two life-saving doses of Narcan, and within minutes, the young man regained consciousness and was transported to the emergency room for treatment.

Patrolman Castleman and Patrolman Johnson are with us tonight. Gentlemen, please stand so we may thank you for the

work you do to keep our communities safe. (Applause, the members rising in ovation)

This man's life was saved because of quick action by these officers, and our efforts to expand access to this life-saving drug.

Tonight, I once again urge this Legislature to expand access to Narcan by supporting my proposal to make it available to any West Virginian – without a prescription. (Applause)

This new legislation requires pharmacists to become certified to train those who receive this drug to make sure they can safely administer it if a crisis occurs. It will also help us keep track of who is receiving Narcan to better focus state resources in areas hardest hit by opioid overdoses and be sure it isn't being used as a crutch to enable a heroin addiction.

We know our state's substance abuse epidemic is heartbreaking for so many of our families and communities, but in many cases, our children suffer most.

That's why last year, following recommendations from my Commission on Juvenile Justice and with the help of this Legislature, we launched comprehensive juvenile justice reform. This legislative package provided \$600,000 in new funding to establish truancy diversion programs in each county to offer early intervention to those students who need it.

Since launching its own program in 2010, Putnam County has seen significant improvements in overall student attendance and achievement. Truancy referrals have dropped in half and four-year graduation rates have increased from 78 percent to 90 percent during that same period. (Applause)

We know this program works, and it's making a difference for students like Winter Davis.

For most of her life, Winter didn't have a stable place to call home. From the time she was born, her parents struggled with substance abuse. She spent much of her youth living with a family of no relation, helping to care for their young children and elderly family members.

Between 2011 and 2012, Winter missed 39 days of school. She got behind in her classwork and was struggling to keep up with her classmates. With the help of Putnam County's truancy diversion program, attendance director Jennifer Hodges and Judge Phillip Stowers, Winter got the extra attention she needed and earned her high school diploma, graduating with a 3.7 GPA and zero unexcused absences. (Applause)

Today, Winter is a certified EMT and plans to become a teacher for children with special needs a dream that she's had since the sixth grade.

Winter shared part of her story with me and said, "Life was not easy for me, but I am making the best choices I can. I'm the only one in my family that has gone to college and I'm going to finish college no matter what it takes."

Ladies and gentlemen, please join me in welcoming Winter Davis, Jennifer Hodges and Judge Stowers. (Applause, the members rising in ovation)

These reforms have also expanded youth reporting centers to get kids help in their local communities, instead of sending them to group facilities away from their families. By connecting children and families with substance abuse recovery services, mental health programs and functional family therapies, we are giving the whole family the opportunity to thrive.

Thanks to the changes approved by this Legislature, and the work of our local partners across the state, we've reduced the number of kids being sent to out-of-home placements by more than one-third and reduced the number of detention beds by more than 40 percent. So far, we've saved \$6 million and the Division of Juvenile Services is confident we can double that savings in the coming years.

By providing our kids with the help they need at home, we're giving them the opportunity to take advantage of the bright future we are creating here in West Virginia.

In 2010, we started down a path to improve our state's public education system.

Instead of allowing paperwork to drive education, we refocused our efforts to provide our children with the skills they need to compete in today's global economy. Since then, we've expanded early childhood education to help our youngest students build a foundation for a lifetime of learning. We're engaging middle school and high school students with hands-on training programs.

We're breaking down bureaucratic silos between state agencies, providing a more seamless transition for students transferring between community and technical colleges and four-year institutions.

These reforms – and the standards that come with them – are giving our kids the knowledge and skills they need to succeed, and that starts by making sure our students are in the classroom for 180 days of instructional time. (Applause)

Over the past year, the delivery of public education in West Virginia has been used as a political football by members of both parties. It's disappointing. It's unacceptable. And it's a disservice to our kids. (Applause)

At a time when comprehensive reform has led to real improvements, and our students are more competitive with their peers in other states, we need to build on these successes – not introduce legislation that prioritizes summer vacations over a good education. We cannot allow politics or red tape to get in the way of providing our kids with a thorough and efficient education. (Applause)

While there are a number of reasons why traditional charter schools are not the best option for our students, we can find common ground by rewarding schools for innovation and creativity while raising student achievement.

That's why I'm introducing legislation to restructure the current innovation zone system to establish a new program – called Innovation in Education.

This legislation reallocates nearly \$2.5 million in existing education funding to help schools develop new methods to increase our students' interest in science, technology, engineering, math and entrepreneurship. By giving schools the flexibility to focus on these subjects, we can teach our

students how to think critically – a skill they need to be successful long after they've graduated high school.

All of us in this chamber tonight and those watching and listening across the state know we are experiencing budget challenges unseen in more than a generation.

Nearly every agency and every branch of state government has shared in the burden of these reductions.

In spite of those challenges, we are paying not only our current bills, but keeping every financial commitment of the past, paying down our debts in workers' compensation, teachers' retirement and public employees' retirement. And we've done that without a single tax increase, while reducing tax burdens on West Virginia families and those doing business here by hundreds of millions of dollars. (Applause)

Tonight, I am introducing legislation to pay off our old workers' compensation debt more than a decade ahead of schedule.

By accelerating this final payment, we can remove additional severance taxes on our coal and natural gas industries, providing much-needed relief to help them invest in our state and employ West Virginia workers. While historically low energy prices are good news when we fill up at the pump and pay our utility bills, they make it hard on our state budget.

As we work to find new ways to ensure our tax base is both stable and more diverse, we must also seriously consider new revenue opportunities.

Tonight, I am introducing legislation to increase our state's tobacco tax by 45 cents a pack to a total of one dollar. This increase will be considered too high by some people and too low by others. But it strikes a balance that protects retailers in our border counties and discourages our young people from smoking, while generating nearly \$71.5 million annually in new revenue.

Combined with savings from a new prescription drug contract, \$43 million of this new revenue will fund PEIA, meaning public employees will NOT SEE the dramatic

benefit reductions initially proposed for the coming year. (Applause, the members rising in ovation)

I also am proposing legislation to eliminate a sales tax exemption and bring our state's telecommunications tax in line with 41 other states across the country. Once adopted, this legislation will place the same 6 percent sales tax on cell phone and phone line usage – putting us in step with what is done in the vast majority of other states. By eliminating this exemption, we can collect an extra \$60 million each year. (Applause)

With these proposed changes – and despite low severance tax projections – the 2017 budget I present to you tonight uses no money, no money from our Rainy Day Fund (Applause) and does not include any across-the-board budget cuts beyond those already in place. (Applause)

In spite of the tight budget years of the past, our new six-year budget forecast shows surpluses of nearly \$7 million in 2019, \$89 million in 2020 and \$118 million in 2021. While I won't be in office to see these surpluses, I'm proud to have been part of more than 30 years of responsible fiscal policies that have put us on the path to a brighter financial future. (Applause, the members rising in ovation)

As we look ahead at the challenges we must overcome this year, we are reminded that West Virginians have never had it easy. But we have proved time and again, for generations, what has been true all along – the people who call our state home are among the best and brightest in the world. (Applause)

Clara Grant Santucci grew up in what was once a one room school house with her five brothers and sisters. This Doddridge County native spent her childhood like so many of West Virginia's children – playing outside, caring for the family garden and racing her brothers and sisters on her family's gravel road. By high school, she was breaking records and winning state track titles.

Clara was determined to run cross country for Coach Sean Cleary at WVU, and her hard work paid off. As a Mountaineer, she became an All-American.

In 2011, she ran the Boston Marathon. Clara finished 16th overall and was the 3rd American finisher. And three years later, she made her mark on the national stage – winning the Pittsburgh Marathon with a time of 2 hours, 32 minutes and 25 seconds.

Last summer, Clara returned to the Pittsburgh Marathon. For most of the race, she sat in second place, but after catching sight of the leader, she found the mental toughness to not only win for the second year in a row but to finish 40 seconds ahead of her competition.

This February, Clara will travel to the U.S. Olympic Trials in Los Angeles for a chance to compete for Team U.S.A. in the 2016 Summer Olympics in Brazil. (Applause)

Katherine Johnson, who was born in White Sulphur Springs in 1918, would become what NASA Administrator Charles Bolden called “one of the greatest minds ever to grace our agency or our country.”

For 33 years, she worked for the National Advisory Committee for Aeronautics, what is now known as NASA. She used the most advanced practical mathematics of her day to chart and verify the path John Glenn would travel as he orbited the earth.

In 1958, Katherine’s research focused on calculating margins of error for spacecraft takeoffs and landings. The 34-page document was the first paper ever published by NASA’s Flight Research Division with a woman’s name on it. (Applause)

Throughout her career, Katherine published 26 scientific papers. Her research was used to complete the Mercury and Apollo missions and was critical to sending man into space and bringing him home safely.

For decades, Katherine’s story was hidden in the pages of history. This November she was awarded the Presidential Medal of Freedom, our country’s highest civilian honor for her incredible contributions.

In an interview with the Charleston Gazette-Mail, Katherine’s daughter Joylette Hylick – a former NASA

scientist herself – said it was her mother’s quiet confidence that drove her to succeed.

Joylette told the Gazette-Mail, “My granddaddy told my mom she was no better than anybody else, and she was no LESS than anybody else. And she believed it.”

Please join me as we celebrate the courage of these incredible West Virginians and wish Clara the best of luck in next month’s Olympic trials. Ladies please stand. (Applause, the members rising in ovation)

Whether a marathon runner, an unemployed miner, a NASA scientist, a single mother going back to school, a budding entrepreneur, the CEO of an international company or a recent graduate overcoming challenges to help her local community, West Virginians have always been willing to work twice as hard and be twice as tough to get the job done.

Over the next 60 days and throughout the coming year, we know there is work to do and difficult choices to make. Tonight, I challenge each of you to find the courage to make these decisions for the sake of the next generation – not the next election.

It’s time to get to work.

Thank you. God bless you, and God bless the great State of West Virginia. (Applause, the members and guests rising in ovation)

* * * * *

At the conclusion of the address, His Excellency, the Governor, accompanied by the Committee of Escort, retired from the Hall of the House of Delegates.

The Doorkeeper escorted the invited guests from the Chamber.

The members of the Senate retired to their Chamber, and the Speaker declared the Joint Assembly dissolved.

The Speaker then called the House of Delegates to order and laid the following communication from His Excellency, the Governor, before the House:

State of West Virginia
Office of the Governor
Charleston, WV 25305

January 13, 2016

EXECUTIVE MESSAGE NO. 1

The Honorable Tim Armstead, Speaker
West Virginia House of Delegates
Charleston, West Virginia 25305

Dear Mr. Speaker:

I herewith submit, pursuant to the Constitution of the State of West Virginia, a budget and budget bill for the fiscal year beginning July 1, 2016.

Sincerely,

Earl Ray Tomblin,
Governor.

Whereupon,

In compliance with Subdivision (4), Subsection B, Section 51, Article VI of the Constitution, the Speaker introduced the following bill, which was read by its title and referred to the Committee on Finance:

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4017 - "A Bill making appropriations of public money out of the Treasury in accordance with Section 51, Article VI of the Constitution."

Accompanying the Budget Bill was a document showing estimates of revenue, expenditures, etc., as required by Section 51, Article VI of the Constitution which was also referred to the Committee on Finance.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Moore.

At 8:00 p.m., on motion of Delegate Cowles, the House of Delegates adjourned until 11:00 a.m., Thursday, January 14, 2016.

THURSDAY, JANUARY 14, 2016

SECOND DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, January 13, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Resolutions Introduced

Delegates Rowan and Cowles offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 2 – “Requesting the Division of Highways to name the bridge on County Route 4/1, Gibbons Run Road, over North River in Hampshire County, bridge number 14-4/1-2.29, (14A011), latitude 39.33852, longitude -78.50974, as the ‘U.S. Army PV2 William Frederick Kump Memorial Bridge’.”

Whereas, William Frederick Kump was born November 16, 1847, and raised in North River Mills, the son of the local blacksmith, Frederick Kump. His father had bought the log house located on land once owned by Rees Pritchard, a Revolutionary War veteran, that same year; and

Whereas, As the Civil War was approaching, young William Frederick Kump grew up in a community with strong southern

sentiments. During the Civil War, Hampshire County raised thirteen Confederate companies and one unit for the Union; and

Whereas, Much against his family's wishes and the sentiments of the local community, William Frederick Kump decided to fight for the Union. Tradition says that as he left home and walked up the road his father desperately tried to persuade his son to reconsider. He failed to dissuade the young man; and

Whereas, William Frederick Kump enlisted at Paw Paw on February 23, 1864, lying about his age. William Frederick Kump never returned home. Nor did he ever have a chance to see his hopes for a Union victory come to pass. He was killed at the Battle of Halltown on August 24, 1864, five months and one day after he enlisted. His grave site is unknown; and

Whereas, William Frederick Kump and his family represent the terrible cost of war that Hampshire County suffered as families were split apart, some never to be reunited. Only recently did some of William Frederick Kump's descendants learn that there had been another son born to their ancestor's marriage. It is fitting that one of Hampshire County's oldest communities memorializes this noble young soldier who followed his heart and that we remember the terrible cost of war that the community suffered; and

Whereas, It is fitting that in the county with the first monument raised to the Confederate dead, at Indian Mound Cemetery in Romney, there should be a memorial to those few who chose a different path by naming the bridge on County Route 4/1, Gibbons Run Road, over North River in Hampshire County, bridge number 14-4/1-2.29, (14A011), latitude 39.33852, longitude -78.50974, as the "U.S. Army PV2 William Frederick Kump Memorial Bridge"; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name the bridge on County Route 4/1, Gibbons Run Road, over North

River in Hampshire County, bridge number 14-4/1-2.29, (14A011), latitude 39.33852, longitude -78.50974, as the “U.S. Army PV2 William Frederick Kump Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army PV2 William Frederick Kump Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to Charles C. Hall, Director of Historic Hampshire County, West Virginia.

Delegates Rowan and Cowles offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 3 – “Requesting the Division of Highways to name the section of County Route 45/20, known as Coldstream Road, beginning at a point, latitude 39.336997, longitude -78.494499 and ending a point, latitude 39.349509, longitude -78.511901, along the North River, Hiatt Run and Maple Run, in Hampshire County, the ‘North River Mills Historic Trace’.”

Whereas, The North River Mills Historic Trace memorializes the rich history of one of Hampshire County’s oldest communities which is associated with several noteworthy individuals; and

Whereas, George Washington who surveyed land for Thomas Parker beside the proposed Trace and who later traveled along part of the Trace while commanding the forts of the Virginia frontier during the French and Indian War; and

Whereas, Dr. James Craik, George Washington’s friend and personal physician and surgeon of the Virginia Regiment during the French and Indian War, who was granted the spring tract on both sides of the Great Wagon Road part of which was along the Trace; and

Whereas, Ensign Rees Pritchard, descendant of Welsh ancestors who came to America to make a home for themselves and their extended family. Rees Pritchard at one time owned most of the land along the Trace; and

Whereas, Gustavus Croston was a soldier in the American Revolution who served at Valley Forge and after his first enlistment expired signed up “for and during the war”. In other words he committed to serve until the war was won. He is buried very near the Trace which runs through land he owned; and

Whereas, These are but four of the many colonial era men and women who came to this area, settled on land, some of which was surveyed by George Washington, suffered the deprecations of the French and Indian War while Colonel Washington’s Virginia Regiment tried desperately to protect the settlers, rebuilt their lives after the war and, in some cases, served in the war that won our independence; and

Whereas, Dr. James Craik was born at Orbigland County Kirkcudbright, Scotland, in 1730 and died at “Vaucluse”, Fairfax County, Virginia, on February 6, 1814. He graduated in medicine from the University of Edinburgh and then emigrated to the West Indies about 1750 and subsequently moved to Virginia; and

Whereas, Dr. James Craik entered the Virginia Regiment (formed to fight during the French and Indian War) as surgeon on March 7, 1754, and was made Ensign May 23, 1754. He held the rank of Lieutenant by July 1754, which rank he held until the regiment disbanded in 1762. Dr. Craik was at the Battle of Fort Necessity and accompanied the Braddock campaign. After the war he accompanied George Washington on his trip west in 1770 that brought him back to Hampshire County; and

Whereas, In 1760, Dr. Craik married Marianne Ewell, the daughter of Colonel Charles Ewell and his wife, Sarah Conway. George Washington’s mother was Sarah Conway’s half-sister; and

Whereas, Dr. Craik served with General Washington in the Revolutionary War. He was given the position of Chief Physician and Surgeon of the Continental Army. After the Revolution, he settled near Mount Vernon and continued his personal and professional relationship with General Washington. He was one of the attending physicians during Washington's last illness; and

Whereas, Because of his relationship with George Washington, who surveyed many tracts in Hampshire County, and his experience on the frontier during the French and Indian War, Dr. Craik, like Washington, was well aware of the value of western lands. Beginning in 1760, Dr. Craik acquired several parcels of land around North River Mills in Hampshire County. He had secured two plots along the Great Wagon Road from Winchester to Romney not far from the crossing of the North River. One of the parcels lying along Parker's Run (now Hiatt Run) was noted for a good spring that to this day is named for him as first grantee although the name was locally misspelled as "Craig" Spring. A third tract was across the river not far from the Great Wagon Road. This road had been the major western artery in the central colonies during Virginia's battle to stop French encroachments onto British claimed territory and would later serve to take many settlers west as the frontier made its relentless move westward; and

Whereas, Dr. Craik exemplifies the colonial settler who arrived in America with an important skill and great determination to make a life for himself in this new land. He served in the two wars that determined the fate of North America and established the United States of America. His extensive personal and professional relationships and his broad travels placed him in a position to make a lasting contribution to the building of our great country. It is appropriate that he be remembered along the road that traverses some of the property he once owned; and

Whereas, Ensign Rees Pritchard was a descendant of a Welsh family, several of whom had come to Hampshire County from Chester County, Pennsylvania. Reese was born in 1744 the son of Samuel

Pritchard who lived on North River. George Washington spent a night with Samuel Pritchard on North River during his journey to inspect western lands in the fall of 1770. The Pritchards were apparently individuals of some means as they became large landowners in Hampshire County; and

Whereas, The family apparently stayed in Hampshire County during the French and Indian War as Samuel entered a claim for damages done during the war. The claim was filed on February 20, 1759; and

Whereas, Rees Pritchard entered the Continental Army in February 1776 and on March 12, 1776, was commissioned as Ensign in Captain Abel Westfall's Company of the 8th Virginia Regiment commanded by Col. Peter Mulenburg. He marched from Romney in Hampshire County to Charleston, South Carolina, where he was engaged in the Battle of Sullivan's Island, June 21-29, 1776; and

Whereas, Upon his return to Hampshire County, Rees Pritchard married and had one son. He continued to amass land around the North River at two different locations, and between 1786 and 1790 he was authorized by the Virginia Assembly to operate a ferry across the North River. Some of the land had originally been surveyed by George Washington and granted by Lord Fairfax to Thomas Parker; and

Whereas, It is not known exactly what the financial depressions and panics experienced every few years during the formative years of our nation had upon Rees Pritchard's situation, but by 1800 he had sold most of his land. It also seems that his wife died sometime in the early 1800s. In any case, Mr. Pritchard, like many Revolutionary War veterans, filed for a pension on the twenty-first day of July, 1819, and received a certificate of Pension Number 12545. The application states, "That in consequence of old age and the rheumatism he is unable to pursue any profession or occupation in order to produce a support." He died in relative obscurity on September 25, 1830, in Morgan County; and

Whereas, Rees Pritchard was one of the many early settlers who came to America in community groups and continued to move westward with family members. He served in the Continental Army helping to win America's independence. After his service he became a large landowner, and he engaged in the ferry business allowing his land to be used as a transportation artery helping move people and goods around the growing frontier. Like so many individuals who had given so much to their country, he suffered from the financial problems of the growing, new country, and eventually he had to sell most all of his land to pay debts. The establishment of the North River Mills Historic Trace through property once owned by Rees Pritchard will help future generations remember what our forebears went through to build the county we now know; and

Whereas, Gustavus Travis Croston enlisted at Newport, Maryland, to fight for America's independence. On the first of March, 1777, he was recruited into the First Virginia State Regiment. That July the Regiment was transferred to the Continental line and sent north as part of the Philadelphia campaign under General George Washington. Mr. Croston spent the winter of 1777-1778 at Valley Forge in Captain Thomas Hamilton's Company of Colonel George Gibson's Regiment of Mulenburg's Brigade; and

Whereas, Before Gustavus Travis Croston's three-year term expired, the First Virginia Regiment was called back to Virginia. When his first enlistment ended, he reenlisted at Alexandria, Virginia, "for and during the war". This meant that he volunteered to serve until the war ended; and

Whereas, Gustavus Travis Croston's company was marched south as part of the campaign against General Cornwallis. He served in the Battle of Hobkirk Hill near Camden, South Carolina, on April 25, 1781, and at the Siege of Ninety-six from May 22, 1781 to June 19, 1781. He was taken prisoner at Ninety-six and remained interred until the defeat of General Cornwallis at Yorktown on October 19, 1781. Because he was a prisoner of war for the conflict's last months, it

appears that he never received pay for that period nor did he receive a proper discharge; and

Whereas, By 1787 Gustavus Travis Croston appears in Hampshire County, being listed on that year's census tax lists. On October 17, 1796, he received a grant from the Commonwealth for fifty acres of land adjoining Rees Pritchard (another Revolutionary War veteran) near North River Mills. He acquired other land, but there were title difficulties involving one of the area's most prominent landowners; and

Whereas, By 1818 Gustavus Travis Croston applied for a pension. He was granted a pension due to his failing health and inability to work and his financial need; and

Whereas, Gustavus Travis Croston died June 3, 1839. His grave is in the quiet woods on his land near the place where Maple Run empties into the North River just west of North River Mills; and

Whereas, Gustavus Travis Croston should be remembered as a symbol of those individuals without wealth or property who stepped forward to fight for America's independence and who later built a life for themselves and their families in the newly formed United States of America. It is appropriate that he be memorialized at the location where he settled and built that new life; and

Whereas, The community that developed where the Great Wagon Road crosses the North River did not come to be known as North River Mills until the nineteenth century where mills were constructed at this convenient location. By this time the Northwestern Turnpike had been constructed as part of Virginia's plan to establish a major highway from the tidewater to the Ohio River. The route chosen for this new road did not come through North River Mills, and so the area began to decline in importance; and

Whereas, The history of the area has been kept alive by local residents who appreciate the part this little village on the major road

west from northern Virginia played in the development of Hampshire County and the entire area. It survived the deprecations of the French and Indian War that opened the way for British/American expansion westward, and it continued through Pontiac's War and our Revolutionary War. Eighty years later it suffered the ravages of the Civil War when families were split and life savings lost; and

Whereas, It is fitting and proper that North River Mills Historic Trace should be recognized to help memorialize this important part of West Virginia's rich history so that later generations may remember the foundations upon which our freedom and lifestyle are built; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the section of County Route 45/20, known as Coldstream Road, beginning at a point, latitude 39.336997, longitude -78.494499 and ending at a point, latitude 39.349509, longitude -78.511901, along the North River, Hiatt Run and Maple Run, in Hampshire County, the "North River Mills Historic Trace"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the designated highway containing bold and prominent letters proclaiming that portion of the road be named the "North River Mills Historic Trace"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways, and Charles C. Hall of Historic Hampshire County, West Virginia.

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 4 – “Requesting the Division of Highways to name bridge number 14-50-14.95 (14A125), locally known as Frenchburg Curve Bridge, carrying U. S. Route 50, over the North Fork of the Little Cacapon River, near Augusta, Hampshire County, West Virginia, map coordinates 39.31518, -78.65962, the ‘CSA LTG Thomas J. “Stonewall” Jackson Bridge’.”

Whereas, Thomas Jonathan Jackson was born in Virginia, now West Virginia, January 21, 1824; and

Whereas, Young Jackson spent many years of his youth living with an uncle, Cummins Jackson, who owned what is now Jackson’s Mill near Weston, in Lewis County, West Virginia; and

Whereas, Thomas J. Jackson graduated from the United States Military Academy at West Point in 1846 and was assigned to an artillery regiment sent to fight in the Mexican-American War from 1846 to 1848, where he distinguished himself in several battles; and

Whereas, Following military service with the United States Army, Jackson began teaching at Virginia Military Institute in Lexington, Virginia; and

Whereas, As the American Civil War began, Thomas J. Jackson joined the Army of the Confederate States of America, in which he reached the rank of Lieutenant General. His practices of discipline, surprise and maneuver made him one of the most revered generals of the Confederacy; and

Whereas, At the First Battle of Bull Run, Jackson was said to have stood against the enemy as a “stone wall”, earning him his famous nickname, “Stonewall” Jackson; and

Whereas, Stonewall Jackson, and the “Stonewall Brigade”, as his troops were known, fought many battles in present day West Virginia and often engaged Union forces in Romney and other Hampshire County locations, because of the area’s strategic importance; and

Whereas, General Stonewall Jackson was wounded by friendly fire during the Battle of Chancellorsville in Virginia and died May 10, 1863, at the age of 39; and

Whereas, The Fifth Grade Class of Augusta Elementary School in Hampshire County, West Virginia, wishes to honor the memory of West Virginia's famous general who fought many battles in their home county; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on U. S. Route 50, crossing the North Fork of the Cacapon River near Augusta, Hampshire County, West Virginia, map coordinates 39.31518 - 78.65962, milepost 14.95, the "CSA LTG Thomas J. 'Stonewall' Jackson Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "CSA LTG Thomas J. 'Stonewall' Jackson Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Stansbury, Bates, Campbell, Sobonya, Ellington, Rohrbach, B. White, Lane, McCuskey and Hanshaw:

H. B. 4018 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5 and §18-5E-6, all relating to school shared use agreements"; to the Committee on Education then Finance.

By Delegates Ireland, Cadle, Kelly, Zatezalo, Foster, Ambler, D. Evans, Perry, Longstreth and Phillips:

H. B. 4019 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-2-13, relating to requiring official business and records of the state and its political subdivisions be conducted in English, providing exceptions, limitations; and a definition of ‘official’ for purposes of this section”; to the Committee on the Judiciary.

By Delegates Reynolds, Folk, Sponaugle, Hicks, McCuskey, Rodighiero, Hornbuckle, Phillips, Marcum, Boggs and Bates:

H. B. 4020 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-2L-1, §18-2L-2 and §18-2L-3, and to amend and reenact §18-5-13a of said code, all relating to the creation of a School Consolidation Task Force; designating membership of Task Force; establishing Task Force purpose to study effects of school closures in the last thirty years; and to place a moratorium on school closure and consolidation for five years, unless special referendum in county passed by voters”; to the Committee on Education then Finance.

By Delegates Trecoast and Wagner:

H. B. 4021 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to limiting able-bodied adults without dependents receipt of SNAP benefits to three months in a thirty-six month period, except in months in which the recipient is working, or is participating in a work program, at least twenty hours per week; the Department of Health and Human Resources shall not request a waiver to provide SNAP benefits to able-bodied adults without dependents”; to the Committee on Health and Human Resources then the Judiciary.

By Delegate Rowe:

H. B. 4022 – “A Bill to amend and reenact §17-16A-29 of the Code of West Virginia, 1931, as amended, relating to providing a discount program for certain workers and students who purchase West

Virginia EZ Pass transponders”; to the Committee on Roads and Transportation then Finance.

By Delegate Rowe:

H. B. 4023 – “A Bill to amend and reenact §11-17-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section designated §60-2-11a, all relating to raising an additional \$120 million in revenue; increasing the excise tax on cigarettes and other tobacco products; increasing the tax on intoxicating liquors; requiring that the \$120 million be used solely to reduce public employee and retiree health insurance premiums; and creating a new fund”; to the Committee on Health and Human Resources then Finance.

Remarks by Members

Delegate Sobonya asked and obtained unanimous consent that the remarks of Delegate Phillips on yesterday regarding the decline of the coal industry and protection of the Second Amendment be printed in the Appendix to the Journal.

At 11:23 a.m., the House of Delegates adjourned until 11:00 a.m., Friday, January 15, 2016.

FRIDAY, JANUARY 15, 2016

THIRD DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, January 14, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 2026, Allowing terminally ill patients to have access to investigational products that have not been approved by the Federal Food and Drug Administration,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2026) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 2511, Health Care Sharing Ministries Freedom to Share Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2511) was referred to the Committee on the Judiciary.

On motion for leave, a bill was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Ellington, Summers, Householder, Rohrbach, Stansbury, Waxman, Perdue and Rodighiero:

H. B. 4033 — “A Bill to amend and reenact §30-5-34 of the Code of West Virginia, 1931, as amended, relating to establishing a criminal penalty; permitting the board to contact law enforcement with information concerning a criminal offense; prohibiting the practice of pharmacist care without a license; prohibiting assistance to practice of pharmacist care without a registration; permitting the fining of a person practicing with an encumbered license; permitting the fining of a person practicing with an encumbered registration; establishing a fine.”

Resolutions Introduced

Delegates Ambler, Canterbury and Cowles offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 5 – “Requesting the Division of Highways to name bridge number 13-64-179.36 EB and WB (13A165, 13A166) (37.79163, -80.29291), locally known as Mountain Avenue Bridge, carrying Interstate 64 over Tuckahoe Run and CR 50 in Greenbrier County, the ‘U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge’.”

Whereas, Eskridge Allen Waggoner was born on June 2, 1910, in Alvon, Greenbrier County, the oldest son of the late Lloyd M. and Minnie Boggs Waggoner; and

Whereas, Eskridge A. Waggoner attended the Hull School until eighth grade and helped on the family farm; and

Whereas, Eskridge A. Waggoner was a self-taught mechanic and handyman; and

Whereas, Following the death of his wife, Edna Coulter Waggoner, Eskridge A. Waggoner enlisted in the U.S. Army on February 20, 1942, at Fort Thomas, Newport, Kentucky; and

Whereas, Private Eskridge A. Waggoner was a scout for his company when it assaulted the Salerno beachhead in Italy on September 9, 1943. Against intense artillery and machine gun fire from the well entrenched enemy positions, Private Waggoner moved inland from the shore advancing toward the assigned objective when he spotted several enemy machine gun nests. Knowing that his comrades must be warned of the exact location of the guns and aware that by doing so he would give his own location to the enemy and expose himself to their fire, Private Waggoner deliberately opened fire with tracer bullets, thereby marking the danger spots for his fellow soldiers; and

Whereas, During this action, Private Eskridge A. Waggoner was killed by an enemy sniper; and

Whereas, The valiant sacrifice of Private Eskridge A. Waggoner gave his company time to consolidate and move against the enemy with concerted action and helped save the lives of many American soldiers and contributed greatly to the success of the invasion; and

Whereas, Private Eskridge A. Waggoner was posthumously awarded the Silver Star on October 23, 1944, for his gallant action; and

Whereas, It is fitting and proper that U.S. Army Private Eskridge A. Waggoner be remembered and acknowledged for his courageous action and dedicated service to his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 13-64-179.36 EB and WB (13A165, 13A166) (37.79163, -80.29291), locally known as Mountain Avenue Bridge, carrying Interstate 64 over Tuckahoe Run and CR50 in Greenbrier County, the “U.S. Army PV2 Eskridge A. W aggoner Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the surviving family of Private Eskridge A. Waggoner.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Ellington, Summers, Householder, Rohrbach, Border, Westfall, Cooper, Ireland, Lane, Gearheart and D. Evans:

H. B. 4010 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §9-3-6, relating to drug screening for applicants of benefits from the Temporary Assistance for Needy Families Program; requiring drug testing of applicants for whom there is areasonable suspicion of substance abuse; creating a pilot program; setting forth an effective

date; defining terms; providing basis for reasonable suspicion of drug use; requiring participation in a substance abuse treatment, counseling and job skills program with an adverse drug test; precluding assistance for refusal to take a drug test; establishing administrative review of decisions to deny benefits; providing a mechanism for dependent children to receive benefits if a parent is deemed ineligible; setting forth prohibition from benefits for an adverse drug test; requiring investigation by Child Protective Services upon an adverse drug test; setting forth a procedure for reapplication for benefits; authorizing rulemaking by the Department of Health and Human Resources; requiring results of the drug screen or drug test remain confidential; providing criminal penalties; requiring an annual report to the Legislature; setting out elements of the annual report; requiring federal approval of the program; requiring the secretary to modify the program to meet any federal objections and allowing for exceptions”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Cooper, D. Evans, Ambler, Perry, Moye, Lynch, Kelly, Wagner, Statler, Westfall and Rowan:

H. B. 4024 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-3, relating to student assessment in grades K-12, prohibiting the use of the Smarter Balanced Assessment and requiring schools to assess student progress by alternate methods”; to the Committee on Education.

By Delegates Perry, Ambler, Cooper, D. Evans, Moye, Lynch, Romine, Rowan, Perdue, Morgan and Ferro:

H. B. 4025 — “A Bill to amend and reenact §18-2-3 of the Code of West Virginia, 1931, as amended, relating to requiring members of the State Board of Education to be physically present in state board meetings”; to the Committee on Education.

By Delegates Perry, Morgan, Kessinger, Wagner, Kurcaba, Statler, Romine, Campbell, Fast, Rowe and Moye:

H. B. 4026 — “A Bill to amend and reenact §18-9D-1 of the Code of West Virginia, 1931, as amended, relating to limiting citizen

members of the School Building Authority to serving no more than two terms”; to the Committee on Education.

By Delegates Ambler, Perry, Cooper, D. Evans, Wagner, Trecoast, Duke, Upson, Rowan, Romine and Moye:

H. B. 4027 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-1b, relating to increasing pay to teachers and service personnel by two percent the first year, two percent the second and three percent in the third year”; to the Committee on Education then Finance.

By Delegates Perry, Moye, Ambler, Lynch, Romine, Rowan, Perdue, Morgan and Pethtel:

H. B. 4028 — “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, to the Committee on Education as amended relating to providing that school instructional terms for students may begin no earlier than September 1 and must terminate on or before June 5; decreasing the number of instructional days for students by five days; requiring five days for professional development or continuing education; permitting county boards of education to contract with school personnel for employment terms in excess of two hundred days per year; and making stylistic changes”; to the Committee on Education.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4029 — “A Bill to amend and reenact §11-24-43a of the Code of West Virginia, 1931, as amended, relating to dedication of corporation net income tax proceeds to railways; and specifying that dedication of corporation net income tax proceeds to railways expires and is void on and after January 1, 2016”; to the Committee on Finance.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4030 — “A Bill to amend and reenact §11-21-9 and §11-21-71a of the Code of West Virginia, 1931, as amended, all relating to updating the meaning of federal adjusted gross income and

certain other terms used in the West Virginia Personal Income Tax Act; changing due dates for partnership returns; and specifying effective dates”; to the Committee on Finance.

By Delegates Frich, Sobonya, Howell, Moffatt, Hanshaw, McCuskey, Shott, Overington, Mr. Speaker (Mr. Armstead), Rowe and Fleischauer:

H. B. 4031 — “A Bill to amend and reenact §29A-3-5 of the Code of West Virginia, 1931, as amended, relating to requiring agencies to respond to public comments received during the rulemaking process”; to the Committee on Government Organization.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4032 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21A-1-9, relating to the creation of the Self-Employment Assistance Act, which provides assistance to eligible participants engaged full-time in starting a business and becoming self-employed, and granting rule-making authority”; to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

Remarks by Members

Delegate J. Nelson asked and obtained unanimous consent that the remarks of Delegate Cadle regarding Army Staff Sgt. Matthew McClintock, fallen soldier, be printed in the Appendix to the Journal.

Miscellaneous Business

Delegates Folk, Sponaugle, Hicks, McCuskey, Rodighiero, Hornbuckle, Phillips, Marcum, Boggs and Bates filed a form with the Clerk’s Office per House Rule 94b to be added as cosponsors of H. B. 4020.

At 11:20 a.m., the House of Delegates adjourned until 11:00 a.m., Monday, January 18, 2016.

MONDAY, JANUARY 18, 2016

SIXTH DAY

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

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

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

Messages from the Executive

The following communication was laid before the House of Delegates, which was read by the Clerk as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

January 15, 2016

The Honorable Natalie Tennant
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Secretary Tennant:

Pursuant to W. Va. Code §3-10-5, I have this day appointed William Flanigan, 250 Fred Street, Morgantown, Monongalia County, West Virginia 26501, as a Delegate representing the Fifty-first District

of the House of Delegates, to fill the vacancy created by the resignation of the Honorable Amanda Pasdon.

Sincerely,

Earl Ray Tomblin,
Governor.

The Clerk announced that Delegate Flanigan had taken and subscribed to the several oaths of office as prescribed by Section 16, Article VI of the Constitution of the State of West Virginia on January 18, 2016.

The Clerk proceeded to read the Journal of Friday, January 15, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to the Seventh Order of Business for the purpose of introducing and considering a resolution.

Resolutions Introduced

Delegates O'Neal, Cooper, Moye and Mr. Speaker, Mr. Armstead, on behalf of all Members of the House, offered the following resolution, which was read by the Clerk as follows:

H. R. 4 - "Memorializing the life of the Honorable Arnold W. Ryan, husband, father, grandfather, volunteer fire fighter, EMT, transportation specialist, and public servant."

Whereas, Arnold "Arnie" W. Ryan was born on October 26, 1951, one of three sons born to Lona Harris Ryan and the late T. L. "Punk" Ryan; and

Whereas, In 1973, Arnie Ryan married the love of his life, Karen Ayers, and they shared forty-two wonderful years together. Arnie and Karen were the proud parents of one daughter and one son, Melinda Ryan Swagger and Arnold W. Ryan II, and the loving grandparents of three grandsons, Hunter Lee Swagger, Dean Mason Ryan and Aden Lane Ryan; and

Whereas, Arnie Ryan was a retired bus driver for Raleigh County Schools where he also served as both Transportation Director and Assistant Transportation Director; and

Whereas, Arnie Ryan was first elected to the West Virginia House of Delegates representing Summers and Raleigh counties in 1984 and was reelected in 1986, 1988, 1992 and 1994. During his ten years in the Legislature, Arnie Ryan served on various committees including the Committees on the Judiciary, Education, Political Subdivisions and Roads and Transportation. Arnie Ryan had the uncanny ability to be in one committee meeting while simultaneously listening to two other meetings at the same time and understanding what was going on in all three. He could also strike fear in the heart of a speaker by pushing his recognition button and saying seven little words, “We’re going to read some bills now”; and

Whereas, Early in life, Arnie Ryan helped establish the Alderson Tri County Volunteer Fire Department and served as its fire chief. Additionally, Arnie Ryan was an EMT with OH9. His affiliations included the Raleigh County Service Personnel Association, the West Virginia School Service Personnel Association, Hinton Ruritan Club, Hinton Lions Club and the Mercer County Prayer Action Committee; and

Whereas, Arnie Ryan was a follower of his Savior Jesus Christ and was active with congregations of the Vineyard of Yahweh in Johnson City, Tennessee, Ari Yehudah Messianic Congregation and Hebraic Christian Fellowship in Bristol, Tennessee. Arnie Ryan also supported and was involved in various ministries in Summers and Mercer

counties and his mission during his last years was reaching out to the lost of Summers County, especially the youth, and showing them God's love; and

Whereas, Arnie Ryan made arrangements to donate his body to the West Virginia School of Osteopathic Medicine in Lewisburg so that from his passing others may have hope for a cure for the illness from which he suffered; and

Whereas, Sadly, the Honorable Arnold W. Ryan passed away on Friday, July 10, 2015; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby memorializes the life of the Honorable Arnold W. Ryan, husband, father, grandfather, fire fighter, EMT and public servant; and, be it

Further Resolved, That the House of Delegates hereby extends its sincere sympathy at the passing of the Honorable Arnold W. Ryan; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the family of the Honorable Arnold W. Ryan.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 4) to a committee was dispensed with, and it was taken up for immediate consideration.

The question now being on the adoption of the resolution, Delegate Cowles demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 2**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

ABSENT AND NOT VOTING: Azinger, Caputo, Ellington, Moore and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 4) adopted.

Committee Reports

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2474, Relating to the compensation of personnel employed at the West Virginia Schools for the Deaf and the Blind,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2474) was referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2121, Establishing a policy for formal recognition of Indian tribes,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2121) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2101, Eliminating obsolete government entities,

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

Com. Sub. for H. B. 2101 - “A Bill to repeal §16-5P-7 of the Code of West Virginia, 1931, as amended; and to repeal §29-12C-1 and §29-12C-2, all relating to eliminating obsolete government entities; repealing section relating to the West Virginia Council on Aging; repealing sections relating to the Patient Injury Compensation Plan Study Board.”

With the recommendation that the committee substitute do pass.

Resolutions Introduced

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegates Stansbury, Householder, Summers, Ellington, Perdue, Phillips, J. Nelson, Ambler, B. White, Rohrbach and Westfall:

H. J. R. 27 - “Proposing an amendment to the Constitution of the State of West Virginia, amending article III thereof by adding thereto a new section, designated section twenty-three, relating to the right to hunt, fish and harvest wildlife; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Agriculture and Natural Resources then the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Ellington, Summers, Bates, Faircloth, Householder, Rohrbach, Sobonya and Stansbury:

H. B. 4034 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to abusedeterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid analgesic drugs; providing direct health care services cover abuse-deterrent opioid analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs; defining terms; providing an effective date; providing for cost sharing; providing for cost tier location; and allowing cost containment measures”; to the Committee on Banking and Insurance then the Select Committee on Prevention and Treatment of Substance Abuse.

By Delegates Stansbury, Householder, Ellington, Summers, Rohrbach, Weld, Miller, Hanshaw, Westfall, B. White and Perdue:

H. B. 4035 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-46-7; relating to permitting pharmacists to furnish naloxone hydrochloride in accordance with standardized procedures developed and approved by both the West Virginia Board of Pharmacy and the West Virginia Board of Medicine; and granting rule-making authority”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Perry, Lynch, Cooper, Romine, Rowan, Duke, Perdue and Morgan:

H. B. 4036 - “A Bill to amend and reenact §18A-3-2a of the Code of West Virginia, 1931, as amended, relating to restoring language that

gives preference to currently employed certified professional educators when hiring athletic coaches or coaches of other extracurricular activities in public schools”; to the Committee on Education.

By Delegates Folk, McGeehan, Faircloth, Azinger, Wagner, Butler, Ihle, Canterbury, Hill, J. Nelson and Kurcaba:

H. B. 4037 - “A Bill to amend and reenact §22C-9-7 of the Code of West Virginia, 1931, as amended, relating to unitization of interests in drilling units connected to deep oil or gas wells, prohibiting the state from requiring persons with oil or gas rights connected to deep oil or gas wells to involuntarily integrate their interests in a drilling unit and to require a surface owner’s consent for operations or disturbances to the surface of the land in a drilling unit connected to deep oil or gas wells”; to the Committee on Energy then the Judiciary.

By Delegates Ellington, Summers, Bates, Faircloth, Householder and Rohrbach:

H. B. 4038 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7m; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to insurance requirements for the refilling of topical eye medication; requiring a refill take place at a certain time; and establishing when a refill is permitted”; to the Committee on Health and Human Resources.

By Delegates Kelly, Cooper, Wagner, Kurcaba, Azinger, Romine, Border, Hamrick, Atkinson, Trecoast and Rohrbach:

H. B. 4039 - “A Bill to amend and reenact §18A-4-2 of the Code of West Virginia, 1931, as amended, relating to increasing salaries for teachers through fiscal year 2020”; to the Committee on Education then Finance.

By Delegates Kelly, Rohrbach, Cooper, Frich, Sobonya, Border, Faircloth, Atkinson, Perdue, Perry and Waxman:

H. B. 4040 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-16I-1, §33-16I-2, §33-16I-3 and §33-16I-4, all relating to regulating step therapy protocols in health benefit plans which provide prescription drug benefits”; to the Committee on Health and Human Resources.

By Delegates Folk, Sobonya, McGeehan, Faircloth, Kurcaba, Ihle, Azinger, R. Smith, Butler, J. Nelson and Moffatt:

H. B. 4041 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to limiting able-bodied adults without dependents receipt of SNAP benefits to three months in a thirty-six month period, except in months in which the recipient is working, or is participating in a work, educational, or volunteer program for at least twenty hours per week; the Department of Health and Human Resources shall not request a waiver to provide SNAP benefits to able-bodied adults without dependents”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Stansbury, Householder, Summers, Ellington, Rohrbach, Miller, Hanshaw, Westfall, B. White, Perdue and R. Smith:

H. B. 4042 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, relating to granting judges the discretionary authority to depart from otherwise minimum sentencing requirements; providing exceptions; requiring reports; and requiring twenty-five percent of any financial savings realized be used to advance evidence-based practices shown to reduce recidivism”; to the Committee on the Judiciary.

By Delegates Westfall, McCuskey, B. White, Frich, Waxman, Shott, Atkinson and Stansbury:

H. B. 4043 - “A Bill to amend and reenact §33-40-3 of the Code of West Virginia, 1931, as amended, relating to adjusting the

risk-based capital trend test for life and health insurers”; to the Committee on Banking and Insurance then Finance.

By Delegates Stansbury, Householder, Ellington, Summers, Rohrbach, Weld, Miller, Hanshaw, Westfall, B. White and Perdue:

H. B. 4044 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2A-1, §16-2A-2, §16-2A-3, §16-2A-4, §16-2A-5 and §16-2A-6, all relating to the creation of the Ryan Brown Addiction Prevention and Recovery Fund Act to provide funding for drug addiction prevention and treatment not otherwise covered by legislative appropriations, Medicare, Medicaid or private insurance; and West Virginia Department of Health and Human Resources administering the fund”; to the Select Committee on Prevention and Treatment of Substance Abuse then Finance.

By Delegates Hill, Blair, Hamrick, Faircloth, Ihle, Hartman, Atkinson, Howell, Moffatt, Ferro and Zatezalo:

H. B. 4045 - “A Bill to amend and reenact §20-2-35 of the Code of West Virginia, 1931, as amended, relating to wildlife resources; and providing that all hunting and fishing licenses are valid for one year from the date issued”; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4046 - “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Administration to promulgate a legislative rule relating to the purchasing division”; to the Committee on Government Organization then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4047 - “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative

rule relating to private club licensing”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4048 - “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick leave”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4049 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality to promulgate a legislative rule relating to standards of performance for new stationary sources”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4050 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality to promulgate a legislative rule relating to the control of air pollution from combustion of solid waste”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4051 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4052 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing

the Department of Environmental Protection, Air Quality to promulgate a legislative rule relating to emission standards for hazardous air pollutants”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4053 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality to promulgate a legislative rule relating to the control of annual nitrogen oxide emissions”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4054 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality to promulgate a legislative rule relating to the control of ozone season nitrogen oxides emissions”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4055 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Air Quality to promulgate a legislative rule relating to the control of annual sulfur dioxide emissions”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4056 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management to promulgate a legislative rule relating to surface mining reclamation”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4057 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing

the Department of Environmental Protection, Water and Waste Management to promulgate a legislative rule relating to administrative proceedings and civil penalty assessment”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4058 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management to promulgate a legislative rule relating to above ground storage tank fee assessments”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4059 - “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management to promulgate a legislative rule relating to above ground storage tank administrative proceedings and civil penalty assessment”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4060 - “A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to promulgate a legislative rule relating to the fire code”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4061 - “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating fees for service”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4062 - “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4063 - “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to Tuberculosis testing, control, treatment and commitment”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4064 - “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care licensing requirements”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4065 - “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care facility licensing requirements”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4066 - “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to the licensing of elevator mechanics and technicians and registration of

apprentices”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4067 - “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4068 - “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Miners’ Health, Safety and Training to promulgate a legislative rule relating to substance abuse screening standards and procedures”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4069 - “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4070 - “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to deer hunting”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4071 - “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to wild boar hunting”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4072 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Personnel to promulgate a legislative rule relating to the administrative rule of the West Virginia Division of Personnel”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4073 - “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing”; to the Committee on Finance then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4074 - “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering”; to the Committee on Finance then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4075 - “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to absentee voting by military voters who are members of reserve units called to active duty”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4076 - “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to registration forms and receipts”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4077 - “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing

the Secretary of State to promulgate a legislative rule relating to the elimination of precinct registration books”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4078 - “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Tax and Revenue to promulgate a legislative rule relating to an exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Commerce and the Commissioners of the Public Service Commission”; to the Committee on Finance then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4079 — “A Bill to amend and reenact article 11, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Veterans’ Assistance to promulgate a legislative rule relating to the state home for veterans”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4080 — “A Bill to amend and reenact article 11, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Veterans’ Assistance to promulgate a legislative rule relating to VA headstones or markers”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4081 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Accountancy to promulgate a legislative rule

relating to Board rules and rules of professional conduct”; to the Committee on Government Organization then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4082 — “A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of Administrative Hearings to promulgate a legislative rule relating to Appeal Procedures”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4083 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to the inspection of nontraditional domesticated animals”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4084 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4085 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4086 — “A Bill to amend and reenact article 9, Chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to promulgate a legislative

rule relating to captive cervid farming”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4087 — “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to distilleries and mini-distilleries”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4088 — “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4089 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Conservation Committee to promulgate a legislative rule relating to the West Virginia Conservation Agency Financial Assistance Program”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4090 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Deputy Sheriff Retirement System”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4091 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate

a legislative rule relating to benefit determination and appeal”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4092 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Defined Contribution System”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4093 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Retirement System”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4094 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4095 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4096 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to

authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensing”; to the Committee on Government Organization then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4097 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family license renewal and continuing professional education requirements”; to the Committee on Government Organization then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4098 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education requirements”; to the Committee on Government Organization then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4099 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapists licensing”; to the Committee on Government Organization then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4100 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Dental Examiners to promulgate a legislative rule relating to continuing education requirements”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4101 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to

authorizing the Board of Dental Examiners to promulgate a legislative rule relating to expanded duties of dental hygienists and dental assistants”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4102 — “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Oil and Gas to promulgate a legislative rule relating to horizontal well development”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4103 — “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management to promulgate a legislative rule relating to requirements governing water quality standards”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4104 — “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection, Water and Waste Management to promulgate a legislative rule relating to above ground storage tanks”; to the Committee on Energy then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4105 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Election Commission to promulgate a legislative rule relating to the West Virginia Supreme Court of Appeals public campaign financing program”; to the Committee on Finance then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4106 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice of professional engineers”; to the Committee on Government Organization then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4107 — “A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to promulgate a legislative rule relating to the state building code”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4108 — “A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to promulgate a legislative rule relating to standards for the certification of continuing education of municipal, county and other public sector building code officials, inspectors and plans examiners”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4109 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Governor’s Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law enforcement training and certification standards”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4110 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to

promulgate a legislative rule relating to farmers market vendors”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4111 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the certification of opioid overdose prevention and treatment training programs”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4112 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4113 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to infectious medical waste”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4114 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access; registry and employment screening”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4115 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to

authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to chronic pain management licensure”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4116 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to neonatal abstinence centers”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4117 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care home registration requirements”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4118 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to W. Va. Works Program sanctions”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4119 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to qualifications for a restricted provisional license to practice as a social worker within the department”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4120 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to goals for foster children”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4121 — “A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Highways to promulgate a legislative rule relating to the state transportation infrastructure fund program”; to the Committee on Finance then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4122 — “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to Elevator Safety Act”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4123 — “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4124 — “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Labor to promulgate a legislative rule relating to minimum wage and maximum hours”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4125 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to

authorizing the Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4126 — “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4127 — “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to elk restoration and management”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4128 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4129 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4130 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4131 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4132 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure of wholesale drug distributors, third-party logistics providers and manufacturers”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4133 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Property Valuation and Procedures Commission to promulgate a legislative rule relating to tax map sales”; to the Committee on Finance then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4134 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of State to promulgate a legislative rule relating to the Freedom of Information Act database”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4135 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4136 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech pathology and audiology”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4137 — “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Tax and Revenue to promulgate a legislative rule relating to the payment of taxes by electronic funds transfer”; to the Committee on Finance then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4138 — “A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Transportation to promulgate a legislative rule relating to rail fixed guideway systems state safety oversight”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4139 — “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing WorkForce West Virginia to promulgate a legislative rule relating to the West Virginia Prevailing Wage Act”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4140 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance”; to the Committee on the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4141 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Human Rights Commission to promulgate a legislative rule relating to the Pregnant Workers’ Fairness Act”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4142 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to speech-language pathology and audiology assistants”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Sobonya, Frich and Moffatt:

H. B. 4143 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Ethics Commission to promulgate a legislative rule relating to the public use of names or likenesses”; to the Committee on the Judiciary.

House Calendar**First Reading**

H. B. 4033, Adding criminal penalties for the unauthorized practice of pharmacists care; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Miscellaneous Business

Delegate Espinosa filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2713.

Delegates Bates, Campbell, Ellington, Rohrbach, Sobonya and B. White filed forms with the Clerk's Office per House Rule 94b to be added as cosponsors of H. B. 4018.

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4019.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Azinger, Caputo, Ellington and Moore.

At 12:05 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, January 19, 2016.

TUESDAY, JANUARY 19, 2016

SEVENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, January 18, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4031, Requiring agencies to respond to public comments received during the rule-making process,

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

Com. Sub. for H. B. 4031 — “A Bill to amend and reenact §29A-3-5, §29A-3-6 and §29A-3-11 of the Code of West Virginia, 1931, as amended, all relating to requiring agencies to respond to public comments received during the rule-making process; permitting the President of the Senate and the Speaker of the House of Delegates

to review agencies' responses; providing grounds for the rejection of a proposed rule; and providing for review of agencies' responses by legislative rule-making review committee,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4002, Relating to rule making under the state Administrative Procedures Act,

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

Com. Sub. for H. B. 4002 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3-19; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to rule making under the state Administrative Procedures Act; providing for a sunset of rules promulgated after April 1, 2016; requiring a sunset provision for existing rules as they are modified; requiring Higher Education Policy Commission rules promulgated or modified after April 1, 2016 to include a sunset provision; clarifying that statutory sunset provisions take precedence over rule sunset provisions; expressly exempting out emergency rules from the sunset requirement; authorizing the Legislative Rule-making Review Committee to establish a procedure for timely review of rules prior to the expiration of the sunset provision; and authorizing the legislative oversight commission on education accountability to establish a procedure for timely review of rules prior to the expiration of the sunset provision,"

With recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4007, Relating generally to appointment of attorneys to assist the Attorney General,

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

Com. Sub. for H. B. 4007 - "A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of attorneys to assist the Attorney General; authorizing the Attorney General to appoint special assistant attorneys general; establishing competitive bidding process for the use of private attorneys on a contingency fee basis by the Attorney General; requiring written determinations for the Attorney General's selection of private attorneys to represent the state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and the Attorney General; requiring appointed private attorneys to accept an award of attorney fees in accordance with, and no greater than, the established fee limitations; establishing supervision requirements for private lawyers representing the state on a contingency fee basis; requiring the posting of certain documents relating to the Attorney General's retention of private attorneys to represent the state on a contingency fee basis; providing for the designation as a special assistant attorney general upon appointment; prohibiting campaign contributions to the Attorney General by members and staff of a private law firm providing legal services to the state; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; updating and removing outdated provisions; and defining terms,"

With the recommendation that the committee substitute do pass.

Messages from the Executive

The Clerk read a letter from the Legislative Rule-Making Review Committee as follows:

West Virginia Legislature
Legislative Rule-making Review Committee
State Capitol
Charleston, West Virginia 25305

January 13, 2016

The Honorable Clark Barnes
Clerk, West Virginia Senate
State Capitol
Charleston, WV 25305

The Honorable Steve Harrison
Clerk, West Virginia House of Delegates
State Capitol
Charleston, WV 25305

Gentlemen:

In accordance with the provisions of W.Va. Code, §29A-3-12, we have attached copies of the proposed legislative rules which have been submitted to and acted upon by the Legislative Rule-Making Review Committee, pursuant to the provisions of W.Va. Code, §29A-3-11, and which have not previously been submitted to the Legislature for study.

Also, attached is a report listing the proposed legislative rules considered by the Committee, and setting forth the recommendations of the Committee with respect to the proposed legislative rules. This letter also serves as a statement that a separate bill authorizing the

promulgation of each proposed legislative rule has been drafted by the staff of the Legislative Rule-Making Review Committee.

In accordance with W.Va. Code, §29A-3-11, the draft bills are available for any member to introduce to the Legislature. The undersigned, as Co-Chairmen of the Legislative Rule-Making Review Committee, are requesting that Senator Maynard's name be placed on the draft bills as the sponsor in the Senate, and Delegate Sobonya, Delegate Frich and Delegate Moffatt's names be placed on the draft bills as the sponsor in the House of Delegates.

Thank you for your cooperation.

Sincerely,

Mark Maynard,
Senate.

Kelli Sobonya,
House of Delegates.

Whereupon,

Mr. Speaker, Mr. Armstead, presented the report of the Legislative Rule-Making Review Committee in accordance with section twelve, article three, chapter twenty-nine of the code, which was read by the Clerk, and the accompanying rules were referred as follows:

West Virginia Legislature
Legislative Rule-Making Review Committee
State Capitol
Charleston, West Virginia 25305

January 13, 2016

West Virginia Legislature
State Capitol
Charleston, West Virginia

Ladies and Gentlemen:

In accordance with the provisions of West Virginia Code, §29A-3-12, as chairpersons of the Legislative Rule-Making Review Committee we submit this report of its activities. A bill, in the form approved by the Committee, authorizing each of the proposed legislative rules below as submitted, as modified, as modified and amended, or as amended has been drafted by the staff of the Legislative Rule-Making Review Committee pursuant to West Virginia Code §29A-3-11.

The Committee submits the following proposed rules to the Legislature with the recommendation that the proposed rules be authorized for promulgation by the respective agencies as submitted:

Administration, WV Department of

Purchasing Division, 148CSR1 [H. B. 4046].

Alcohol Beverage Control Commission, WV

Private Club Licensing, 175CSR2 [H. B. 4047].

Consolidated Public Retirement Board

Service Credit for Accrued and Unused Sick Leave,
162CSR8 [H. B. 4048].

DEP - Air Quality

Standards of Performance for New Stationary Sources,
45CSR16 [H. B. 4049].

DEP - Air Quality

Control of Air Pollution from Combustion of Solid Waste,
45CSR18 [H. B. 4050].

DEP - Air Quality

Control of Air Pollution from Hazardous Waste Treatment
Storage and Disposal Facilities, 45CSR25 [H. B. 4051].

DEP - Air Quality

Emission Standards for Hazardous Air Pollutants, 45CSR34 [H. B. 4052].

DEP - Air Quality

Control of Annual Nitrogen Oxide Emissions, 45CSR39 [H. B. 4053].

DEP - Air Quality

Control of Ozone Season Nitrogen Oxides Emissions, 45CSR40 [H. B. 4054].

DEP - Air Quality

Control of Annual Sulfur Dioxide Emissions, 45CSR41 [H. B. 4055].

DEP - Water and Waste Management

Surface Mining Reclamation, 38CSR2 [H. B. 4056].

DEP - Water and Waste Management

Administrative Proceedings and Civil Penalty Assessment, 47CSR30B [H. B. 4057].

DEP - Water and Waste Management

Aboveground Storage Tank Fee Assessments, 47CSR64 [H. B. 4058].

DEP - Water and Waste Management

Aboveground Storage Tank Administrative Proceedings and Civil Penalty Assessment, 47CSR65 [H. B. 4059].

Fire Commission, WV State

Fire Code, 87CSR1 [H. B. 4060].

Health and Human Resources, WV Department of

Fees For Service, 64CSR51 [H. B. 4061].

- Health and Human Resources, WV Department of
AIDS-Related Medical Testing and Confidentiality,
64CSR64 [H. B. 4062].
- Health and Human Resources, WV Department of
Tuberculosis Testing, Control, Treatment and Commitment,
64CSR76 [H. B. 4063].
- Health and Human Resources, WV Department of
Child Care Licensing Requirements, 78CSR1 [H. B. 4064].
- Health and Human Resources, WV Department of
Family Child Care Facility Licensing Requirements,
78CSR18 [H. B. 4065].
- Labor, WV Division of
Licensing of Elevator Mechanics and Technicians and
Registration of Apprentices, 42CSR21A [H. B. 4066].
- Medical Imaging & Radiation Therapy Technology Board of
Examiners, WV Rules of the Board, 18CSR1 [H. B. 4067].
- Miners' Health, Safety and Training, WV Office of
Substance Abuse Screening Standards and Procedures,
56CSR19 [H. B. 4068].
- Natural Resources, WV Division of
General Hunting, 58CSR49 [H. B. 4069].
- Natural Resources, WV Division of
Deer Hunting, 58CSR50 [H. B. 4070].
- Natural Resources, WV Division of
Wild Boar Hunting, 58CSR52 [H. B. 4071].
- Personnel, WV Division of
Administrative Rule of the West Virginia Division of
Personnel, 143CSR1 [H. B. 4072].

Racing Commission, WV

Thoroughbred Racing, 178CSR1 [H. B. 4073].

Racing Commission, WV

Pari-Mutuel Wagering, 178CSR5 [H. B. 4074].

Secretary of State

Absentee Voting by Military Voters Who are Members of Reserve Units Called to Active Duty, 153CSR23 [H. B. 4075].

Secretary of State

Registration Forms and Receipts, 153CSR3 [H. B. 4076].

Secretary of State

Elimination of Precinct Registration Books, 153CSR9 [H. B. 4077].

Tax and Revenue, WV Department of

Exchange of Information Agreement Between the Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Commerce and the Commissioners of the Public Service Commission, 110CSR50H [H. B. 4078].

Veterans' Assistance, WV Department of

State Home for Veterans - Fiscal, 86CSR2 [H. B. 4079].

Veterans' Assistance, WV Department of

VA Headstones or Markers, 86CSR4 [H. B. 4080].

The Committee submits to the Legislature the following proposed rules which were modified by the agency in accordance with the provisions of West Virginia Code, §29A-3-14, and which were approved by the Committee with the modifications with the

recommendation that the proposed rules be authorized for adoption by the respective agencies as modified:

Accountancy, Board of

Board Rules and Rules of Professional Conduct, 1CSR1 [H. B. 4081].

Administrative Hearings, Office of

Appeal Procedures, 105CSR1 [H. B. 4082].

Agriculture, WV Department of

Inspection of Nontraditional Domesticated Animals, 61CSR23D [H. B. 4083].

Agriculture, WV Department of

Poultry Litter and Manure Movement Into Primary Poultry Breeder Rearing Areas, 61CSR28 [H. B. 4084].

Agriculture, WV Department of

Livestock Care Standards, 61CSR31 [H. B. 4085].

Agriculture, WV Department of

Captive Cervid Farming, 61CSR34 [H. B. 4086].

Alcohol Beverage Control Commission, WV

Distilleries and Mini-Distilleries, 175CSR10 [H. B. 4087].

Alcohol Beverage Control Commission, WV

Nonintoxicating Beer Licensing and Operations Procedures, 176CSR1 [H. B. 4088].

Conservation Committee, WV State

West Virginia Conservation Agency Financial Assistance Program, 63CSR2 [H. B. 4089].

Consolidated Public Retirement Board

Deputy Sheriff Retirement System, 162CSR10 [H. B. 4090].

- Consolidated Public Retirement Board
Benefit Determination and Appeal, 162CSR2 [H. B. 4091].
- Consolidated Public Retirement Board
Teachers' Defined Contribution System, 162CSR3 [H. B. 4092].
- Consolidated Public Retirement Board
Teachers' Retirement System, 162CSR4 [H. B. 4093].
- Consolidated Public Retirement Board
Refund, Reinstatement, Retroactive Service, Loan and
Correction of Error Interest Factors, 162CSR7 [H. B. 4094].
- Consolidated Public Retirement Board
West Virginia State Police, 162CSR9 [H. B. 4095].
- Counseling, WV Board of Examiners in Licensing, 27CSR1 [H.
B. 4096].
- Counseling, WV Board of Examiners in
Marriage and Family License Renewal and Continuing
Professional Education Requirements, 27CSR10 [H. B.
4097].
- Counseling, WV Board of Examiners in
Licensed Professional Counselor License Renewal and
Continuing Professional Education Requirements, 27CSR3
[H. B. 4098].
- Counseling, WV Board of Examiners in
Marriage and Family Therapists Licensing, 27CSR8 [H. B.
4099].
- Dental Examiners, WV Board of
Continuing Education Requirements, 5CSR11 [H. B. 4100].

- Dental Examiners, WV Board of
Expanded Duties of Dental Hygienists and Dental
Assistants, 5CSR13 [H. B. 4101].
- DEP - Oil and Gas
Horizontal Well Development, 35CSR8 [H. B. 4102].
- DEP - Water and Waste Management
Requirements Governing Water Quality Standards, 47CSR2
[H. B. 4103].
- DEP - Water and Waste Management
Aboveground Storage Tanks, 47CSR63 [H. B. 4104].
- Election Commission, WV State
West Virginia Supreme Court of Appeals Public Campaign
Financing Program, 146CSR5 [H. B. 4105].
- Engineers, WV State Board of Registration for Professional
Examination, Licensure and Practice of Professional
Engineers, 7CSR1 [H. B. 4106].
- Fire Commission, WV State
State Building Code, 87CSR4 [H. B. 4107].
- Fire Commission, WV State
Standards for the Certification of Continuing Education of
Municipal, County and Other Public Sector Building Code
Officials, Inspectors and Plans Examiners, 87CSR7 [H. B.
4108].
- Governor's Committee on Crime, Delinquency and Correction
Law Enforcement Training and Certification Standards,
149CSR2 [H. B. 4109].
- Health and Human Resources, WV Department of Farmers
Market Vendors, 64CSR102 [H. B. 4110].

Health and Human Resources, WV Department of Certification of Opioid Overdose Prevention and Treatment Training Programs, 64CSR104 [H. B. 4111].

Health and Human Resources, WV Department of Emergency Medical Services, 64CSR48 [H. B. 4112].

Health and Human Resources, WV Department of Infectious Medical Waste, 64CSR56 [H. B. 4113].

Health and Human Resources, WV Department of West Virginia Clearance for Access; Registry and Employment Screening, 69CSR10 [H. B. 4114].

Health and Human Resources, WV Department of Chronic Pain Management Licensure, 69CSR8 [H. B. 4115].

Health and Human Resources, WV Department of Neonatal Abstinence Centers, 69CSR9 [H. B. 4116].

Health and Human Resources, WV Department of Family Child Care Home Registration Requirements, 78CSR19 [H. B. 4117].

Health and Human Resources, WV Department of W. Va. Works Program Sanctions, 78CSR23 [H. B. 4118].

Health and Human Resources, WV Department of Qualifications for a Restricted Provisional License to Practice as a Social Worker Within the Department, 78CSR24 [H. B. 4119].

Health and Human Resources, WV Department of Goals for Foster Children, 78CSR25 [H. B. 4120].

Highways, WV Division of State Transportation Infrastructure Fund Program, 157CSR11 [H. B. 4121].

- Labor, WV Division of
Elevator Safety Act, 42CSR21 [H. B. 4122].
- Labor, WV Division of
Wage Payment and Collection, 42CSR5 [H. B. 4123].
- Labor, WV Division of
Minimum Wage and Maximum Hours, 42CSR8 [H. B. 4124].
- Medicine, WV Board of
Establishment and Regulation of Limited License to
Practice Medicine and Surgery at Certain State Veterans
Nursing Home Facilities, 11CSR11 [H. B. 4125].
- Natural Resources, WV Division of
Prohibitions When Hunting and Trapping, 58CSR47 [H. B. 4126].
- Natural Resources, WV Division of
Elk Restoration and Management, 58CSR74 [H. B. 4127].
- Nursing Home Administrators Licensing Board, WV Nursing
Home Administrators, 21CSR1 [H. B. 4128].
- Pharmacy, WV Board of
Licensure and Practice of Pharmacy, 15CSR1 [H. B. 4129].
- Pharmacy, WV Board of
Uniform Controlled Substances Act, 15CSR2 [H. B. 4130].
- Pharmacy, WV Board of
Record Keeping and Automated Data Processing Systems,
15CSR4 [H. B. 4131].
- Pharmacy, WV Board of
Licensure of Wholesale Drug Distributors, Third-Party
Logistics Providers and Manufacturers, 15CSR5 [H. B. 4132].

Property Valuation and Procedures Commission, WV Tax Map Sales, 189CSR5 [H. B. 4133].

Secretary of State

Freedom of Information Act Database, 153CSR52 [H. B. 4134].

Social Work, WV Board of,

Qualifications for the Profession of Social Work, 25CSR1 [H. B. 4135].

Speech-Language Pathology and Audiology, WV Board of

Examiners for Licensure of Speech Pathology and Audiology, 29CSR1 [H. B. 4136].

Tax and Revenue, WV Department of

Payment of Taxes by Electronic Funds Transfer, 110CSR10F [H. B. 4137].

Transportation, WV Department of

Rail Fixed Guideway Systems State Safety Oversight, 225CSR1 [H. B. 4138].

Work Force West Virginia

West Virginia Prevailing Wage Act, 96CSR4 [H. B. 4139].

The Committee submits the following legislative rules which were modified by the agency in accordance with the provisions of West Virginia Code, §29A-3-14, and which was approved by the Committee with the modifications and with the recommendation that the rule be authorized for adoption by the agency with amendments:

Election Commission, WV State

Regulation of Campaign Finance, 146CSR3 [H. B. 4140].

Human Rights Commission, WV

Pregnant Workers' Fairness Act, 77CSR10 [H. B. 4141].

Speech-Language Pathology and Audiology, WV Board of Examiners for Speech-Language Pathology and Audiology Assistants, 29CSR2 [H. B. 4142].

The Committee submits the following legislative rule which was approved by the Committee, in accordance with the provisions of West Virginia Code, §29A-3-11 with the recommendation that the rule be authorized for adoption by the agency with amendments:

Ethics Commission, WV

Public Use of Names or Likeness, 158CSR21 [H. B. 4143].

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Westfall, McCuskey, B. White, Frich, Waxman, Hamrick, Atkinson and Stansbury:

H. B. 4144 — “A Bill to amend and reenact §33-24-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-25-6 of said code; to amend and reenact §33-25A-24 of said code; to amend and reenact §33-25D-26 of said code; to amend and reenact §33-40-1, §33-40-2, §33-40-3, §33-40-6 and §33-40-7 of said code; and to amend said code by adding thereto a new article, designated §33-40A-1, §33-40A-2, §33-40A-3, §33-40A-4, §33-40A-5, §33-40A-6, §33-40A-7, §33-40A-8, §33-40A-9, §33-40A-10, §33-40A-11 and §33-40A-12, all relating to risk-based capital reporting for health organizations; making health organizations subject to the statutory provisions concerning risk-based capital reporting; defining terms associated with risk-based capital reporting for health organizations; requiring a domestic health organization to file a risk-based capital report with the Insurance Commissioner; requiring a health organization to perform certain actions if the risk-based capital report indicates a negative financial trend or hazardous financial condition; requiring the Insurance Commissioner to conduct certain actions if the risk-based capital report of a health organization indicates a negative

financial trend or hazardous financial condition; providing a health organization a right to a confidential hearing with respect to its risk-based capital report; making risk-based capital reports confidential; prohibiting the use of risk-based capital reports in the rate-making of a health organization; granting the Insurance Commissioner the authority to promulgate rules; requiring a foreign health organization to file a risk-based capital report with the Insurance Commissioner; and providing immunity to the Insurance Commissioner and his employees or agents for actions taken with respect to monitoring the financial stability of a health organization”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Blair, Azinger, Butler, Cadle, Eldridge, Householder, Marcum, Overington, Phillips, Sobonya and Upson:

H. B. 4145 — “A Bill to amend and reenact §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code; and to amend said code by adding thereto two new sections, designated §61-7-4a and §61-7-15a, all relating to carry or use of a handgun or deadly weapon; permitting eligible persons to carry a handgun for self-defense purposes, without permit, while afield; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization applies only to persons under twenty-one years of age; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; permitting persons eighteen years and older to obtain a concealed carry permit; requiring actual live firing of ammunition in training; requiring an applicant for a concealed carry permit to provide a copy of instructor’s certification; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs’ Bureau of Professional Standards, prepare uniform applications for licenses and license cards; creating a provisional license to carry concealed deadly weapons for persons

between eighteen and twenty-one years of age; establishing provisional license application requirements and procedures; exempting members of the United States Armed Forces, Reserve or National Guard from permit requirements; eliminating the requirement for persons twenty-one years of age and older to possess a permit to carry a concealed deadly weapon provided that certain conditions are met, including being a United States citizen or legal resident, being twenty-one years of age or older and not prohibited from possessing firearms; requiring a school principal to report certain violations to the State Police; providing enhanced penalties for use of a firearm during commission of a felony; and excepting enhanced penalties in certain circumstances when a firearm is used in defense of self or others”; to the Committee on the Judiciary.

By Delegates Ellington, Summers, Bates, Faircloth, Householder, Rohrbach, Sobonya and Stansbury:

H. B. 4146 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to abuse-deterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid analgesic drugs; providing direct health care services cover abuse-deterrent opioid analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs; defining terms; providing an effective date; providing for cost sharing; providing for cost tier location; and allowing cost containment measures”; to the Committee on Banking and Insurance then the Select Committee on Prevention and Treatment of Substance Abuse.

By Delegates Rowan, Mr. Speaker (Mr. Armstead), Cowles, Perry, Duke, Miley, Hamilton, Espinosa, O’Neal, Anderson and E. Nelson:

H. B. 4147 — “A Bill to amend and reenact §18-9D-2, §18-9D-3, §18-9D-4c and §18-9D-16 of the Code of West Virginia, 1931, as

amended; and to amend said code by adding thereto a new section, designated §18-9D-22, all relating to making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority”; to the Committee on Education then Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4148 — “A Bill to amend and reenact §11-24-3 and §11-24-13 of the Code of West Virginia, 1931, as amended, all relating to updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; changing the due date for filing a West Virginia Corporation Net Income Tax return; and specifying effective dates”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4149 — “A Bill making a supplementary appropriation from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, to the Department of Health and Human Resources, Division of Human Services, fund 5365, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4150 — “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Health and Human Resources, Consolidated Medical Service Fund, fund 8723, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Human Rights Commission, fund 8725, fiscal year 2016, organization 0510, and the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2016, organization 0511, by

supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4151 — “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Education, State Board of Education – School Lunch Program, fund 8713, fiscal year 2016, organization 0402, and the Department of Education, State Board of Education – Vocational Division, fund 8714, fiscal year 2016, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4152 — “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Environmental Protection, Division of Environmental Protection – Protect Our Water Fund, fund 3017, fiscal year 2016, organization 0313, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4153 — “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health, fund 0407, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 4154 — “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2016, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 4155 — “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund, fund 5185, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 4156 — “A Bill supplementing and amending by decreasing an appropriation, and making a supplementary appropriation from the balance of moneys remaining as an unappropriated balance the State Fund, State Excess Lottery Revenue Fund, to the Department of Revenue, Lottery Commission – Distributions to Statutory Funds and Purposes, fund 7213, fiscal year 2016, organization 0705, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 4157 — “A Bill supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2016, organization 0803, for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 4158 — “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act, fund 8749, fiscal year 2016, organization 0323, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 4159 — “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Public Services Commission – Motor Carrier Division, fund 8743, fiscal year 2016, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley**[By Request of the Executive]:**

H. B. 4160 — “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Revenue, Tax Division – Wine Tax Administration Fund, fund 7087, fiscal year 2016, organization 0702, and the Department of Revenue, Tax Division – Local Sales Tax and Excise Tax Administration Fund, fund 7099, fiscal year 2016, organization

0702, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4161 — “A Bill to amend and reenact §11-8-6a of the Code of West Virginia, 1931, as amended, relating to levies on classifications of property by the Board of Public Works; removing antiquated language requiring Board of Public Works to levy property tax rates to meet the requirements of state road bonds issued prior to November 8, 1932; and removing references to corresponding levy rates”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4162 — “A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016 in the amount of \$659,500 from the Department of Revenue, Insurance Commissioner – Examination Revolving Fund, fund 7150, fiscal year 2016, organization 0704 and in the amount of \$26,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704”; to the Committee on Finance.

House Calendar

Second Reading

H. B. 4033, Adding criminal penalties for the unauthorized practice of pharmacists care; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

Com. Sub. for H. B. 2101, Eliminating obsolete government entities; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Remarks by Members

Delegate Arvon asked and obtained unanimous consent that the remarks of Delegate Rohrbach regarding the closure of the Huntington Division of CSX Railroad be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Lane filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4018.

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4034.

Delegate Miller filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2615.

At 11:33 a.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, January 20, 2016.

WEDNESDAY, JANUARY 20, 2016

EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, January 19, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Overington, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

H. B. 4060, State Fire Commission, State Fire Code,

H. B. 4066, Division of Labor, Licensing of Elevator Mechanics and Technicians and Registration of Apprentices,

H. B. 4107, State Fire Commission, State Building Code,

H. B. 4108, State Fire Commission, Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Building Code Officials, Inspectors and Plans Examiners,

H. B. 4122, Division of Labor, Elevator Safety Act,

H. B. 4123, Division of Labor, Wage Payment Collection,

And,

H. B. 4124, Division of Labor, Minimum Wages, Maximum Hours, and Overtime Compensation,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4060, H. B. 4066, H. B. 4107, H. B. 4108, H. B. 4122, H. B. 4123 and H. B. 4124) were each referred to the Committee on the Judiciary.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4084, Department of Agriculture, rule relating to poultry litter and manure movement into primary poultry breeder rearing areas,

H. B. 4085, Department of Agriculture, rule relating to livestock care standards,

H. B. 4086, Department of Agriculture, rule relating to captive cervid farming,

And,

H. B. 4089, State Conservation Committee, rule relating to the West Virginia Conservation Agency Financial Assistance Program,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4084, H. B. 4085, H. B. 4086 and H. B. 4089) were each referred to the Committee on the Judiciary.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4083, Department of Agriculture, rule relating to the inspection of nontraditional domesticated animals,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4083) was referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4069, Division of Natural Resources, rule relating to general hunting,

H. B. 4070, Division of Natural Resources, rule relating to deer hunting,

H. B. 4071, Division of Natural Resources, rule relating to wild boar hunting,

H. B. 4126, Division of Natural Resources, rule relating to prohibitions when hunting and trapping,

And,

H. B. 4127, Division of Natural Resources, rule relating to elk restoration and management,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4069, H. B. 4070, H. B. 4071, H. B. 4126 and H. B. 4127) were each referred to the Committee on the Judiciary.

On motion for leave, a bill was introduced (Originating in the Committee on Roads and Transportation and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Hamrick, Ambler, Boggs, Cadle, Guthrie, Longstreth, Rohrbach and Gearheart:

H. B. 4188 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §17-4-55 and §17-4-56, all relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas and welcome centers on controlled-access highway facilities; providing for sponsorship agreements; agreement requirements; disposition of funds received from sponsorship agreements; requiring promulgation of legislative rules; providing for an annual report of the status of the program; establishing the Legislative Oversight Commission on Controlled-access Highways Facilities Sponsorship; membership; compensation and expenses of members; duties of the commission; and providing for an annual report.”

The Speaker referred the bill to the Committee on Finance.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2969, Requiring that a county itemize and publish all activity related to budget stabilization funds,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2969) was referred to the Committee on Finance.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2904, Requiring the clerk of a county commission to maintain a county ordinance book,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2904) was referred to the Committee on the Judiciary.

On motion for leave, a bill was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Ellington, Summers, Householder, Stansbury, Campbell and Fleischauer:

H. B. 4209 — “A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; modifying expiration date for tax rate on eligible acute

care hospitals; changing tax rate on eligible acute care hospitals; and providing for disbursement of any funds remaining in the Eligible Acute Care Provider Enhancement Account.”

The Speaker referred the bill to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4061, Department of Health and Human Resources, rule relating fees for service,

H. B. 4062, Department of Health and Human Resources, rule relating to AIDS-related medical testing and confidentiality,

H. B. 4063, Department of Health and Human Resources, rule relating to Tuberculosis testing, control, treatment and commitment,

H. B. 4067, Medical Imaging and Radiation Therapy Technology Board of Examiners, rule relating to the board,

H. B. 4100, Board of Dental Examiners, rule relating to continuing education requirements,

H. B. 4101, Board of Dental Examiners, rule relating to expanded duties of dental hygienists and dental assistants,

H. B. 4111, Department of Health and Human Resources, rule relating to the certification of opioid overdose prevention and treatment training programs,

H. B. 4113, Department of Health and Human Resources, rule relating to infectious medical waste,

And,

H. B. 4114, Department of Health and Human Resources, rule relating to West Virginia clearance for access; registry and employment screening,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4061, H. B. 4062, H. B. 4063, H. B. 4067, H. B. 4100, H. B. 4101, H. B. 4111, H. B. 4113 and H. B. 4114) were each referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4038, Relating to insurance requirements for the refilling of topical eye medication,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4038 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §3324-7m; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to insurance requirements for the refilling of topical eye medication; requiring a refill take place at a certain time; and establishing when a refill is permitted,”

With the recommendation that the committee substitute do pass.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4049, Department of Environmental Protection, Air Quality, rule relating to standards of performance for new stationary sources,

H. B. 4050, Department of Environmental Protection, Air Quality, rule relating to standards of performance for new stationary sources,

H. B. 4051, Department of Environmental Protection, Air Quality, rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities,

H. B. 4052, Department of Environmental Protection, Air Quality, rule relating to emission standards for hazardous air pollutants,

H. B. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions,

H. B. 4054, Department of Environmental Protection, Air Quality, rule relating to the control of ozone season nitrogen oxides emissions,

H. B. 4055, Department of Environmental Protection, Air Quality, rule relating to the control of annual sulfur dioxide emissions,

H. B. 4056, Department of Environmental Protection, Water and Waste Management, rule relating to surface mining reclamation,

And,

H. B. 4057, Department of Environmental Protection, Water and Waste Management, rule relating to administrative proceedings and civil penalty assessment,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4049, H. B. 4050, H. B. 4051, H. B. 4052, H. B. 4053, H. B. 4054, H. B. 4055, H. B. 4056 and H. B. 4057) were each referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests,

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

Com. Sub. for H. B. 2800 - "A Bill to amend and reenact §29B-1-2 and §29B-1-4 of the Code of West Virginia, 1931, as amended, all relating to adding law-enforcement officers' contact information and the names and contact information of family members to the list of exemptions from public records requests; providing exception for law-enforcement information voluntarily disclosed on campaign documentation; providing exception for law-enforcement officer's government-issued email addresses and telephone numbers; and defining law-enforcement officers,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2852, Relating to legalizing and regulating the sale and use of fireworks,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2852) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2147, Requiring the circuit court, when appointing counsel for alleged protected persons, to make appointments from a listing of all interested and qualified attorneys in the circuit,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 2796, Providing paid leave for certain state officers and employees during a declared state of emergency,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 2584, Allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 2588, Relating to the filing of financial statements with the Secretary of State,

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

Com. Sub. for H. B. 2588 – “A Bill to amend and reenact §3-8-5b of the Code of West Virginia, 1931, as amended, relating to the filing of financial statements with the Secretary of State; providing that these must be in an electronic format; providing for exceptions in instances where a candidate has been unable to file the financial statement, and, providing for exceptions in the case of hardship,”

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4035, Permitting pharmacists to furnish naloxone hydrochloride,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4035) was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Phillips, Marcum, Eldridge, Moffatt and P. White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 6 – “Requesting the Division of Highways to name the bridge on County Route 80 over Huff Creek in Logan County, bridge number 23-80-5.66 (23A089), latitude 37.73012, longitude -81.87272, locally known as the Huff Junction Beam Span, the ‘U. S. Army CPL F. Lee Noel Memorial Bridge’.”

Whereas, U.S. Army CPL F. Lee Noel was born on April 14, 1928, in Wilsendale in Wayne County to E. R. Noel, Sr. and Vacey Ann Marcum Noel and died on September 3, 2014; and

Whereas, U. S. Army CPL F. Lee Noel graduated in 1948 from Lenore High School where he lettered in basketball; and

Whereas, U. S. Army CPL F. Lee Noel was inducted into the U. S. Army on December 5, 1950, served in the 3rd Armored Division, the Korean Conflict and was honorably discharged on November 14, 1956; and

Whereas, U. S. Army CPL F. Lee Noel was employed for Island Creek Coal Company as a heavy equipment operator for 41 years and owned the Pic Pac grocery stores in Man and Justice; and

Whereas, U. S. Army CPL F. Lee Noel served as an Elder, Trustee, Sunday School Superintendent and in the Choir in the Man Church of God during his nearly 50 years of membership; and

Whereas, U. S. Army CPL F. Lee Noel was the bass singer in the Evangelists Quartet, was a member of the Lions Club at Man for over 25 years and loved golfing with his family; and

Whereas, U. S. Army CPL F. Lee Noel is survived by his wife of nearly 60 years, Billie Redmond Noel, two children, Nancy (Ron)

Lemon and Norman (Danita) Noel, four grandchildren and four greatgrandchildren; and

Whereas, It is only fitting that we name this bridge to honor U. S. Army CPL F. Lee Noel; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name the bridge on County Route 80 over Huff Creek in Logan County, bridge number 23-80-5.66 (23A089), latitude 37.73012, longitude -81.87272, locally known as the Huff Junction Beam Span, the “U. S. Army CPL F. Lee Noel Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL F. Lee Noel Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation, U. S. Army CPL F. Lee Noel’s wife, Billie Redmond Noel and his two children, Nancy Lemon and Norman Noel.

Delegates Miller, Morgan, Moffatt, Hornbuckle, Reynolds, Sobonya and Rohrbach offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 7 - “Requesting the Division of Highways to name the bridge on Interstate 64 over Kilgore Creek Road, specifically Bridge Number 0-064/00-28.67 in Cabell County, the ‘U.S. Army PFC Cecil Ray Ball Memorial Bridge’.”

Whereas, Cecil Ray Ball was born on March 18, 1930, on Kilgore Creek near Milton, Cabell County, West Virginia, the son of Elizabeth

Frances and Nicholas Ball. He enlisted in the United States Army on November 19, 1947. He served as a PFC with Company I, 3rd Battalion, 7th Cavalry Regiment, 1st Cavalry Division during the Korean War and was killed in action on November 30, 1950, in Korea; and

Whereas, The body of PFC Cecil Ray Ball was returned to Cabell County for burial July 28, 1955. PFC Cecil Ray Ball was posthumously awarded the Purple Heart, Combat Infantryman Badge, Korean Service Medal, United Nations Service Medal, National Defense Service Medal and Korean War Service Medal; and

Whereas, Naming the bridge on Interstate 64 over Kilgore Creek Road, specifically bridge number 0-064/00-28.67 in Cabell County, the “U.S. Army PFC Cecil Ray Ball Memorial Bridge” is an appropriate recognition of his contributions to his country, state, community and Cabell County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on Interstate 64 over Kilgore Creek Road, specifically Bridge Number 0-064/00-28.67 in Cabell County, the “U.S. Army PFC Cecil Ray Ball Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U.S. Army PFC Cecil Ray Ball Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and any surviving members of the family of PFC Cecil Ray Ball.

Delegates Westfall, McCuskey, B. White, Atkinson, Stansbury, Blair, Foster, Ihle, Butler and Storch offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 8 – “Requesting the Division of Highways to name bridge number 18-25-1.03 (18A-108), (38.79972, -81.69202), locally known as Harpold Bridge, carrying County Route 25 over Mill Creek in Jackson County, the ‘Harry Ripley Memorial Bridge’.”

Whereas, Harry Ripley was born on Dec. 29, 1799, in western Massachusetts, the oldest son of Abraham and Phoebe Bliss Ripley, according to the book “Stories Carved in Stone”, by Rusty Clark (2005); and

Whereas, Harry Ripley moved to the frontier of western Virginia in the late 1820s, serving as an itinerant preacher; and

Whereas, It is believed the preacher rode the Little Kanawha Circuit, an area of more than 50 miles between the Kanawha River and Little Kanawha River, traveling on horseback with a Bible and a hymn book in his saddlebags, spreading the gospel, and presiding over weddings and funerals; and

Whereas, According to local history books, Harry resided with the family of Jacob Starcher when traveling through the area. Starcher operated a mill and donated the land where the Jackson County Courthouse is located; and

Whereas, Legend says that Harry Ripley fell in love with a local girl, believed to have been a daughter of Capt. William Parsons, an early settler. Harry was going to marry Miss Parsons, but drowned days before the wedding while crossing Mill Creek approximately two miles south of where Ripley now stands (believed to be in the area of the iron bridge situated between Ripley and Cedar Lakes). Their wedding certificate was found in his coat pocket. He was 31 years old; and

Whereas, This occurred about the same time Jackson County was being organized from sections of Mason, Wood and Kanawha counties; and

Whereas, The town’s post office would be known as Jackson Court House for another fifty years; and

Whereas, Ripley's story was documented in a December 1899 issue of *The Mountaineer*, a local newspaper; and

Whereas, Upon learning the details of the life and death of Harry Ripley, members of the community were so touched that they decided to name the town in his honor when the charter was approved by the Virginia General Assembly on December 19, 1832; and

Whereas, It is fitting that a memorial mark the area in which the circuit rider drowned while serving the community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 18-25-1.03 (18A-108), (38.79972, -81.69202), locally known as Harpold Bridge, carrying County Route 25 over Mill Creek in Jackson County, the "Harry Ripley Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "Harry Ripley Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and the mayor of Ripley, West Virginia.

Delegates Kelly, Kessinger, Azinger, Statler, D. Evans, Zatezalo, Weld, McGeehan, Ireland, Border and J. Nelson offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 9 – "Requesting the Division of Highways to have made and place signs identifying the 'Navy Chief Petty Officer Nicholas Heath Null Memorial Bridge' on West Virginia Route 68, over US Route 50, bridge number 54-68-14.60, on the bridge so that motorists traveling on US Route 50 are able to identify the bridge as the 'Navy Chief Petty Officer Nicholas Heath Null Memorial Bridge'."

Whereas, During the 2013 Regular Session the House of Delegates passed House Concurrent Resolution No. 62 naming the bridge the “Navy Chief Petty Officer Nicholas Heath Null Memorial Bridge”; and

Whereas, The Division of Highways named the bridge the “Navy Chief Petty Officer Nicholas Heath Null Memorial Bridge” and made and placed signs on Route 68 identifying the bridge, but not on US Route 50; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to have made and place signs identifying the “Navy Chief Petty Officer Nicholas Heath Null Memorial Bridge” on West Virginia Route 68, over US Route 50, bridge number 54-68-14.60, on the bridge so that motorists traveling on US Route 50 are able to identify the bridge as the “Navy Chief Petty Officer Nicholas Heath Null Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and place signs reading “Navy Chief Petty Officer Nicholas Heath Null Memorial Bridge” on the bridge so that they may be viewed by motorists driving in both directions of US Route 50; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the family of Chief Petty Officer Nicholas Null.

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegate Deem:

H. J. R. 28 – “Proposing an amendment to the Constitution of the State of West Virginia, repealing sections four, five, six, seven, eight, nine and ten, article six thereof; and amending said Constitution by adding thereto a new article, designated article fifteen, all relating to

the creation of a Citizens Redistricting Commission to redistrict Senate, House of Delegates, and congressional districts; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of the proposed amendment”; to the Committee on the Judiciary.

And,

By Delegates Campbell, Cooper, Ferro, Kurcaba, Perry, Morgan, Pethel, Kessinger, Statler, Wagner and Romine:

H. J. R. 29 – “Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article XII thereof, relating to reducing the length of terms for members of the West Virginia Board of Education from nine years to six years; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Education then the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Espinosa, Overington, Romine, Upson, Statler, E. Nelson, Fast, Ellington and Walters:

H. B. 4011 — “A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-9A-2 of said code; to amend said code by adding thereto a new section, designated section §18-9A-12a; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, §18-33-8, §18-33-9, §18-33-10, §18-33-11, §18-33-12 and §18-33-13; and to amend and reenact §29-12-5a of said code, all relating to providing for the authorization and oversight of public charter schools; providing for

charter school employee participation in public employee insurance and applicable teachers retirement systems; including charter school students in net enrollment of county; providing calculation of charter school basic foundation program and corresponding reduction in county's basic foundation program; defining exceptional child with high cost/high acuity special needs and providing for establishment of method for disbursing state appropriated funds; providing for charter school application for funds; removing certain reports; creating charter school act to establish process for creation, providing for governance and oversight accountability of public charter schools; stating purposes; establishing charter schools as public schools and part of public education system; providing for liberal interpretation; prohibiting conversion of private schools into charter schools under act; prohibiting establishment of charter virtual schools under act; providing general definitions; limiting county board management and control of charter school; prohibiting state board as authorizing authority; defining terms; providing for authorizations, eligibilities, compliances and prohibitions; providing for general supervision by state board for meeting student performance standards required of other public school students; providing powers of public charter schools; establishing processes for determining capacity and enrolling students; prohibiting discrimination in enrollment decisions; providing for credit transfers; authorizing charter student participation in state and school district sponsored interscholastic leagues, competitions, awards, scholarships and recognition programs and specifying parameters; requiring access to and requiring utilization of electronic education information system for reporting certain information and subject to student data accessibility, transparency and accountability; providing for certification of charter school enrollment, attendance and program participation to county board and department; providing for distribution of charter school basic foundation program funds and allowing authorizer charge for oversight costs; providing for payment of special education and federal funds to charter schools; requiring charter school submission of budget and sources of funds to state board and requiring public availability; creating public charter school

oversight and authorizer board and specifying mission, agency status and degree of oversight and supervision by state board; providing for appointment of members, qualifications, terms, removal, civil liability and limited scope of acts of ex officio members; requiring appointment of executive director and duties and qualifications; setting forth meetings, expenses, powers and duties of board; requiring annual report to state board and availability to public and Legislature; granting authority to require annual reports from charter schools; establishing limitations on regulation by state board, oversight and authorizer board and county board authorizers; requiring annual request for proposals; providing contents of requests for proposals; providing for application for authorization of public charter school; requiring notice of intent to establish by organizers; requiring timelines for notice and submission of application; providing option for county board to proceed as authorizer or forward application to oversight and authorizer board; establishing process for application review and evaluation; granting period for applicant response to authorizer decision prior to final determination; requiring report of final action; setting forth registration of approved charters by state superintendent; stating effect of approved application; providing authorizer powers and duties respecting charter contracts; providing timelines for execution of charter contract and authorization to appeal to executive director to finalize terms; providing minimum provisions of contract, including performance provisions; prohibiting delegation and assignment of powers; setting forth obligations and responsibilities set forth in charter contract; requiring performance report prior to contract renewal and period to rectify weaknesses; requiring offer of contract application renewal guidance; requiring timelines for submission of renewal application; provisions for authorizer decisions on renewals; permitting authorizer report of renewal decisions; prohibition on contract renewal of school given failing level of accreditation during final operating year; authorizing contract revocation at any time or nonrenewal for certain violations and failures; requiring report of revocation and nonrenewal with statement of reasons; providing for options of county board for disposition of school when contract revoked or not renewed; duties of

authorizer when contract revoked or not renewed; establishing supremacy of article when inconsistent with any other laws rules or regulations; granting authorization for one or more schools under single contract; granting authorization of one or more contracts for single governing board; providing that local education agency status when charter school authorized county board and local education agency status when charter school authorized oversight and authorizer board; providing for county board accreditation accountability for charter school authorized by county board; prohibition on county board requiring employee to be employed in charter school; prohibition on any retaliatory action against district employee involved in application to establish charter school; prohibiting discrimination against charter school in district advertising of educational options; providing for accrual of seniority with the county board of personnel employed in charter school; and authorizing charter school liability coverage through Board of Risk and Insurance Management”; to the Committee on Education then Finance.

By Delegates Howell, Arvon, Moffatt, Westfall, McCuskey, Miller, Cadle, Walters, Zatezalo, Kelly and Ellington:

H. B. 4163 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto four new sections, designated §8-13-24, §8-13-25, §8-13-26 and §8-13-27, all relating to providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Howell, Frich, Storch, Arvon, Eldridge, Moffatt, Faircloth, Upson, Westfall, Phillips and Miller:

H. B. 4164 — “A Bill to amend and reenact §17B-2-7 of the Code of West Virginia, 1931, as amended, related to requiring the Department of Motor Vehicles to conduct drivers tests as a pilot program, at certain high schools to provide better access for students”; to the Committee on Roads and Transportation then Education.

By Delegates Howell, Frich, Storch, Arvon, Moffatt, Eldridge, Upson, Faircloth, Westfall, Phillips and Miller:

H. B. 4165 — “A Bill to amend and reenact §16-5-5 and §16-5-29 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-5-39, all relating to authorizing the Department of Motor Vehicles to issue certain vital records in the custody of the State Registrar; to require the Department of Motor Vehicles to adhere to the State Registrar’s rules; authorize the Department of Motor Vehicles to collect a fee for issuing vital records and transmit those fees to the State Registrar monthly; and require the Commissioner of the Department of Health and Human Resources and Commissioner of the Department of Motor Vehicles to enter into a Memorandum of Understanding to implement a program that allows the Department of Motor Vehicles access to certain vital records to issue to customers”; to the Committee on Roads and Transportation then Finance.

By Delegates Howell, Frich, Storch, Arvon, Eldridge, Moffatt, Faircloth, Westfall, Miller, McCuskey and Cadle:

H. B. 4166 — “A Bill to amend the Code of West Virginia, 1931, by adding thereto a new section, designated §5-16-7b; to amend said code by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3c; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-15; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to health insurance coverage for prescribed medications; requiring health insurance coverage for an entire package of otherwise covered medication for an individual with a continuing prescription for such medication, if the manufacturer’s packaging prevents a pharmacy from distributing fewer doses than are contained in a single package without discarding or otherwise compromising a portion of the doses contained in that package and the package contains fewer than sixty days’ worth of doses prescribed to the individual”; to the Committee on Banking and Insurance then Health and Human Resources.

By Delegates Cooper, D. Evans and Ambler:

H. B. 4167 — “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended relating to permitting county boards of education to accumulate instructional days and use them when needed in a later instructional term when inclement weather and emergencies prevent the otherwise full instructional term from being completed”; to the Committee on Education.

By Delegates Howell, Frich, Storch, Arvon, Eldridge, Moffatt, Faircloth, Upson, Westfall, Phillips and Miller:

H. B. 4168 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-6F-1, §17A-6F-2 and §17A-6F-3, relating to creating a special motor vehicle collector license plate; defining collector motor vehicle and motor vehicle collector; allowing the holder of a motor vehicle collector license plate to transfer the special plate temporarily among collector motor vehicles owned by the collector; and establishing requirements and fees for a motor vehicle collector license plate application”; to the Committee on Roads and Transportation then Finance.

By Delegates Frich, J. Nelson, Howell, Butler, Weld, Sobonya, Folk, Cowles, Overington, Marcum and McCuskey:

H. B. 4169 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-7-17, relating to creating the ‘Firearm Protection Act’; providing that any federal law which attempts to ban semiautomatic firearm or to limit the size of a magazine of a firearm or other limitation on firearms in this state is unenforceable in West Virginia; and providing an effective date”; to the Committee on the Judiciary.

By Delegates Ambler, D. Evans, Cooper, Lynch, Trecost, Upson, Rowan, B. White, McCuskey, Eldridge and Stansbury:

H. B. 4170 — “A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting or trapping on private lands; removing restrictions for hunting or trapping

on private lands on Sundays; and clarifying that hunting on private land at any time requires written consent of landowner”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Cooper, D. Evans, Ambler, Perry, Moye, Lynch, Kelly, Wagner, Rowan and R. Smith:

H. B. 4171 — “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to providing that school instructional terms for students begin no earlier than the day after Labor Day and end no later than the second Friday in June; and providing that in the event instructional days need to be cancelled the county boards of education shall provide for ten technology days whereby assigned classwork may be completed”; to the Committee on Education.

By Delegates Kurcaba, Statler and Waxman:

H. B. 4172 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-26-15, relating to creating a special fund named ‘the State Road Bond Fund’, requiring that all savings realized from changes in retirement benefits enacted by 2015 Senate Bill No. 520 be deposited into the special fund, requiring that the Consolidated Public Retirement Board present an actuarial valuation of savings to the Governor on an annual basis, requiring the Governor to submit the amount of savings to the Legislature as part of the annual budget or in an executive message, and requiring that all moneys deposited in the special fund be directed to pay principal and interest on state road bonds”; to the Committee on Roads and Transportation then Finance.

By Delegates Miller, Hicks, Sobonya, Rohrbach, Perdue, McCuskey, Shott, Morgan, Skinner, Hornbuckle and Reynolds:

H. B. 4173 — “A Bill to amend and reenact §52-1-5 of the Code of West Virginia, 1931, as amended, relating to permitting judges to defer jury service for an individual for no more than twelve months after the date for which the person is summonsed”; to the Committee on the Judiciary.

By Delegates Kurcaba, Statler, Weld, Fast, Kelly, Azinger, Waxman, Blair, Upson, Frich and Phillips:

H. B. 4174 — “A Bill to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-6-23 of said code, all relating to indoor shooting ranges; exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house; amending the definition of ‘shooting range’ to include an indoor range; exempting activity at indoor shooting ranges from criminal penalties for violations for shooting or discharging a firearm within five hundred feet of any church or dwelling house; and limiting nuisance actions against shooting ranges”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Kurcaba, Faircloth, Statler, Espinosa, McGeehan, Azinger, Upson, Kelly and Trecost:

H. B. 4175 — “A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating generally to home schooling; clarifying that a student who is home schooled may not be classified as habitually absent; changing the annual requirement that a parent of a child who is to be home schooled notify the county superintendent of intent to home school to a one time notification; requiring a parent provide certain assurances; removing the requirement that the person providing the home schooling instruction have a high school diploma; removing the requirement that the person providing the home schooling instruction have an outline of a plan for the home schooling instruction for the ensuing year; permitting a parent to administer the required nationally normed standardized test; providing that a student has made acceptable academic progress if it is within or above the fourth stanine, or if below that stanine then the student must show improvement from the previous year; requiring a certified teacher to review a student’s progress and submit a written narrative; removing the requirement that a county superintendent be

given two weeks' notice before a student enrolled in a public school may receive home instruction; requiring a parent to keep academic assessments for three years; and providing that a county board of education may only provide information about the availability of special education services only if the parent requests it"; to the Committee on Education.

By Delegate Stansbury, Howell, Householder, Ellington, Summers, Rohrbach, Weld, Miller, Hanshaw, Westfall and B. White:

H. B. 4176 — "A Bill to amend and reenact §62-15A-1, §62-15A-2 and §62-15A-3 of the Code of West Virginia, 1931, as amended, all relating to the addiction treatment pilot program; permitting the Regional Jail and Correctional Facility Authority to participate in the pilot program; and including the Director of the Regional Jail and Correctional Facility Authority and the Secretary of the Department of Military Affairs and Public Safety in the list of recipients of the report required to be made by the Department of Health and Human Resources"; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Kurcaba, Ellington, Faircloth, Hill and Atkinson:

H. B. 4177 — "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2D-4c, relating to exempting drug rehabilitation facilities from certificate of need requirements"; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

By Delegates Moye, Perry, Rohrbach, Frich, Duke, Lynch and Rodighiero:

H. B. 4178 — "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-3-6, relating to sanctions for recipients of benefits from the Temporary Assistance for Needy Families Program through temporary suspensions of benefits when they are convicted of misdemeanor theft offenses of

shoplifting and petit larceny; providing definitions; establishing administrative review of decisions to deny benefits; providing a mechanism for dependent children to receive benefits if a parent is deemed ineligible; authorizing rulemaking; providing criminal penalties; and allowing for exceptions”; to the Committee on the Judiciary.

By Delegates Kelly, Cooper, Faircloth, Atkinson, Perry, Waxman, Zatezalo, Howell, Ireland, Azinger and Romine:

H. B. 4179 — “A Bill to amend and reenact §22-15A-2 of the Code of West Virginia, 1931, as amended, relating to removing televisions from definition of covered electronic items”; to the Committee on Government Organization then the Judiciary.

By Delegates Weld, Zatezalo, Stansbury, Rohrbach, Miller and Summers:

H. B. 4180 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-4-304, relating to authorizing a family court judge to order substance abuse counseling of a child in emergency situations”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegate Deem:

H. B. 4181 — “A Bill to amend and reenact §11-17-3 of the Code of West Virginia, 1931, as amended relating to increasing the excise tax on cigarettes and other tobacco products”; to the Committee on Health and Human Resources then the Judiciary.

By Delegate Deem:

H. B. 4182 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-10-1d, relating to prorating additional tuition charges for students taking higher education credit hours per term beyond a certain number”; to the Committee on Education then Finance.

By Delegates Stansbury, Rohrbach, Perdue, R. Smith, Campbell, Bates, B. White, Weld, McCuskey, Westfall and Ellington:

H. B. 4183 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-4C-24; to amend and reenact §30-5-10; and to amend and reenact §60A-9-4, all relating generally to reporting opioid overdoses; requiring emergency medical service agencies and emergency medical service providers to report nonlethal opioid overdoses to the Board of Pharmacy; establishing that the information reported be added to the West Virginia Controlled Substance Monitoring Program; requiring pharmacists to monitor the program and if an individual overdosed on a prescription filled by him or her to report the overdose to the prescribing physician; and granting rule-making authority”; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

By Delegates Stansbury, Householder, Perdue, Phillips, J. Nelson, Ambler, B. White, Rohrbach, Westfall, R. Smith and Cooper:

H. B. 4184 — “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to establishing criminal penalties for the illegal taking of deer”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Foster, Perdue and Waxman:

H. B. 4185 — “A Bill to amend and reenact §30-5-12 of the Code of West Virginia, 1931, as amended, relating to establishing the ratio of four pharmacy technicians to every one on-duty pharmacist operating in a pharmacy”; to the Committee on Health and Human Resources.

By Delegates Cadle, Cooper, Foster, Ambler, Howell, Butler, Householder, Moffatt, R. Smith, Westfall and Hamrick:

H. B. 4186 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24A-2-2b,

relating to additional duties of the Public Service Commission; requiring commission to review complaint process; setting forth burden of proof on carrier; developing process for aggrieved parties to recover charges; establishing factor for commissioner to consider whether charges fair, just and reasonable; providing commission authority to establish civil penalties for violations; prohibiting indemnification in certain instances; requiring commercial driver's license for towing services; requiring carriers to list rates on invoices; authorizing commission to suspend or revoke operating authority; and requiring commission to update Legislature"; to the Committee on Government Organization.

By Delegates Kurcaba, Kelly, Statler, Weld, Azinger, Wagner, Campbell, Pushkin and Trecost:

H. B. 4187 — "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-27, relating to creating a special fund named 'the Public Employee Health Insurance Fund', requiring that all savings realized from changes in retirement benefits enacted by 2015 Senate Bill No. 520 be deposited into the special fund, requiring that the Consolidated Public Retirement Board present an actuarial valuation of savings to the Governor on an annual basis, requiring the Governor to submit the amount of savings to the Legislature as part of the annual budget or in an executive message, and requiring that all moneys deposited in the special fund be directed to fund health care benefits or reduce insurance premiums for public employees"; to the Committee on Banking and Insurance then Finance.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4189 — "A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016 in the amount of \$51,800,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701, in the amount of \$1,940,500 from the Department of Revenue, Insurance Commissioner – Examination

Revolving Fund, fund 7150, fiscal year 2016, organization 0704, and in the amount of \$4,800,000 from the Department of Revenue, Insurance Commissioner, WV Health Insurance Plan Fund, fund 7161, fiscal year 2016, organization 0704"; to the Committee on Finance.

House Calendar

Third Reading

H. B. 4033, Adding criminal penalties for the unauthorized practice of pharmacists care; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 3**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hornbuckle, Romine and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4033) passed.

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

Second Reading

Com. Sub. for H. B. 2101, Eliminating obsolete government entities; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. B. 4002, Relating to rule-making under the state Administrative Procedures Act,

Com. Sub. for H. B. 4007, Relating generally to appointment of attorneys to assist the Attorney General,

And,

Com. Sub. for H. B. 4031, Requiring agencies to respond to public comments received during the rule-making process.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Hornbuckle, Romine and Walters.

Miscellaneous Business

Delegate Stansbury filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4038.

At 11:37 a.m., the House of Delegates adjourned until 11:00 a.m., Thursday, January 21, 2016.

THURSDAY, JANUARY 21, 2016

NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, January 20, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Nelson, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. B. 4080, Department of Veterans' Assistance, rule relating to VA headstones or markers,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4080) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4046, Department of Administration, rule relating to the purchasing division,

And,

H. B. 4106, State Board of Registration for Professional Engineers, rule relating to the examination, licensure and practice of professional engineers,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4046 and H. B. 4106) were each referred to the Committee on the Judiciary.

Delegate Canterbury, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 4048, Consolidated Public Retirement Board, legislative rule relating to service credit for accrued and unused sick leave,

H. B. 4090, Consolidated Public Retirement Board, rule relating to the Deputy Sheriff Retirement System,

H. B. 4091, Consolidated Public Retirement Board, rule relating to benefit determination and appeal,

And,

H. B. 4095, Consolidated Public Retirement Board, rule relating to the West Virginia State Police,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4048, H. B. 4090, H. B. 4091 and H. B. 4095) were each referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4005, Repealing prevailing hourly rate of wages requirements, And reports the same back with the recommendation that it do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2111, Providing a special method for valuation of certain wireless technology property for property taxes,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2111) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2130, Including law-enforcement officers among those professionals the assault or battery of which leads to enhanced criminal penalties,

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

Com. Sub. for H. B. 2130 – “A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to enhanced charges and penalties for assaults and batteries of law enforcement officers; adding law-enforcement officers among the list of professionals the malicious assault, unlawful assault, battery or assault of which leads to enhanced criminal penalties; adding an element of the criminal offense of battery a requirement that the perpetrator have knowledge that the victim was acting in his or her official capacity; adding an element of the criminal offense of assault a requirement that the perpetrator have knowledge that the victim was acting in his or her official capacity; and defining law-enforcement officers,”

With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 263 – “A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to the Municipal Home Rule Pilot Program; and allowing for members of the Municipal Home Rule Board, with the exception of ex-officio nonvoting members, to be reimbursed for travel and other reasonable expenses”; which was referred to the Committee on Political Subdivisions then Finance.

Resolutions Introduced

Delegates P. White, Phillips, Marcum and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 10 - “Requesting the Division of Highways to name a portion of Route 119/91 from Mud Fork Road to County Route 73 in Logan County, the ‘U. S. Marine Corps GySgt Lionel Collins Memorial Road’.”

Whereas, US Marine Corps Gunnery Sergeant Lionel Collins was born on January 8, 1936, in Verdunville, West Virginia to Russia Vance Collins and Ora Collins and passed away on August 3, 2014; and

Whereas, US Marine Corps Gunnery Sergeant Lionel Collins was a 20 year veteran, serving in New River, North Carolina from 1953 to 1956, in Quantico, Virginia from 1956 to 1958, in Japan from 1958 to 1960, from 1960 to 1965 in Cherry Point, North Carolina, from 1965 to 1967 in Vietnam, returning to Cherry Point in 1967 and again serving in Vietnam from 1969 to 1970 and in El Toro, California from 1970 to 1972; and

Whereas, During his twenty years of loyal service, US Marine Corps Gunnery Sergeant Lionel Collins was awarded the National Defense Service Medal, the Good Conduct Medal with five Stars, the Vietnamese Cross of Gallantry with Palm, the Vietnamese Service Medal with four Stars, the Air Medal with Bronze, the Air Medal Strike, the Republic of Vietnam Campaign Medal, the National Presidential Unit Citation and the Vietnam Civil Action Unit Citation; and

Whereas, US Marine Corps Gunnery Sergeant Lionel Collins was also an Expert in Rifles and Pistols and had his Air Crew Wings and retired after 20 years of loyal service with a 50% disability; and

Whereas, After leaving the service, US Marine Corps Gunnery Sergeant Lionel Collins worked at Oasis (the water fountain company) in Columbus from 1973 to 1976, FEMA from 1977 to 1983 and the Buffalo Creek Apartments from 1983 until his final retirement in 1988; and

Whereas, US Marine Corps Gunnery Sergeant Lionel Collins was a commander in the American Legion, a district commander in the Veterans of Foreign Wars, a life member of the Vietnam Veterans of America, a Local Detachment Commandant in the Marine Corps League, a charter member of the Danny M. Greene League Detachment and a member of the Devil Dogs; and

Whereas, It is only fitting that we name this road in honor of US Marine Corps Gunnery Sergeant Lionel Collins; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name that portion of the road on Route 119/91 from Mud Fork Road to County Route 73 in Logan County, the “U.S. Marine Corps GySgt Lionel Collins Memorial Road”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs, in both directions, identifying the road, as the “U.S. Marine Corps GySgt Lionel Collins Memorial Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and U.S. Marine Corps Gunnery Sergeant Lionel Collins’ widow, Karen Collins, and his six children, Lionel Barry Collins, Tammy Shawn Marcum, David T. Collins, Kimberly Dawn Collins, Steven Bryan Collins and Joy Lynn Queen.

Delegates Campbell, Moye, Rowan, Espinosa, Wagner, Hornbuckle, P. White, Marcum, Phillips, Stansbury and Hamilton

offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 11 - “Designating April 2 as West Virginia Autism Awareness Day.”

Whereas, The seventh annual World Autism Awareness Day was April 2, 2015. Every year, autism organizations around the world celebrate the day with unique fund-raising and awareness raising events. World Autism Awareness Day aims to increase awareness about people, especially children, with autism. The day often features educational events for teachers, health care workers and parents, as well as exhibitions showcasing work created by children with autism; and

Whereas, Autism is a developmental disability that remains with a person for his or her whole life. This condition affects the brain’s functions. The first signs usually appear before a child is three years old. People with autism often find social interaction difficult, have problems with verbal and nonverbal communication, demonstrate restrictive and repetitive behavior and have a limited set of interests and activities. Autism affects girls and boys of all races and in all geographic regions and has a large impact on children, their families, communities and societies. The prevalence is currently rising in many countries around the world. Caring for and educating children and young people with this condition places challenges on health care, education and training programs; and

Whereas, Health officials estimate that one in every eighty-eight children in America is growing up on the autism spectrum. It is a reality that affects millions of families every day, from the classroom to the job market. On World Autism Awareness Day, all people recommit to helping individuals on the autism spectrum reach their full potential; therefore, be it

Resolved by the Legislature of West Virginia:

That it is the hope and desire of the Legislature that West Virginians increase their awareness about people, especially children, with autism and, with that goal in mind, April 2 be designated as West Virginia Autism Awareness Day; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to The Autism Society of West Virginia.

Delegates Campbell, Hartman, Sponaugle, Espinosa, Wagner, P. White, Stansbury, Perry and Hamilton offered the following resolution, which was read by its title and referred to the Committee on Agriculture and Natural Resources then Rules:

H. C. R. 12 – “Requesting the Division of Natural Resources to designate the Cheat Mountain Salamander as the State symbol of conservation.”

Whereas, The Extended Studies Students of Jennings Randolph Elementary School, 4th grade, completed an extensive study of West Virginia State symbols and seals. They used the state symbols to learn about many aspects of West Virginia including geography, ecology, culture and history, discovering the special place West Virginia occupies. This appreciation for West Virginia led the 5th grade Extended Studies group to explore deeper into the study of the state symbols, where they encountered the Cheat Mountain Salamander and the history behind its environment. They discovered that no state in the United States has a conservation symbol. This led to many discussions about how they could make an impact on the people and visitors of our state and how they look at West Virginia in the future; and why the 5th grade Extended Studies group felt the state of West Virginia should have a symbol of conservation; and

Whereas, In their research, they found that West Virginia holds an important history when it comes to the environment in our high mountains and the salamander that inhabits the forest floors. In the highest of elevation, the red spruce covered our mountain tops in

portions of Pocahontas, Randolph, Tucker, Greenbrier, and Mineral Counties. In these same Red Spruce forests, one can find a very unique species, the Cheat Mountain Salamander. This salamander is so special that it is found only in a specific environment in West Virginia, nowhere else. Today, efforts to teach about these environments can be seen in places such as Gaudineer, where visitors can witness the Red Spruce Forest and see efforts at restoration of the Red Spruce, all the while recognizing how important practicing conservation is for species such as the Cheat Mountain Salamander; and

Whereas, According to the West Virginia Division of Natural Resources, out of thirty salamanders in West Virginia, the Cheat Mountain Salamander lives exclusively in a small section of West Virginia. It is a Federally Threatened Species listed by the U. S. Fish and Wildlife. The West Virginia Division of Natural Resources indicates that the Cheat Mountain Salamander belongs to a group known as the Woodland Salamanders (Plethodontids); and

Whereas, The 4th grade Extended Studies group believes the story of this salamander speaks volumes about our state's rich history in practicing conservation. West Virginia can make history by being the first state with a conservation symbol. And, the Cheat Mountain Salamander holds such value that by making the Cheat Mountain Salamander the state conservation symbol of West Virginia we can teach the story of our state and tell how conservation is important in designated areas and place attention to proper practices in these areas; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Natural Resources is requested to designate the Cheat Mountain Salamander as the state symbol of conservation; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to Extended Studies Students of Jennings Randolph Elementary: Jon Bonner, Hannah Cutright,

Alyson Evick, Ruby Jackson, Thomas Nixon, Darian Selders and Emily Wanless; Project Supervisor: Allison Mullenax; Itinerant Extended Studies Teacher Jennings Randolph Elementary and Christine M. Toscano-Nixon; Parent Volunteer.

Delegates Cooper and Ambler offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 13 – “Requesting the Division of Highways to name the Indian Creek Bridge #3, bridge number 32-122-8.95(32A056), latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the ‘U.S. Army SPC 4 Everette R. Johnson Memorial Bridge’.”

Whereas, Everette R. Johnson was born on November 7, 1947, in Beckley, West Virginia, the son of John C. and Minnie Louise Johnson. He lived most of his life in Monroe County and was educated in Monroe County schools, graduating from Greenville High School in 1965. He was married to Sue G. Loan, and they were expecting their first child when Everette was killed in Vietnam on February 7, 1968; and

Whereas, Everette R. Johnson was survived by his widow and son, Everette Robert Johnson, Jr., who was born in August, 1968, and his mother and father, sister Darlene Johnson and three brothers, Wayne, David and Maury; and

Whereas, Naming the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056) latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U.S. Army SPC 4 Everette R. Johnson Memorial Bridge” is an appropriate recognition of his contributions and his supreme sacrifice to his country, state, community and Monroe County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056) latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U.S. Army SPC 4 Everette R. Johnson Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the twin bridges, both northbound and southbound, as the “U.S. Army SPC 4 Everette R. Johnson Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving relatives of Everette R. Johnson.

Delegates Howell, Mr. Speaker (Mr. Armstead), Ambler, Anderson, Arvon, Atkinson, Azinger, Border, Butler, Cadle, Cooper, Cowles, Duke, Ellington, Espinosa, D. Evans, Frich, Hamrick, Hanshaw, Hill, Householder, Ihle, Ireland, Kelly, Kessinger, Kurcaba, McGeehan, Miller, Moffatt, O’Neal, Overington, Rowan, Shott, R. Smith, Sobonya, Stansbury, Statler, Storch, Walters, Waxman and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 14 - “Designating the second Friday in July as West Virginia Collector Car Appreciation Day.”

Whereas, The collection and restoration of historic and classic cars is an important part of preserving the technological achievements and cultural heritage of West Virginia. Many people in this state maintain classic automobiles as a pastime and do so with great passion and as a means of individual expression; and

Whereas, It is important to recognize the effect that the more than 100-year history of the automobile has had on the economic progress of the United States and to support wholeheartedly all activities involved in the restoration and exhibition of classic automobiles. The

collection, restoration and preservation of automobiles is an activity shared across generations and across all segments of society. Hundreds of local car clubs and related businesses have been instrumental in preserving a historic part of the heritage of West Virginia by encouraging the restoration and exhibition of such vintage works of art; and

Whereas, Automotive restoration provides well-paying, high-skilled jobs for people throughout West Virginia as well as providing the inspiration for music, photography, cinema, fashion and other artistic pursuits that have become part of the culture of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the second Friday in July be designated as “West Virginia Collector Car Appreciation Day”.

Mr. Speaker (Mr. Armstead) offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 15 – “Requesting the Division of Highways to name bridge numbers 20-79-15.46, northbound and southbound (20A510 and 20A511), latitude 38.50136, longitude -81.41475, locally known as I-79 Wills Creek Overpass 2674 Bridges Northbound and Southbound, carrying Interstate 79 over County Route 53 and Wills Creek in Kanawha County, as the ‘U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge’.”

Whereas, PFC Clayton Andrew Craft was born on May 30, 1949, in Charleston, West Virginia, the son of Raymond W. Craft and Faye D. Nunley; and

Whereas, PFC Clayton Andrew Craft grew up near Clendenin, West Virginia, and graduated in 1967 from Herbert Hoover High School; and

Whereas, Following his graduation from high school, PFC Clayton Andrew Craft enlisted in the US Marine Corps on August 9, 1967, in Ashland, Kentucky and received his basic military training in California; and

Whereas, PFC Clayton Andrew Craft arrived in the Republic of Vietnam on January 18, 1968, where he was assigned for duty with Company D, 1st Battalion, 5th Marine Regiment; and

Whereas, On April 8, 1968, while on patrol in the Thua Thien Province of the Republic of Vietnam, PFC Clayton Andrew Craft was wounded and killed by a hostile explosive device; and

Whereas, During his service in the United States Marine Corps, PFC Clayton Andrew Craft received the following decorations and awards: Purple Heart with two Gold Stars; National Defense Service Medal; Vietnam Service Medal with three Bronze Stars; Republic of Vietnam Campaign Medal with 1960 device; Republic of Vietnam Military Merit Medal; Republic of Vietnam Gallantry Cross with Palm; and Gold Star Lapel Button; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC Clayton Andrew Craft, a native son who gave the ultimate sacrifice for his state and his country, by naming the bridges in his honor; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways to name bridge numbers 20-79-15.46, northbound and southbound (20A510 and 20A511), latitude 38.50136, longitude -81.41475, locally known as I-79 Wills Creek Overpass 2674 Bridges Northbound and Southbound, carrying Interstate 79 over County Route 53 and Wills Creek in Kanawha County, as the “U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying both bridges,

northbound and southbound, as the “U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the members of the American Legion Post 61 in Clendenin, West Virginia.

Delegates Morgan, Perdue, Hornbuckle, Sobonya, Rohrbach, Miller, Reynolds and Hicks offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 16 - “Requesting the Division of Highways name bridge number 06-35-3.83 (06A086) (38.36457, -82.37397), locally known as the ‘Green Valley Bridge’, which, along County Route 35 traverses ‘Fourpole Creek’ in Cabell County, the ‘U.S. Army PFC John Ira Pinkerman Memorial Bridge’.”

Whereas, John Ira Pinkerman was born in Huntington, West Virginia in 1921 and was raised on Green Valley Road near Bowen Ridge in Cabell County; and

Whereas, PFC Pinkerman married Geneva Frances Alley in 1941. They had one child, John Alan Pinkerman, born May 19, 1943; and

Whereas, PFC Pinkerman was drafted into the U.S. Army on January 18, 1944; and

Whereas, PFC Pinkerman was killed in action in Northeast France on January 12, 1945. He is one of five thousand two hundred and fifty-five soldiers laid to rest in the U.S. Military Cemetery in Epinal France; and

Whereas, It is fitting and proper that PFC John Ira Pinkerman be remembered and acknowledged for his dedicated service to this country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 06-35-3.83 (06A086) (38.36457, -82.37397), locally known as the “Green Valley Bridge”, which, along County Route 35 traverses “Fourpole Creek” in Cabell County, the “U.S. Army PFC John Ira Pinkerman Memorial Bridge; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U.S. Army PFC John Ira Pinkerman Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this concurrent resolution to the Secretary of the Department of Transportation and all surviving family members of PFC John Ira Pinkerman.

Delegates Phillips, Marcum, Rodighiero and P. White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 17 – “Requesting the Division of Highways name Greenville Road Bridge, located in Logan County near the town of Man which traverses Rock House Creek, the ‘SGT Larry Joseph Whitt Bridge’.”

Whereas, Larry Joseph Whitt was the son of the late Frank and Texie Whitt of Greenville, West Virginia; and

Whereas, SGT Whitt joined the United States Army in 1969 and served his country valiantly during the Vietnam War where he received horrific combat injuries, including the loss of both of his legs, his left arm from his elbow down and an eye, while, additionally, having to undergo surgery to remove shrapnel from his brain; and

Whereas, After receiving these injuries he recovered from them in the Walter Reed Hospital in Cleveland, Ohio and he became an

inspiration to all whose lives he touched, as he suffered his injuries without complaint nor blame while continuing to enjoy life; and

Whereas, SGT Whitt married Lillian McCoy and adopted her three children, Lisa, James David and Gaye while later being blessed with two sons from his marriage to Ms. McCoy, Larry and Kevin. Further, SGT Whitt was blessed with loving brothers and sisters who helped make sure his life included many activities he enjoyed, especially hunting and fishing; and

Whereas, Approximately ten years after his service to this country as a combat soldier in Viet Nam, SGT Whitt developed leukemia to which he succumbed on April 17, 1980, one day shy of his birthday; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect signs at both entrances to the Greenville Road Bridge located in Logan County near the town of Man which traverses Rock House Creek renaming the bridge the “SGT Larry Joseph Whitt Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this concurrent resolution to the Secretary of the Department of Transportation and all surviving family members of SGT Whitt, named herein.

Delegates Phillips, Marcum, Rodighiero and P.White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 18 – “Requesting the Division of Highways to name a section of road on State Route 10 running through Man, Logan County from the intersection of State Route 10 and State Route 80 to the intersection of State Route 10 and County Route 16, the ‘U.S. Air Force Staff Sergeant William Henry ‘Bill’ Whitman Memorial Highway’.”

Whereas, Staff Sergeant William Henry “Bill” Whitman attended Man High School where he lettered in football and graduated in 1947. He then attended Greenbrier Military Academy and Marshall College in Huntington, West Virginia; and

Whereas, William Henry “Bill” Whitman enlisted in the United States Air Force on October 10, 1950. After completing training at Lackland Air Force Base in Texas, he was stationed at Yokota Air Base in Japan as a crew member of a B-29A Superfortress Bomber with the 345th Squadron, 98th Bomber Wing. On November 19, 1952, after completing a successful bombing run on Sonchon, North Korea, his aircraft was badly damaged by an enemy MIG fighter jet. His crew bailed out about a half mile north of Cho-do, North Korea. He was thereafter listed as missing in action and was presumed dead on November 20, 1953. His remains were never recovered; and

Whereas, Staff Sergeant William Henry “Bill” Whitman was awarded the Air Medal, the Purple Heart, the Korean Service Medal, the United Nations Service Medal, the National Defense Service Medal, the Korean Presidential Unit Citation and the Republic of Korea War Service Medal; and

Whereas, It is fitting and proper that an enduring memorial be established to commemorate his service and ultimate sacrifice to his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a section of road on State Route 10 running through Man, Logan County from the intersection of State Route 10 and State Route 80 to the intersection of State Route 10 and County Route 16, the “U.S. Air Force Sergeant William Henry ‘Bill’ Whitman Memorial Highway”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the section

of road containing bold and prominent letters proclaiming the road the “U.S. Air Force Staff Sergeant William Henry ‘Bill’ Whitman Memorial Highway”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the family of the late Staff Sergeant William Henry “Bill” Whitman.

Delegates Waxman, Trecost, Miley and Hamrick offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 19 – “Requesting the Division of Highways to name the bridge on U. S. Route 19 at mile marker 15.55 over the West Fork River in Clarksburg, Harrison County, the “H. Laban White Memorial Bridge’.”

Whereas, H. Laban White, father, husband, lawyer, veteran, former Speaker of the West Virginia House of Delegates, former chairman of the Judiciary Committee for the West Virginia House of Delegates and distinguished West Virginian, was born on May 1, 1916, in Spencer, West Virginia, the son of H. Laban White, Sr. and Nan Leigh (Cox) White. He passed away on January 31, 2015, at his home in Clarksburg. He married the love of his life, Gwendolyn Beall on December 23, 1943, and they were the parents of three daughters, Patricia Linda (White) Stumpo (deceased), Diane (White) Slaughter and son-in-law, Gary Slaughter, and Carol White; grandchildren, Melissa and David McCullough, Joshua Laban and Jaime Gutshall, Liza Gabrielle and Nicholas Vick, Traci Michelle and Joe Terango, Jennifer Careen and Scott Duarte, Tina Nicole Stumpo (deceased); thirteen great-grandchildren, Lauren Walatka, Dillon McCullough, Emma McCullough, Hannah Gutshall, Joshua Gutshall, Kobe Vick, Noah Vick, Anthony Terango, Dante Terango, Brock Duarte, Brennan Duarte, Sophia Duarte and Amelia Duarte; and

Whereas, H. Laban White entered the United States Army in 1942 as a private and retired from the U.S. Army Reserve as Lieutenant Colonel after 35 years in active and reserve service. He was State Commander and National Director of AMVETS and a very prominent and active member of his community for 70 years. He practiced law from 1942 to 2004, served as President of the Harrison County Bar Association and was the City Attorney of Clarksburg and a member of the Clarksburg Sanitary Board. His many honors received include: Glenville State College's Alumnus of the Year and the Distinguished Service Award; the West Virginia Vocational Rehabilitation Division's Distinguished Service Award; and the Boy Scouts of America's Distinguished Silver Beaver. He was also a member of the Clarksburg Lions, Elks and Moose Clubs and a past president of Clarksburg Lions; a member of the Harrison County, the West Virginia and the American Bar Associations, the Allohak Council of the Boy Scouts of America, a past president of the Clarksburg-Harrison Cultural Foundation, the Board of Trustees of Alderson-Broaddus College, the American Legion, the Reserve Officers Association and National Conference of State Legislative Leaders where he served as National Vice President; and

Whereas, H. Laban White received the Distinguished Legislative Commendation for introducing and procuring the passage of many legislative bills to improve the safety, welfare and human rights of the people of West Virginia, and he holds the highest award of the Lions International, a Fellow of the Melvin Jones Foundation. Mr. White was honored by the Harrison County Commission for significant contributions made to prove that a life well lived can make a great difference by proclaiming July 8, 2004, as H. Laban White Day. He was also honored on June 1, 1996, by the Clarksburg Lions Club "Roast" to commend him for his leadership and participation in the formation of the Scholarship Foundation; and

Whereas, H. Laban White also provided counsel and guidance to the Energy Corporation of America since 1973, first as legal adviser and subsequently as a member of the Board of Directors and finally as

a Director Emeritus. Mr. White was also a member of the Clarksburg Baptist Church, where he served in many capacities, including being a teacher for 46 years, a member of the choir and of the board and as the church attorney for many years; and

Whereas, Naming the bridge on U. S. Route 19 at mile marker 15.55 over the West Fork River in Clarksburg, Harrison County, the “H. Laban White Memorial Bridge” is an appropriate recognition of the contributions to his country, state, community and Harrison County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on U. S. Route 19 at mile marker 15.55 over the West Fork River in Clarksburg, Harrison County, the “H. Laban White Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “H. Laban White Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and all surviving members of his family.

Delegates Cooper, D. Evans, J. Nelson, Fleischauer, Longstreth, Rowan and Weld offered the following resolution, which was read by its title and referred to the Committee on Veterans’ Affairs and Homeland Security then Rules:

H. C. R. 20 – “Urging the United States Congress to provide funding for the West Virginia National Guard to sustain and enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C130s and other aircraft to meet global airspace requirements for 2020.”

Whereas, In the event of a regional catastrophe, West Virginia's east-west highways, including I-68 and I-64 are links to the major exit corridors from the FEMA National Capital Region (NCR) westward and, assuming that a regional catastrophe will likely include Baltimore to the north of the NCR and Richmond to the south of the NCR, westward evacuation utilizing these highways is highly likely and is, in fact anticipated; and

Whereas, The routes through West Virginia will traverse rural areas that do not have infrastructure adequate for what could be a mass of evacuees in the worst-case scenario; experience in regional emergencies, such as Superstorm Sandy in 2012, illustrates some shortcomings in planning that is less focused on regions and more on states; and

Whereas, West Virginia is perfectly (and geographically) postured to support any emergency or disaster response to the NCR, including mass evacuation westward; and

Whereas, FEMA regions do not necessarily represent grouping of states likely to be involved in some scenarios; FEMA Region III contains the NCR and West Virginia as its western-most edge and in a major catastrophe, Regions V, with Ohio, Indiana, and Illinois, VII with Missouri, and IV with Kentucky, Tennessee, and North Carolina are likely to be involved in some combinations; and

Whereas, The National Guard, through the use of Emergency Management Assistance Compacts, can operate across state lines to provide vital response capability in security, transportation, medical, housing, communications, command and control, and others based on its dual role in military preparedness and state civil support; and

Whereas, Military Force Structure assigned to the National Guard must be considered by Federal Military planners for the dual use they can encounter; National Guard Organizations require personnel, equipment, organization, training, leadership and funding to maintain

federal military standards and to be prepared to respond to a domestic emergency or disaster; and

Whereas, Regional catastrophic planning is dependent on National Guard assets, capabilities and responsiveness; consequently, it is also critical that federal military planners assess the impact of their force structure changes on regional capability needs as well as those that are state specific; and

Whereas, The C-130 H3 “Hercules” aircraft assigned to the 130th Airlift Wing of the West Virginia National Guard at Yeager Airport in Charleston, West Virginia will eventually become obsolete without system modernization to the communication, navigation, and surveillance (CNS) components; National Air Traffic Control (ATC) agencies and the International Civil Aviation Organization (ICAO) are modernizing airspace faster than the US Air Force is updating C-130 avionics capabilities; and

Whereas, Aircraft component acquisition becomes increasingly difficult as fewer C-130 H aircraft remain in the Air Force inventory and the unique components of the C-130, including its self contained navigational system (SCNS), face short term supply chain shortages that could be remedied with aircraft avionics modernization; and

Whereas, The contract to perform maintenance on aircraft flight computers is renewed annually and this perpetual reliance on short term contracts increases sustainment cost and challenges mission effectiveness and operational planning; and

Whereas, Reliance on short term contracts and antiquated avionics will increase Air Force expense in the long run as it translates to more expensive mission-essential contracts and increased fuel expenditures due to inefficient routing; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges the United States Congress to provide funding for the West Virginia National Guard to sustain and

enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C130s and other aircraft to meet global airspace requirements for 2020; and, be it

Further Resolved, That the Clerk of the House of Delegates is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the House of Representatives and to the members of West Virginia congressional delegation.

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegate Foster:

H. J. R. 30 – “Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to exempting from ad valorem taxation personal property in the form of manufacturing inventory and manufacturing equipment; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Finance then the Judiciary.

And,

By Delegates Howell, Mr. Speaker (Mr. Armstead), Espinosa, Stansbury, Frich, Butler, Cadle, Blair, Cooper, Hamrick and Waxman:

H. J. R. 31 – “Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article ten thereof, relating to ad valorem property tax rates for citizens of the age of sixty-five or older; locking the value of a homestead property, for the purpose of calculating property taxes, at the assessed value when the owner-occupier turned sixty-five or purchased the property, whichever occurred later”; to the Committee on Finance then the Judiciary.

Motions

Delegate Sponaugle submitted a written motion, under the provisions of House Rule 95a, that consideration of H. B. 4005 be deferred until such time as a fiscal note could be prepared to reflect the increase or decrease in revenue of the state or its political subdivision as is required by House Rule 95a.

The Speaker responded that the bill does not increase a tax and does not specifically and expressly change revenue sources coming to the state or political subdivisions as specified by House Rule 95a, and therefore, ruled that the motion was out of order.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Phillips, Reynolds, Marcum, Hartman, Walters, Sobonya, McCuskey, Eldridge, P. White, Weld and Bates:

H. B. 4190 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, relating to prohibiting state agencies and departments from acting outside their statutory scopes of authority"; to the Committee on the Judiciary.

By Delegates Howell, Arvon, Moffatt, Phillips, Eldridge, Faircloth, Cadle, Walters, Ellington, Cooper and R. Smith:

H. B. 4191 - "A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-5A-1, relating to creating the Taxation With Representation Act whereby nonresidents of a municipality who work in that municipality and who pay user fees pursuant to a municipal ordinance may vote in municipal elections"; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Howell, Frich, Moffatt, Faircloth, Westfall, Phillips, Cadle, Walters, Zatezalo, Waxman and Kelly:

H. B. 4192 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-2-24, relating to regional Division of Motor Vehicle offices and selfservice kiosks; requiring the division to maintain at least one regional office location within twentyfive miles’ driving distance of the county seat of any county of a certain population; requiring the division to maintain at least one self-service kiosk within any county below a certain population; requiring the division to conduct an evaluation and report to the Joint Standing Committee on Government Organization regarding the propriety of self-service kiosks to replace regional offices in counties below a certain population; and prohibiting the division from operating more than twentyfive regional offices”; to the Committee on Roads and Transportation then Finance.

By Delegates Howell, Frich, Arvon, Moffatt, Faircloth, Westfall, Phillips, Miller, Cadle, Walters and Zatezalo:

H. B. 4193 - “A Bill to amend and reenact §17C-15-34 of the Code of West Virginia, 1931, as amended, relating to motor vehicle equipment; prohibiting the modification of mufflers resulting in excessive noise levels; and providing an exception”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Howell, Storch, Frich, Arvon, Eldridge, Moffatt, Upson, Westfall, McCuskey, Miller and Cadle:

H. B. 4194 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-12, relating to requiring each public high school to offer a course in computer science”; to the Committee on Education then Finance.

By Delegates Ireland, Longstreth, Cadle, Kelly, Zatezalo, D. Evans and Ambler:

H. B. 4195 - “A Bill to amend and reenact §11-1C-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding

thereto a new section, designated §11-1C-5c, all relating to appraisal value of certain motor vehicles for purposes of ad valorem property taxes; providing that the minimum appraised value of a motor vehicle is \$700 for purposes of ad valorem property taxes; and providing that the appraised value of an antique motor vehicle is \$5,000 for purposes of ad valorem property taxes”; to the Committee on Roads and Transportation then Finance.

By Delegates Howell, Frich, Arvon, Moffatt, Storch, Eldridge, Faircloth, Westfall, Phillips, Miller and Cadle:

H. B. 4196 - “A Bill to amend and reenact §17-24A-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17-24A-6a, all relating to abandoned antique vehicles; creating a special procedure for a person in possession of an abandoned antique vehicle to apply for and receive title to the vehicle; creating a procedure for the Division of Motor Vehicles to search for the owner of the vehicle and provide notice of the application for title to vehicle; creating a procedure for the owner to reclaim the vehicle within 30 days of notice of an application for title to the vehicle; establishing fees to accompany an application for title to the vehicle; establishing fees for reclamation of the vehicle by owner; creating a misdemeanor and imposing fines for interfering with an owner’s attempt to reclaim a vehicle; and directing the division to promulgate rules and forms to effectuate new procedure”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Kelly, Cooper, Faircloth, Atkinson, Weld, Frich, Blair, Waxman, Zatezalo, Howell and Ireland:

H. B. 4197 - “A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, as amended, relating to allowing the required HIV and hepatitis testing for the protection of a law-enforcement officer and others who may have been exposed to an HIV or hepatitis infection as a result of the performance of his or her duties”; to the Committee on Health and Human Resources then Finance.

By Delegates Moye, Perry, Rohrbach, Frich, Cooper, Ambler, Duke, Sponaugle, Lynch and Rodighiero:

H. B. 4198 - “A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to increasing the safety of school children who use school buses; adding penalties for overtaking and passing a school bus stopped for the purpose of receiving and discharging children”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Zatezalo, McGeehan, Moffatt and Howell:

H. B. 4199 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-2-4; and to amend said code by adding thereto a new section, designated §7-1-3pp, all relating to accessible county records; requiring county clerks to report certain county official information to the Secretary of State annually; requiring county commissions to maintain a website; and requiring the Secretary of State to annually update a website of county information”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Gearheart, Householder, Ellington, Ambler, Cooper, Azinger, McGeehan, Wagner, Shott, Hamrick and Westfall:

H. B. 4200 - “A Bill to amend and reenact §17-1-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17-16A-6a, all relating to eliminating courtesy patrol programs operated by the Division of Highways and the Parkways Authority”; to the Committee on Roads and Transportation then Finance.

By Delegates Overington, Hanshaw, Blair, Shott, Statler, Sobonya, Summers, Weld, Kessinger, B. White and Fleischauer:

H. B. 4201 - “A Bill to amend and reenact §61-8-19a and §61-8-19b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated

§61-8-19c, all relating to increasing the criminal penalties for participating in an animal fighting venture; providing that owning, possessing, keeping or training an animal with the intent that the animal engage in an animal fighting venture is a crime; providing criminal penalties for participating in wagering at animal fighting ventures; and providing penalties for second or subsequent violations”; to the Committee on the Judiciary.

By Delegates Stansbury, Howell, Householder, Folk, Hill, Statler, Ihle, J. Nelson, Blair, Phillips and Foster:

H. B. 4202 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated, §15-2F-1, §15-2F-2, §15-2F-3, §15-2F-4, §15-2F-5, §15-2F-6, §15-2F-7, §15-2F-8, §15-2F-9 and §15-2F-10, all relating to providing legislators with the information necessary for basic oversight of members of the executive branch law-enforcement agencies who seize and forfeit private property under state and federal forfeiture laws; and requiring the Superintendent of the West Virginia State Police to maintain databases concerning that information”; to the Committee on the Judiciary.

By Delegates Westfall, B. White, Gearheart, Stansbury, Butler, Atkinson, Phillips, Weld and McCuskey:

H. B. 4203 - “A Bill to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to providing a hunting license exemption for certain nonresident landowners and their spouses and children residing with the nonresident landowner”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Cadle, D. Evans, Cooper, Ambler, Moyer, Foster, Butler, Gearheart, Householder, Moffatt and R. Smith:

H. B. 4204 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-16-10, relating to inspections of commercial motor vehicles, trailers, and semitrailers operating in interstate commerce need only meet the requirements for annual inspection that are comparable to, or effective

as, requirements contained in the Federal Motor Carrier Safety Regulations”; to the Committee on Roads and Transportation then Government Organization.

By Delegates Cowles, Howell, Faircloth, Perry, Lynch, McCuskey, Sobonya, Deem, Overington and Kessinger:

H. B. 4205 - “A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers and exclusions of warranties in consumer transactions for goods; permitting waivers of warranty for defects and malfunctions in certain used manufactured homes; permitting waivers of express and implied warranties in the sale of certain used manufactured homes; and rendering all noncompliant exclusions, modifications and limitations of warranties void”; to the Committee on the Judiciary.

By Mr. Speaker (Mr. Armstead) and Delegates Miley, Bates, Lane and Shott:

H. B. 4206 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-2-11, relating to grand juries; authorizing prosecuting attorneys to designate law-enforcement officers and investigators as custodians of records, documents and other evidence subpoenaed by a grand jury; authorizing designated custodians to used subpoenaed records, documents and other evidence for investigative purposes prior to such records, documents or other evidence being presented to a grand jury; requiring presentation of subpoenaed materials held by the custodian be presented to the next session of the grand jury meeting after receipt; and limiting law enforcement use of such subpoenaed materials to legitimate investigation and prosecuted purposes relevant to the investigation underlying the issuance of the subpoena”; to the Committee on the Judiciary.

By Mr. Speaker (Mr. Armstead) and Delegates Miley, Bates, Lane and Shott:

H. B. 4207 - “A Bill to amend and reenact §4-5-2 of the Code of West Virginia, 1931, as amended, relating to the ability of the

Commission on Special Investigations to obtain information and documents that are considered confidential”; to the Committee on the Judiciary.

By Mr. Speaker (Mr. Armstead) and Delegates Miley, Bates, Lane and Shott:

H. B. 4208 - “A Bill to amend and reenact §4-5-4 of the Code of West Virginia, 1931, as amended, relating to removing the requirement that the Joint Committee on Government and Finance approve expenses of the Commission on Special Investigations”; to the Committee on the Judiciary.

By Delegates Phillips, J. Nelson, Bates, R. Smith, Perry, Moye, P. White, Butler, Marcum, Hicks and McCuskey:

H. B. 4210 - “A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to coal severance tax; and reduction of the severance rate for coal mined by underground methods based on length of belt line or distance travelled in the mine; and providing a three year sunset provision”; to the Committee on Energy then Finance.

By Delegates Sponaugle, Eldridge, Caputo, Fluharty, Lynch, Pushkin, Campbell, Shaffer, Longstreth, Ferro and Hicks:

H. B. 4211 - “A Bill to amend and reenact §22-21-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22C-9-7 of said code, all relating to prohibiting drilling units from being established without consent of all owners; prohibiting coal bed methane units from being established without consents from all owners; and prohibiting deep oil or gas well units from being established without consents from all owners”; to the Committee on Energy then the Judiciary.

By Delegate J. Nelson:

H. B. 4212 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-5-21, relating to air pollution control; providing that regulation of wood

burning appliances is subject to the approval of the Legislature under the authority of the Tenth Amendment to the Constitution of the United States; and providing that rules relating to enforcement of performance standards for residential wood burning heaters or appliances may not become effective unless first approved by the Legislature”; to the Committee on Energy then the Judiciary.

By Delegates Storch, Faircloth, P. Smith and Ferro:

H. B. 4213 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §48D-1-101, §48D-1-102, §48D-1-103, §48D-1-104, §48D-1-105, §48D1-106, §48D-1-107, §48D-2-201, §48D-2-202, §48D-2-203, §48D-2-204, §48D-3-301, §48D-3-302, §48D-3-303, §48D-3-304, §48D-3-305, §48D-3-306, §48D-3-307, §48D-3-308, §48D-3-309, §48D3-310, §48D-3-311, §48D-4-401, §48D-4-402, §48D-4-403, §48D-4-404, §48D-5-501, §48D-5-502 and §48D-5-503, all relating to adoption of the ‘Uniform Deployed Parents Custody and Visitation Act’; defining terms; providing for enforcement through assessment of attorney fees and costs; establishing procedures to determine matters of child custody and visitation when parents are deployed in military or other national service; requiring notices from deployed parent; providing for out-of-court agreements and establishing minimum requirements therefor; prohibiting consideration of past or future deployments in determining the best interest of the child; authorizing orders for payment of child support during deployment; providing for modification and termination of orders and agreements; and giving guidance for interpretation and construction in conjunction with other laws and orders”; to the Committee on the Judiciary.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4214 - “A Bill to amend and reenact §5B-2A-3 and §5B-2A-4 of the Code of West Virginia, 1931, as amended, all relating to continuing the Office of Coalfield Community Development within the Department of Commerce; allowing the Secretary of the Department of Commerce to appoint a chief; and defining a term”; to

the Committee on Small Business, Entrepreneurship and Economic Development then Government Organization.

By Delegates Kurcaba, Faircloth, Statler, Espinosa, Wagner, Weld, Rowan, McGeehan, Azinger, Hamrick and Upson:

H. B. 4215 - “A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to removing the requirement that a home schooled student must acquire a general equivalency degree (GED) in order to qualify for a PROMISE scholarship; and adding another method by which a person is eligible for a PROMISE scholarship”; to the Committee on Education then Finance.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4216 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2D-4c, relating to exempting community-based behavioral health facilities, programs or services from the certificate of need process; and defining ‘community based’”; to the Committee on Health and Human Resources.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4217 - “A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to reducing the distributions to the West Virginia Infrastructure Fund to \$30 million for fiscal year 2017 and increasing the percentage of funds available for grants therefrom”; to the Committee on Finance.

**By Delegate Miley
[By Request of the Executive]:**

H. B. 4218 - “A Bill to amend and reenact §24C-1-2 of the Code of West Virginia, 1931, as amended, relating to the One-call system; revising the definition of ‘underground facility’”; to the Committee on Energy then the Judiciary.

By Delegates Howell, Overington, Statler, Foster, Cadle, J. Nelson, D. Evans, R. Smith, Phillips, Arvon and Canterbury:

H. B. 4219 - “A Bill to amend and reenact §17C-16-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17C-16-10, all relating to vehicle inspection stations; eliminating the provisions of code authorizing state police to inspect vehicle inspection stations; requiring all vehicle inspection stations to post a surety bond with the Commissioner of Motor Vehicles, and establishing conditions under which an inspection station will forfeit its surety bond and inspection permit”; to the Committee on Government Organization then Finance.

By Delegate Miley

[By Request of the Executive]:

H. B. 4220 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-3d, relating to imposing the consumers sales and service tax and use tax on sales of telecommunications service and ancillary services”; to the Committee on Finance.

By Delegates Stansbury, Householder, Ellington, Rohrbach, Weld, Miller, Hanshaw, B. White, Westfall, Campbell and Sobonya:

H. B. 4221 - “A Bill to amend and reenact §16-46-3 of the Code of West Virginia, 1931, as amended, relating to the administration of an opioid antagonist to a person believed to be suffering from an opioid-related overdose”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Gearheart, Householder, Ellington, Fast and Ambler:

H. B. 4222 - “A Bill to amend and reenact §15-2-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-16A-10 and §17-16A-18 of said code, all relating to providing for the transfer of ownership, operation and maintenance of certain assets of the West Virginia Parkways Authority to the Division of Highways;

reimbursement to the West Virginia State Police for performance of police duties on the West Virginia Turnpike after the transfer; requiring that the parkways authority bring the West Virginia Turnpike into compliance with Division of Highways standards by June 30, 2019; requiring assessments of the turnpike by the Division of Highways to identify certain deficiencies; requiring the division to report its findings upon the assessments to the Joint Committee on Government and Finance and the Governor; requiring the division to certify certain findings upon the assessments to the Joint Committee on Government and Finance and the Governor; requiring certain bonded indebtedness of the Parkways Authority to be satisfied by June 30, 2019; prohibiting new bonds from being issued; directing the Governor to issue a proclamation upon finding that certain bonded indebtedness obligations are satisfied and certain other conditions are met and directing the transfer of certain assets and employees of the Parkways Authority be transferred to the Division of Highways; providing for employees of the Parkways Authority whose positions are eliminated as result of the transfer; requiring certain moneys be used for operation and maintenance of, and for the provision of police services by the West Virginia State Police on the West Virginia Turnpike; cessation of tolls and removal of toll collection facilities; providing an exception; establishing the ‘Turnpike Transition Fund’; funding sources and administration of the fund; providing that all obligations and responsibilities of the parkways authority for the West Virginia Turnpike cease and remaining assets be transferred to Division of Highways on or before June 30, 2020; and authorizing rule-making”; to the Committee on Roads and Transportation then Finance.

HOUSE CALENDAR

Third Reading

Com. Sub. for H. B. 2101, Eliminating obsolete government entities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 4**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Hornbuckle, Manchin and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2101) passed.

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

Second Reading

Com. Sub. for H. B. 4002, Relating to rule making under the state Administrative Procedures Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Fleischauer and Hanshaw, the bill was amended on page two, section nineteen, line twenty-five, following the period, by inserting a new subsection (e), to read as follows:

“(e) The Secretary of State shall provide notice that the rule will sunset to each agency the year prior to the agency’s rule sunset date, and the notice shall direct that the agency provide: whether the rule is needed, whether federal funding will be impacted by its expiration, any adverse effect that will result for expiration of the rule to the agency, and whether health or safety of the residents of the state or any regulated persons will be impacted by the rule. The Secretary of State shall publish agency responses in the state register. The agency shall include this response with rule documents required for filing for reauthorization of each rule with the legislative rulemaking and review committee pursuant to section eleven of this article.”

And,

On page three, section twenty, line forty-seven, following the period, by inserting a new subsection (e), to read as follows:

“(e) The Secretary of State shall provide notice that the rule will sunset to the board the year prior to the board’s rule sunset date, and the notice shall direct that the board provide: whether the rule is needed, whether federal funding will be impacted by its expiration, any adverse effect that will result by expiration of the rule to the board, and whether the health or safety of the residents of the state or any persons regulated will be impacted by the rule. The Secretary of State shall publish the board’s responses in the state register. The board shall include this response with rule documents required for filing for reauthorization of each rule with the commission pursuant to section ten of this article.”

Delegate Fleischauer moved to amend the bill on page two, section nineteen, line twenty-five, following the period, by inserting a new subsection (e), to read as follows:

“(e) Failure of the Legislature to pass legislation that either reauthorizes or disapproves a rule by the date of its sunset, the rule is deemed reauthorized for another five year period without further legislative action, unless a different sunset or termination provision exists in the enabling statute under which the rule is promulgated, then the rule is deemed reauthorized for that time period. The agency shall then refile the rule within thirty days of its sunset date with the Secretary of State to reflect the new sunset date.”

And,

On page three, section twenty, line forty-seven, following the period, by inserting a new subsection (e), to read as follows:

“(e) Failure of the Legislature to pass legislation that either reauthorizes or disapproves a rule by the date of its sunset, the rule is deemed reauthorized for another five year period without further

legislative action, unless a different sunset or termination provision exists in the enabling statute under which the rule is promulgated, then the rule is deemed reauthorized for that time period. The agency shall then refile the rule within thirty days of its sunset date with the Secretary of State to reflect the new sunset date.”

The question before the House being the adoption of the amendment, the same was put and did not prevail.

There being no further amendments, the bill was ordered to engrossment and third reading

Com. Sub. for H. B. 4007, Relating generally to appointment of attorneys to assist the Attorney General; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page two, section three, line twelve, by striking out the word “he” and on page eight, section three-a, line one hundred forty-nine, after the word “occurring”, by inserting the word “during”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4031, Requiring agencies to respond to public comments received during the rule-making process; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Howell, Sobonya and Frich, the bill as amended on page three, section six, line fifty, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c), to read as follows:

“(c) The legislative rule-making review committee may review the proposed rule to determine if the agency adequately responded to the comments received during the public comment period. Should the committee determine that the agency did not adequately respond to the

comments received during the public comment period, the committee may recommend that the Legislature not authorize the proposed rule.”

The bill was then ordered to engrossment and third reading.

First Reading

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

H. B. 2147, Requiring the circuit court, when appointing counsel for alleged protected persons, to make appointments from a listing of all interested and qualified attorneys in the circuit,

H. B. 2584, Allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment,

Com. Sub. for H. B. 2588, Relating to the filing of financial statements with the Secretary of State,

H. B. 2796, Providing paid leave for certain state officers and employees during a declared state of emergency,

Com. Sub. for H. B. 2800, Adding law-enforcement officers’ contact information and names of family members to the list of exemptions from public records requests,

And,

Com. Sub. for H. B. 4038, Relating to insurance requirements for the refilling of topical eye medication.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Arvon, Hornbuckle, Manchin and Moore.

Remarks by Members

Delegate J. Nelson asked and obtained unanimous consent that the remarks of Delegate Perdue regarding S. B. 6 and drug testing be printed in the Appendix to the Journal.

Delegate Pushkin asked and obtained unanimous consent that the remarks of Delegate Fleischauer regarding her amendment to Com. Sub. for H. B. 4002 be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4146.

Delegate Ihle filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4175 and H. B. 4177.

Delegate Hanshaw filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4018.

Delegate McCuskey filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4018 and H. B. 4146.

At 12:13 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, January 22, 2016.

FRIDAY, JANUARY 22, 2016

TENTH DAY

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

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 5**), and 51 members being present, the Speaker declared the presence of a quorum.

The Clerk proceeded to read the Journal of Thursday, January 21, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4043, Adjusting the risk-based capital trend test for life and health insurers,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4043) was referred to the Committee on Finance.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4144, Relating to risk-based capital reporting for health organizations,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4144) was referred to the Committee on the Judiciary.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4146, Providing insurance cover abuse-deterrent opioid analgesic drugs,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Select Committee on Prevention and Treatment of Substance Abuse.

In accordance with the former direction of the Speaker, the bill (H. B. 4146) was referred to the Select Committee on Prevention and Treatment of Substance Abuse.

Delegate Miller, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 2615, West Virginia Small Business Capital Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2615) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4119, Department of Health and Human Resources, rule relating to qualifications for a restricted provisional license to practice as a social worker within the department,

H. B. 4120, Department of Health and Human Resources, rule relating to goals for foster children,

H. B. 4128, Nursing Home Administrators Licensing Board, rule relating to nursing home administrators,

H. B. 4129, Board of Pharmacy, rule relating to the licensure and practice of pharmacy,

H. B. 4130, Board of Pharmacy, rule relating to the Uniform Controlled Substances Act,

H. B. 4131, Board of Pharmacy, rule relating to record keeping and automated data processing systems,

H. B. 4132, Board of Pharmacy, rule relating to the licensure of wholesale drug distributors, third party logistics providers and manufacturers,

And,

H. B. 4136, Board of Examiners for Speech-Language Pathology and Audiology, rule relating to the licensure of speech pathology and audiology,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4119, H. B. 4120, H. B. 4128, H. B. 4129, H. B. 4130, H. B. 4131, H. B. 4132 and H. B. 4136) were each referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4118, Department of Health and Human Resources, rule relating to W. Va. Works Program sanctions,

And,

H. B. 4125, Board of Medicine, rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4118 and H. B. 4125) were each referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Howell, Blair, Cowles, Duke, Espinoa, A. Evans, Faircloth, Fleischauer, Folk, Frich, Householder, Kurcaba, Flanigan, Overington, Rowan, Shaffer, Skinner, R. Smith, Statler and Upson offered the following resolution, which was read by its title and referred to the Committee on Finance then Rules:

H. C. R. 21 – “Requesting the Joint Committee on Government and Finance study the impact of reimbursing the State of Maryland for the use of its helicopter Maryland Trooper Five for runs into West Virginia.”

Whereas, The State of West Virginia has its rules set forth in the Code of State Rules; and

Whereas, The State of Maryland maintains a helicopter detachment on West Virginia soil at the Cumberland Regional Airport in Wylie Ford, West Virginia; and

Whereas, Maryland Trooper Five, the helicopter quartered at the Cumberland Regional Airport, makes numerous calls into West Virginia when it is needed, specifically for the purpose of airlifting West Virginia citizens in cases of medical emergency; and

Whereas, Over thirty such flights were made in 2011; and

Whereas, All such flights are made at the expense of the Maryland taxpayer and we have no assurance that this generosity on the part of the voters of the State of Maryland will continue; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Government and Finance study the impact of reimbursing the State of

Maryland for these important life-saving flights into West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

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

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Trecoast, Boggs, Guthrie, Longstreth, Hamrick and Lynch:

H. B. 4223 - “A Bill to amend and reenact §17-1-3of the Code of West Virginia, 1931 as amended relating to authorizing individuals and business concernsto purchase sponsorship relative to courtesy patrol vehicles in exchange for advertisement displays on courtesy patrol vehicles”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Trecoast, Longstreth, Shaffer, Eldridge, Ferro, Caputo and Kelly:

H. B. 4224 - “A Bill to amend and reenact §18-5-9 of the Code of West Virginia, 1931, as amended, relating to requiring school restroom facilities to have privacy walls”; to the Committee on Education then Finance.

By Delegates Overington, Sobonya, Hanshaw, Gearheart, Cadle, Householder, Butler, Moffatt, Frich, Rowan and Kelly:

H. B. 4225 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-6-17, relating

to patriotic displays at public buildings; allowing for the national motto, 'In God We Trust', to be displayed on public buildings; allowing for the display of the POW-MIA flag at public buildings; and requiring the Department of Administration to develop guidelines for appropriate display of the motto and flag"; to the Committee on the Judiciary.

By Delegates Trecost, Butler, Boggs, Wagner, Hamrick and Lynch:

H. B. 4226 - "A Bill to amend and reenact §61-7-6 of the Code of West Virginia, 1931, as amended, relating to exceptions to prohibitions against carrying concealed handguns; and authorizing appointees or employees of the Alcohol Beverage Control Commissioner to carry concealed handguns"; to the Committee on the Judiciary.

By Delegates Howell, Arvon, Zatezalo, Border, Phillips, Hartman, Ihle, Cadle, Moffatt, Atkinson and Morgan:

H. B. 4227 - "A Bill to amend and reenact §30-38-6 of the Code of West Virginia, 1931, as amended, relating to adding citizen members to the Real Estate Appraiser Licensing and Certification Board; and providing for the disqualification of citizen members who become licensees"; to the Committee on Government Organization.

By Delegates Cowles, B. White, Shott, Espinosa, E. Nelson, Howell, Upson, Trecost, Reynolds and Gearheart:

H. B. 4228 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to transportation network companies; providing definitions; declaring not common carriers; requiring permits; requiring an agent for service of process; providing for fare collection, identification, and electronic receipts; requiring financial responsibility and disclosure thereof; allowing automobile insurers to exclude certain coverages; defining the relationship between drivers and transportation network

companies; prohibiting alcohol or drug use; providing requirements for drivers; requiring vehicle inspections; prohibiting street hails cash trips and discrimination; requiring customer records to be kept and prohibiting local entity taxes or licenses”; to the Committee on Roads and Transportation then Finance.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4229 - “A Bill making a supplementary appropriation of Lottery Net Profits from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the Bureau of Senior Services - Lottery Senior Citizens Fund, fund 5405, fiscal year 2016, organization 0508, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

**By Delegates Howell, Arvon, Blair, Phillips, Hill, Hartman,
Stansbury, McGeehan, R. Smith, Hamrick and Morgan:**

H. B. 4230 - “A Bill to amend and reenact §30-13-4 and §30-13-5 of the Code of West Virginia, 1931, as amended, relating to adding citizen members to the board of Registration For Professional Engineers; creating an emeritus status; establishing qualifications for board members; and providing for the disqualification of citizen members who become licensees”; to the Committee on Government Organization.

By Delegate Skinner:

H. B. 4231 - “A Bill to amend and reenact §36B-1-103, §36B-1-104, §36B-1-108, §36B-1-201, §36B-1-203, §36B-1-204, §36B-1-206 and §36B-1-207 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto four new sections, designated §36B-1-115, §36B-1-116, §36B-1-208 and §36B-1-209; to amend and reenact §36B-2-103, §36B-2-105, §36B-2-106, §36B-2-109, §36B-2-112, §36B-2-113, §36B-2-116, §36B-2-117, §36B-2-118 and §36B-2-119 of said code; to amend said code by adding thereto two new sections, designated §36B-2-123 and §36B-2-124; to amend and reenact §36B-3-101, §36B-3-102,

§36B-3-103, §36B-3-105, §36B-3-106, §36B-3-108, §36B-3-109, §36B-3-110, §36B-3-111, §36B-3-112, §36B-3-113, §36B-3-114, §36B-3-115, §36B-3-116, §36B-3-117 and §36B-3-118 of said code; to amend said code by adding thereto five new sections, designated §36B-3-120, §36B-3-121, §36B-3-122, §36B-3-123 and §36B-3-124; and to amend and reenact §36B-4-101, §36B-4-102, §36B-4-103, §36B-4-108, §36B-4-109, §36B-4-112, §36B-4-113, §36B-4-114, §36B-4-116 and §36B-4-117 of said code, all relating to updating the Uniform Common Interest Ownership Act; and providing for applicability of the chapter”; to the Committee on the Judiciary.

By Delegate Trecoast:

H. B. 4232 - “A Bill to amend and reenact §11-15-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17-3-11, all relating to raising the consumer sales and service tax from 6¢ to 7¢ on the dollar for five years and dedicating the 1¢ increase to a newly created Priority Repairs Fund dedicated to funding repairs of existing roads throughout the state”; to the Committee on Roads and Transportation then Finance.

By Delegate Trecoast:

H. B. 4233 - “A Bill to amend and reenact §3-2-2 of the Code of West Virginia, 1931, as amended, relating to eligibility to register to vote; and reducing the age from eighteen years to sixteen years of persons permitted to register to vote”; to the Committee on the Judiciary.

By Delegates Hanshaw and Shott:

H. B. 4234 - “A Bill to amend and reenact §46A-1-105 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §46A-7-116, all relating to consumer credit and protection; empowering the Attorney General to investigate and seek injunctive relief and civil actions for conduct in violation of the Consumer Credit and Protection Act that is otherwise excluded under the act; and expressly authorizing exceptions to conduct excluded under the act”; to the Committee on the Judiciary.

By Delegate Shott:

H. B. 4235 - “A Bill to amend and reenact §44-3A-4, §44-3A-4a and §44-3A-32 of the Code of West Virginia, 1931, as amended, all relating to the publication requirements of the administration of estates”; to the Committee on the Judiciary.

By Delegates Hamilton, A. Evans, Romine, Wagner and Ambler:

H. B. 4236 - “A Bill to amend and reenact §20-1-2 of the Code of West Virginia, 1931, as amended, relating to the classification of certain species; identifying the coyote as a fur-bearing animal; identifying the woodchuck as a game animal; identifying the coyote, porcupine and all species of cervids as wild animals; and providing an exception”; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates O’Neal, Arvon, Storch, Azinger, Butler, Hamrick, Kessinger, Rowan, P. Smith, Ferro and Longstreth:

H. B. 4237 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-8-1, §49-8-2, §49-8-3, §49-8-4 and §49-8-5, all relating to the temporary delegation of certain custodial powers by a parent or guardian; defining terms; permitting the delegation of certain custodial powers; creating a parental rights form; requiring certain background checks; mandating certain disclosures; and providing exemptions”; to the Committee on the Judiciary.

By Delegates Howell, Arvon, Blair, Phillips, Hill, Hartman, Stansbury, McGeehan, R. Smith, Hamrick and Morgan:

H. B. 4238 - “A Bill to amend and reenact §30-13A-4 of the Code of West Virginia, 1931, as amended, relating to adding citizen members to the board of Professional Surveyors; staggering terms; providing for the disqualification of citizen members who become licensees; and providing that citizen member appointments represent different congressional districts”; to the Committee on Government Organization.

By Delegates Marcum, Phillips, O’Neal, Bates, Arvon, Gearheart, Shott, Cooper, P. White, Ellington and Moye:

H. B. 4239 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8a, relating to construction of a modern highway from Pikeville, Kentucky to Beckley, West Virginia; requiring the Commissioner of Highways to determine how the highway can be best funded and constructed; and requiring reports”; to the Committee on Roads and Transportation then Finance.

By Delegates Marcum, Phillips, Hamilton, Hicks, Rodighiero, Westfall, Sobonya, R. Smith, Storch, Summers and Byrd:

H. B. 4240 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-406a; and to amend and reenact §60A-4-409 of said code, all relating to the Uniform Controlled Substances Act; offenses and penalties; providing mandatory minimum sentences for trafficking drugs into the state and for other drug offenses; increasing period of ineligibility for parole for certain violations of possession or distribution of controlled substances and establishing applicable conditions; increasing period of ineligibility for parole for transporting certain controlled substances into the state and establishing applicable conditions; prohibiting application of alternative sentences; and increasing the penalties for transporting controlled substances into the state”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Howell, Arvon, Zatezalo, Border, Phillips, Hartman, Ihle, Cadle, Moffatt, Atkinson and Morgan:

H. B. 4241 - “A Bill to amend and reenact §30-40-6 of the Code of West Virginia, 1931, as amended, relating to adding citizen members to the Real Estate Commission; and providing for the disqualification of citizen members who become licensees”; to the Committee on Government Organization.

By Delegates Kurcaba, Butler, Wagner, Atkinson, Statler, Ellington, Azinger, Overington, Waxman, Householder and Cooper:

H. B. 4242 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25, relating to creating income tax credits against personal income tax for educational expenses incurred by parents for a child under twenty-one years of age and for expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs”; to the Committee on Education then Finance.

By Delegates Border, Ellington, Arvon, Kelly, Sobonya, Anderson, Deem and Ireland:

H. B. 4243 - “A Bill to amend and reenact §16-2D-5c of the Code of West Virginia, 1931, as amended, relating to extending the time that certain nonprofit community groups are exempt from the moratorium on creating new nursing home beds”; to the Committee on Health and Human Resources.

House Calendar

Third Reading

Delegate Cowles asked and obtained unanimous consent that all bills on third reading be laid over, which bills were as follows:

Com. Sub. for H. B. 4002, Relating to rule making under the state Administrative Procedures Act,

Com. Sub. for H. B. 4007, Relating generally to appointment of attorneys to assist the Attorney General,

And,

Com. Sub. for H. B. 4031, Requiring agencies to respond to public comments received during the rule-making process on third reading.

Second Reading

Delegate Cowles asked and obtained unanimous consent that all bills on second reading be laid over, which bills were as follows:

H. B. 2147, Requiring the circuit court, when appointing counsel for alleged protected persons, to make appointments from a listing of all interested and qualified attorneys in the circuit,

H. B. 2584, Allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment,

Com. Sub. for H. B. 2588, Relating to the filing of financial statements with the Secretary of State,

H. B. 2796, Providing paid leave for certain state officers and employees during a declared state of emergency,

Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests,

And,

Com. Sub. for H. B. 4038, Relating to insurance requirements for the refilling of topical eye medication.

First Reading

Delegate Cowles asked and obtained unanimous consent that all bills on first reading be laid over, which bills were as follows:

Com. Sub. for H. B. 2130, Including law-enforcement officers among those professionals the assault or battery of which leads to enhanced criminal penalties,

And,

H. B. 4005, Repealing prevailing hourly rate of wages requirements.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Ambler, Bates, Blackwell, Blair, Boggs, Border, Byrd, Caputo, Cooper, Deem, Duke, Eldridge, Ellington, A. Evans, Ferro, Fleischauer, Foster, Guthrie, Hamilton, Hamrick, Hartman, Hicks, Hornbuckle, Householder, Ireland, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, J. Nelson, Perdue, Pethtel, Reynolds, Rodighiero, Rohrbach, Shaffer, Skinner, Sobonya, Sponaugle, Storch, Weld, Westfall, P. White and Zatezalo.

Delegate Cowles briefly addressed the House regarding the major snowstorm that was hitting the state and noted that the House would not meet until 1:00 p.m. on Monday.

At 9:19 a.m., the House of Delegates adjourned until 1:00 p.m., Monday, January 25, 2016.

MONDAY, JANUARY 25, 2016

THIRTEENTH DAY

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

The House of Delegates met at 1:00 p.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Friday, January 22, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4102, Department of Environmental Protection, Oil and Gas, rule relating to horizontal well development,

And,

H. B. 4104, Department of Environmental Protection, Water and Waste Management, rule relating to above ground storage tanks,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4102 and H. B. 4104) were each referred to the Committee on the Judiciary.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4058, Department of Environmental Protection, Water and Waste Management, rule relating to above ground storage tank fee assessments,

H. B. 4059, Department of Environmental Protection, Water and Waste Management, rule relating to above ground storage tank administrative proceedings and civil penalty assessment,

H. B. 4068, Office of Miners' Health, Safety and Training, rule relating to substance abuse screening standards and procedures,

And,

H. B. 4103, Department of Environmental Protection, Water and Waste Management, rule relating to requirements governing water quality standards,

And reports the same back, with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4058, H. B. 4059, H. B. 4068 and H. B. 4103) were each referred to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 1 - “A Bill to amend and reenact §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6, §21-5G-7 and §21-5G-8, all relating to establishing the West Virginia Workplace Freedom Act; eliminating language allowing employment agreements require membership in a labor organization as a condition of employment; prohibiting any requirement that a person become or remain a member of a labor organization as condition of employment; prohibiting any requirement that a person must pay dues or other fees to a labor organization as a condition of employment; prohibiting any requirement that a person contribute to a charity in lieu of paying dues or other fees to a labor organization; providing that certain agreements or practices between labor organizations and employers are unlawful; providing for criminal penalties; providing for administrative remedies; providing for civil relief, including damages, attorney’s fees and injunctive relief; providing for exceptions; requiring prosecuting attorneys and the Attorney General to investigate complaints; defining terms; construction; applicability; and severability”; which was referred to the Committee on the Judiciary .

Resolutions Introduced

Delegates B. White, Miller, Lane, Cowles, A. Evans, Kessinger, Shott, McCuskey, Sobonya, Stansbury, Byrd, Mr. Speaker (Mr. Armstead), Atkinson, Azinger, Blackwell, Blair, Deem, Ellington, Faircloth, Fleischauer, Folk, Hamrick, Householder, Ireland, Kelly, Kurcaba, McGeehan, E. Nelson, Overington, Pushkin, Rohrbach, Rowan, Rowe, Shaffer, P. Smith, R. Smith, Statler, Storch, Upson, Waxman, Weld, Westfall and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 22 – “Requesting the Division of Highways to name the intersection of Alum Creek on SR 214 and Childress Road in Kanawha

County, West Virginia, the ‘U. S. Army SGT Gary Lee DeBoard Memorial Intersection’.”

Whereas, Gary Lee DeBoard was the son of Gene and Yvonne DeBoard. He was a veteran of the Iraqi War having served on active duty in 2004 and 2005. He served in the Army Reserve for a total of twenty-nine years. He suffered from PTSD and died on December 4, 2012, from cardiovascular disease at age forty-nine. Gary Lee DeBoard was born on Alum Creek near the intersection of SR 214 and Childress Road; and

Whereas, It is only fitting and proper that U. S. Army SGT Gary Lee DeBoard be remembered and acknowledged for his dedicated service on behalf of his country, state and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the intersection of Alum Creek on SR 214 and Childress Road in Kanawha County, West Virginia, the “U. S. Army SGT Gary Lee DeBoard Memorial Intersection”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect a sign at the intersection proclaiming the intersection the “U. S. Army SGT Gary Lee DeBoard Memorial Intersection”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the surviving family of Gary Lee DeBoard.

Delegates Marcum, Rodighiero, Phillips, P. White, Moffatt, Eldridge, Westfall and McGeehan offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 23 – “Requesting the Division of Highways to name a stretch of road beginning at 20 Whitman Church and up Whitman Creek one mile in Logan County, ‘Ingram’s Way’.”

Whereas, James and John Ingram of Logan County have the following accomplishments in the world of competitive archery: James Ingram – 2004 World Champion; 2004 World Record Holder of Highest Archery Score in competition; Placed in the top ten of the greatest archery competitors in the World Championships on three separate occasions; 10 State Championships–Louisiana (3 times), Arkansas (3 times), Missouri (2 times) and Texas and Tennessee. John Ingram – Air Force veteran; 2012 ASA 8th Place in World Championships; 2012 Central Arkansas Bowhunter Shooter of the year 2012 Hoyt State Champion; 2012 IAS Shooter of the Year; 2010 Hoyt State Champion; 2010 IAS Shooter of the Year; 2010 Arkansas 2nd Place ASA State Championship; 2005 T.H.E. 2nd Place World Championship; 1999 Missouri Red Head Indoor Pop Up State Champion 1999 ASAA State Champion; and

Whereas, Their archery accomplishments and contributions to their county and state should not go unnoticed; and

Whereas, Naming that stretch of road in Logan County, “Ingram’s Way” is an appropriate recognition of their contributions and accomplishments; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name that one mile stretch of road beginning at 20 Whitman Church and up Whitman Creek one mile in Logan County, “Ingram’s Way”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the one mile stretch of road up Whitman Creek as the “Ingram’s Way”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation, James and John Ingram and the family of James and John Ingram.

Delegates Howell, Arvon, Atkinson, Cadle, Canterbury, Fast, Folk, Foster, Gearheart, Hamrick, Ihle, Ireland, Kessinger, Flanigan, Overington, Phillips, Wagner, Waxman and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 5 – “Expressing concern of the House of Delegates to the growth of the federal government’s power over the individual states of the United States.”

Whereas, The State of West Virginia was a part of the Commonwealth of Virginia on December 24, 1798, when the Virginia Resolution of 1798 was adopted by the Virginia Senate; and

Whereas, West Virginia continues to believe in and support the Virginia Resolution of 1798 that was written by one of our founding fathers, James Madison; and

Whereas, West Virginia desires to reaffirm the Virginia Resolution of 1798; and

Whereas, The Virginia Resolution of 1798 reads in full:

“RESOLVED, That the General Assembly of Virginia, doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression either foreign or domestic, and that they will support the government of the United States in all measures warranted by the former.

That this assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its powers; and that for this end, it is their duty to watch over and oppose every

infraction of those principles which constitute the only basis of that Union, because a faithful observance of them, can alone secure it's existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact, to which the states are parties; as limited by the plain sense and intention of the instrument constituting the compact; as no further valid that they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.

That the General Assembly doth also express its deep regret, that a spirit has in sundry instances, been manifested by the federal government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and that implications have appeared of a design to expound certain general phrases (which having been copied from the very limited grant of power, in the former articles of confederation were the less liable to be misconstrued) so as to destroy the meaning and effect, of the particular enumeration which necessarily explains and limits the general phrases; and so as to consolidate the states by degrees, into one sovereignty, the obvious tendency and inevitable consequence of which would be, to transform the present republican system of the United States, into an absolute, or at best a mixed monarchy.

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts" passed at the last session of Congress; the first of which exercises a power nowhere delegated to the federal government, and which by uniting legislative and judicial powers to those of executive, subverts the general principles of free

government; as well as the particular organization, and positive provisions of the federal constitution; and the other of which acts, exercises in like manner, a power not delegated by the constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto; a power, which more than any other, ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.

That this state having by its Convention, which ratified the federal Constitution, expressly declared, that among other essential rights, “the Liberty of Conscience and of the Press cannot be cancelled, abridged, restrained, or modified by any authority of the United States,” and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, having with other states, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution; it would mark a reproachable inconsistency, and criminal degeneracy, if an indifference were now shewn, to the most palpable violation of one of the Rights, thus declared and secured; and to the establishment of a precedent which may be fatal to the other.

That the good people of this commonwealth, having ever felt, and continuing to feel, the most sincere affection for their brethren of the other states; the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions of the other states, in confidence that they will concur with this commonwealth in declaring, as it does hereby declare, that the acts aforesaid, are unconstitutional; and that the necessary and proper measures will be taken by each, for cooperating with this state, in maintaining the Authorities, Rights, and Liberties, referred to the States respectively, or to the people.

That the Governor be desired, to transmit a copy of the foregoing Resolutions to the executive authority of each of the other states, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this state in the Congress of the United States. Agreed to by the Senate, December 24, 1798"; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby expresses its concern over the growth of the federal government's power over the individual states of the United States; and, be it

Further Resolved, That the House of Delegates acknowledges that the issue of the growth of the federal government's power over the individual states of the United States is an issue which the citizens of West Virginia are also concerned; and, be it

Further Resolved, That the House of Delegates urges West Virginia's representatives in Congress be cognizant of the Virginia Resolution of 1798 when reviewing proposed federal legislation; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to each member of West Virginia's delegation in Congress.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Walters, Frich, Westfall, McCuskey, Manchin, Skinner, Shott, Flanigan, Waxman, Perry and B. White:

H. B. 4244 - "A Bill to amend and reenact §31C-2-6 of the Code of West Virginia, 1931, as amended, relating to eliminating the need

for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Walters, Frich, Westfall, McCuskey, Manchin, Skinner, Rowe, Flanigan, Waxman, Perry and B. White:

H. B. 4245 - “A Bill to amend and reenact §31A-4-20 of the Code of West Virginia, 1931, as amended relating to requiring the cashier or executive officer of a banking institution to provide shareholders with the institution’s most recent year-end audited financial statement and requiring that the board of directors of a bank, or its controlling bank holding company, appoint an outside auditing firm in lieu of having the shareholders appoint a bank examining committee and eliminating the requirement that a bank transmit a copy of an audit report of its financial condition to the division of financial institutions and further eliminating the ability to require the presence of the examining committee or executive committee during an examination”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Overington, Householder, Faircloth, Blair and Folk:

H. B. 4246 - “A Bill to amend and reenact chapter 83, Acts of the Legislature, regular session, 1970, relating to changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library; creating a library board with the power to operate the public library; and providing a stable method of financing the operation of the Martinsburg-Berkeley County Public Library”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Marcum, Rodighiero, Eldridge, Phillips, P. White, Moye, Bates, Westfall, J. Nelson, Wagner and Frich:

H. B. 4247 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2B-2a, relating to the Laurel Lake Wildlife Management Fund; providing

sufficient funding to maintain the Laurel Lake Wildlife Management Area, including its facilities; providing the Director of the Division of Natural Resources shall provide legislative rules designed to fulfil the purpose of providing sufficient funding; and, providing the Mingo county commission administer funds provided by the Division of Natural Resources to accomplish sufficient renovations and improvements to facilities and explore alternative means of funding while administering”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates Rohrbach, Sobonya, Bates, Ellington, Householder, Miller, Perdue, Stansbury, Waxman and B. White:

H. B. 4248 - “A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-5Y-1, all relating to methadone regulation; requiring the secretary of Health and Human Resources to propose legislative rules for the regulation of opioid treatment programs; requiring the Health Care Authority to develop new certificate of need standards; prohibiting the Health Care Authority from approving applications of certificate of need for opioid treatment programs; imposing a moratorium on licensure of certain new opioid treatment programs; providing the secretary monitor opioid treatment programs; requiring program staff to receive minimum training; setting forth standards for initial assessment to admission to a program; setting forth criteria to be admitted to a treatment program; requiring a program to develop individualized treatment plans; providing for random drug testing for program patients; enunciating consequences for positive drug tests, including mandatory counseling; requiring mandatory statistical reporting to the Department of Health and Human Resources and the Legislative Oversight Commission on Health and Human Resources; prescribing times programs must be open; setting forth certain staff requirements for programs; requiring programs to establish peer review committees that include a physician member; and

requiring the secretary to prescribe the procedure for peer review”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Campbell, Wagner, Sobonya, Atkinson, Longstreth, Cooper, Perdue, Perry, Eldridge and Ellington:

H. B. 4249 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-127, relating to creating the Commission to Accelerate Statewide Coordination of Mental Health Services for Children and Adolescents; providing findings, requirements, reports, recommendations and termination”; to the Committee on Health and Human Resources then Government Organization.

By Delegate Skinner:

H. B. 4250 - “A Bill to amend and reenact §24-2-2 of the Code of West Virginia, 1931, as amended, relating generally to public service districts; prohibiting shifting future development costs onto existing public service district customers”; to the Committee on the Judiciary.

By Delegates Espinosa and Upson:

H. B. 4251 - “A Bill to amend and reenact §61-8-19a of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties for participating in an animal fighting venture”; to the Committee on the Judiciary.

By Delegates Campbell, Longstreth, Eldridge, Trecoast, Wagner, R. Smith, Zatezalo and Ihle:

H. B. 4252 - “A Bill to amend and reenact §48-9-206 of the Code of West Virginia, 1931, as amended, relating to custodial orders in suits affecting the parent-child relationship; requiring the courts to allocate custodial time equally between parents, unless doing so is inconsistent with the best interests of the child”; to the Committee on the Judiciary.

By Delegates Caputo, Sponaugle, Perdue, Manchin, Ferro, Trecoast, Fluharty, Pethtel, Miley, Hamilton and Longstreth:

H. B. 4253 - “A Bill to amend and reenact §33-30-6 of the Code of West Virginia, 1931, as amended, relating to mine subsidence insurance; increasing the maximum amount of the total insured value reinsured by the Board of Risk Management”; to the Committee on Banking and Insurance then Energy.

By Delegates Hamilton, Storch, Butler, Westfall, Guthrie, Pethtel and B. White:

H. B. 4254 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §23-2-19; and to amend said code by adding thereto a new section, designated §33-1-23, all relating generally to workers’ compensation; providing that unenforceable waivers may not be offered by employers; providing that policies that offer no coverage are against public policy; and establishing misdemeanor penalties”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Hamilton, A. Evans, Romine, Wagner, Ambler, Eldridge, Pethtel, Sponaugle and Guthrie:

H. B. 4255 - “A Bill to amend and reenact §20-2-4, §20-2-21 and §20-2-22 of the Code of West Virginia, 1931, as amended, all relating to the taking and registration of wildlife including electronic registration of beaver, otter and big game animals”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Faircloth, Storch, Ferro and P. Smith:

H. B. 4256 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §39A-4-1, §39A-4-2, §39A-4-3, §39A-4-4, §39A-4-5, §39A-4-6 and §39A-4-7, all relating to creating the Uniform Real Property Electronic Recording Act; providing short title; defining terms; clarifying validity of electronic documents and electronic signatures; providing for recording of electronic documents; requiring any county clerk implementing the

provisions of the act to comply with established standards; authorizing county clerks to receive, index, store, archive and transmit electronic documents; authorizing county clerks to allow public access, search and retrieval of electronic documents; allowing county clerks to convert paper documents accepted for recording into electronic documents; authorizing county clerks to collect electronically any tax or fee relating to electronic recording of real property documents they are authorized by law to collect; authorizing county clerks to agree with other jurisdictions on procedures or processes necessary for electronic recording of documents; creating the Real Property Electronic Recording Standards Committee to develop the standards necessary to electronically record real property documents; authorizing the Commissioner of Highways to promulgate a legislative rule; providing for a report and recommendations to the Legislature; providing that members of the Real Property Electronic Recording Standards Committee pay their own expenses; setting forth areas for consideration when adopting or changing standards; providing for uniformity of application and construction of the act; and providing that this act modifies, limits and supersedes certain parts of the federal Electronic Signatures in Global and National Commerce Act”; to the Committee on Government Organization then the Judiciary.

By Delegates Fluharty, Hornbuckle, Sponaugle, Guthrie, Bates, Pushkin, Ferro, Miley, Fleischauer, Byrd and Perdue:

H. B. 4257 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-11-4c, relating to insurance unfair trade practices; prohibiting use of a person’s credit history in certain insurance transactions”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Byrd, Guthrie, Rowe, Pushkin, Rohrbach, Fluharty, Reynolds, Marcum, Shaffer, P. Smith and Fleischauer:

H. B. 4258 - “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §15-9-4a; to amend and reenact §16-1-4 of said code; to amend and reenact

§18-2-7b of said code; to amend and reenact §60A-4-401; to amend said code by adding thereto a new section, designated §60A-4-414; and to amend said code by adding thereto a new section, designated §61-2-4a, all relating to substance abuse; mandating studies by the governor's committee on crime, delinquency and correction on reforms to state drug sentencing laws; requiring said committee to coordinate school education program by law enforcement officers; authorizing the state department of health to promulgate rules regulating the exchange of syringes and providing immunity for certain actions relating thereto; directing the state board of education to requiring county boards to provide substance abuse training education; directing state board of education to coordinate its activities with state law enforcement agencies; providing a penalty enhancement for use of a firearm during manufacture or distribution of controlled or imitation controlled substance; providing that an attempt or conspiracy to attempt to distribute controlled substances or imitation controlled substance is the same as the actual act; and establishing new criminal penalty for causing death by distributing a controlled substance"; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Rohrbach, Stansbury, Bates, Byrd, Ellington, Householder, Miller, Perdue, Waxman and B. White:

H. B. 4259 - "A Bill to amend and reenact §16-9E-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-9E-4a, all relating to the regulation of vapor products; defining terms; prohibiting sales of vapor products that do not meet certain requirements; requiring a warning be placed on the vapor product; requiring sale through vendor assistance; prohibiting sales from self-service displays; establishing criminal penalty"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Shott, Howell, McCuskey, Marcum, Fast, Folk, Foster, Overington, Summers, Kessinger and Azinger:

H. B. 4260 - "A Bill to amend and reenact §61-7-16 of the Code of West Virginia, 1931, as amended, relating to providing private

educational facilities authority to determine whether, and under what circumstances, to permit deadly weapons on school premises through written policies”; to the Committee on Education then the Judiciary.

By Delegates Shott, McCuskey, Cowles, O’Neal, Butler, Marcum, Shaffer, Sobonya, Folk, Overington and Azinger:

H. B. 4261 - “A Bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to student data; and prohibiting the sale or transfer of student data to vendors and other profit making entities”; to the Committee on Education then the Judiciary.

By Delegates J. Nelson, Arvon, Moffatt, Ihle, McGeehan, Blair, D. Evans, Miley, Phillips, Reynolds and P. White:

H. B. 4262 - “A Bill to amend and reenact §5A-4-5 of the Code of West Virginia, 1931, as amended, relating to regulation of parking at the West Virginia Capitol Complex; requiring that three parking spaces in the West Virginia Culture Center parking lot be designated for use by Purple Heart Medal recipients”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

By Delegates Pushkin, Campbell, Moffatt, Eldridge, Sponaugle, Byrd and Guthrie:

H. B. 4263 - “A Bill to amend and reenact §49-2-913 of the Code of West Virginia, 1931, as amended; to amend said article by adding thereto a new section, designated §49-2-914; and to amend and reenact §49-5-106 of said code, all relating to the juvenile justice reform oversight committee and averted costs reinvestment; creating a juvenile justice account and providing its purpose, funding and disbursements; requiring new data to be collected and compiled to allow calculation of juvenile recidivism and the outcome of programs and making this information available to the public”; to the Committee on the Judiciary.

By Delegates Skinner, Householder, Blair, Cowles, Overington, Marcum, Folk and Faircloth:

H. B. 4264 - “A Bill to amend and reenact §47-11A-8 of the Code of West Virginia, 1931, as amended, relating to unfair trade practices; and adding motor fuel to the list of products exempted from unfair trade practices”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Walters, Frich, Canterbury, McCuskey, Hanshaw, Skinner, Marcum and Perry:

H. B. 4265 - “A Bill to amend and reenact §7-3-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-17 of said code; to amend and reenact §8-27-16 of said code; to amend and reenact §10-2A-16 of said code; and to amend and reenact §17-17-22 of said code; all relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds of principal and interest on bonds owned by the United States or any governmental agency or department of the United States”; to the Committee on Banking and Insurance then Finance.

By Delegates Cowles, B. White, Shott, Espinosa, E. Nelson, Howell, Upson, Trecoast, Reynolds and Gearheart:

H. B. 4266 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to transportation network companies; providing definitions; declaring not common carriers; requiring permits; requiring an agent for service of process; providing for fare collection, identification, and electronic receipts; requiring financial responsibility and disclosure thereof; allowing automobile insurers to exclude certain coverages; defining the relationship between drivers and transportation network companies; prohibiting alcohol or drug use; providing requirements for drivers; requiring vehicle inspections; prohibiting street hails cash trips and discrimination; requiring customer records

to be kept and prohibiting local entity taxes or licenses”; to the Committee on Roads and Transportation then Finance.

Daily Calendar

Third Reading

Com. Sub. for H. B. 4002, Relating to rule making under the state Administrative Procedures Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 6**), and there were, including 2 paired—yeas 81, nays 16, absent and not voting 3, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Weld Nay: Shaffer

Nays: Campbell, Caputo, Eldridge, Ferro, Fluharty, Guthrie, Hornbuckle, Lynch, Manchin,

Miley, Moore, Morgan, Perdue, Perry and Pushkin.

Absent and Not Voting: Fleischauer, Longstreth and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4002) passed.

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

Com. Sub. for H. B. 4002 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §29A-3-19; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to rule making under the state Administrative Procedures Act; providing for a sunset of rules promulgated after April 1, 2016; requiring a sunset provision for existing rules as they are modified; requiring Higher Education Policy Commission rules promulgated or modified after April 1, 2016 to include a sunset provision; clarifying that statutory sunset provisions take precedence over sunset provisions in a rule; expressly exempting emergency rules from the sunset requirement; requiring the Secretary of State to provide notice to agencies one year prior to an agency's rule sunset date; specifying contents of the notice to agencies; requiring agencies to respond to the notice; requiring the Secretary of State to publish the agency responses in the state register; requiring agencies to include the responses when the agency files a proposed rule for reauthorization with the Legislative Rule-making Review Committee; authorizing the Legislative Rule-making Review Committee to establish a procedure for timely review of rules prior to the expiration of the sunset provision; requiring the Secretary of State to provide notice to the Higher Education Policy Commission one year prior to a Commission rule sunset date; specifying contents of the notice to the Higher Education Policy Commission; requiring the Commission to respond to the notice; requiring the Secretary of State to publish the Higher Education Policy Commission responses in the state register; requiring the Higher Education Policy Commission to include the responses when the Commission files a proposed rule for reauthorization with the Legislative Oversight Commission on Education Accountability; authorizing the Legislative Oversight Commission on Education Accountability to establish a procedure for timely review of rules prior to the expiration of the sunset provision."

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

Com. Sub. for H. B. 4007, Relating generally to appointment of attorneys to assist the Attorney General; on third reading, coming up in regular order, was read a third time.

Delegate Reynolds requested to be excused from voting on the passage of Com. Sub. for H. B. 4007 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Reynolds would be as a member of a class of persons possibly to be affected by the passage of the bill, but that the Delegate exhibited no direct pecuniary interest therein and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 7**), and there were, including 2 paired—yeas 96, nays 1, absent and not voting 3, with the paired and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Weld Nay: Shaffer

Absent and Not Voting: Fleischauer, Longstreth and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4007) passed.

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

Com. Sub. for H. B. 4031, Requiring agencies to respond to public comments received during the rule-making process; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 8**), and there were, including 2 paired—yeas 96,

nays 1, absent and not voting 3, with the paired and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Weld Nay: Shaffer

Absent and Not Voting: Fleischauer, Longstreth and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4031) passed.

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

Com. Sub. for H. B. 4031 - “A Bill to amend and reenact §29A-3-5, §29A-3-6, and §29A-3-11 of the Code of West Virginia, 1931, as amended, all relating to requiring agencies to respond to public comments received during the rule-making process; requiring explanation as to inclusion or noninclusion of public comments in proposed rule; providing grounds for the rejection of a proposed rule due to inadequate response to public comments; providing for review of agencies’ responses by Legislative Rule-Making Review Committee; and allowing for Legislative Rule-Making Review Committee to recommend that Legislature not authorize the proposed rule due to inadequate response to public comments.”

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

Second Reading

H. B. 2147, Requiring the circuit court, when appointing counsel for alleged protected persons, to make appointments from a listing of

all interested and qualified attorneys in the circuit; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section seven, line seven, after the word “basis”, by changing the period to a colon and inserting, “*Provided*, That if no interested counsel are available, the court shall appoint any competent counsel it deems proper.”

And,

On page one, section seven, line six, by striking out the words “and qualified”.

The bill was then ordered to engrossment and third reading.

H. B. 2584, Allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section eleven, line ten, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c), to read as follows:

“(c) For purposes of this section, a person that is engaged in seasonal employment may be excused from jury service by the court for the duration of the seasonal employment on the basis of undue hardship, extreme inconvenience, or public necessity: *Provided*, That the court may, upon facts known or made known to it, make the determination as to whether a prospective juror is engaged in seasonal employment and the duration of said seasonal employment.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 2588, Relating to the filing of financial statements with the Secretary of State; on second reading, coming up

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

H. B. 2796, Providing paid leave for certain state officers and employees during a declared state of emergency; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4038, Relating to insurance requirements for the refilling of topical eye medication; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. B. 2130, Including law-enforcement officers among those professionals the assault or battery of which leads to enhanced criminal penalties,

And,

H. B. 4005, Repealing prevailing hourly rate of wages requirements.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Fleischauer, Longstreth, Skinner and Weld.

Remarks by Members

Delegate Moye asked and obtained unanimous consent that the remarks of Delegate Marcum regarding Com. Sub. for H. B. 4239 be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Eldridge filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4146.

Delegate McGeehan filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2604.

Delegate Hornbuckle noted to the Clerk that he was absent on January 20 and January 21 when the votes were taken on Roll Nos. 3 and 4, and that had he been present, he would have voted "Yea" thereon.

At 2:11 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, January 26, 2016.

TUESDAY, JANUARY 26, 2016

FOURTEENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, January 25, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on Finance has had under consideration:

H. B. 4189, Expiring funds to the unappropriated balance in State Fund, General Revenue, from the Department of Revenue,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4227, Adding citizen members to the Real Estate Appraiser Licensing and Certification Board,

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

Com. Sub. for H. B. 4227 - “A Bill to amend and reenact §30-38-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board; changing the requirements for membership on the board; providing for continued service of qualifying board members; and providing for the disqualification of certain members who become licensees,”

H. B. 4230, Adding citizen members to the board of Registration for Professional Engineers,

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

Com. Sub. for H. B. 4230 - “A Bill to amend and reenact §30-13-4 and §30-13-5 of the Code of West Virginia, 1931, as amended, all relating to the Board of Registration for Professional Engineers; changing the qualifications for membership on the board; providing for continued service of qualifying board members; creating an emeritus status; and providing for the disqualification of certain members who become licensees,”

H. B. 4238, Adding citizen members to the board of Professional Surveyors,

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

Com. Sub. for H. B. 4238 - “A Bill to amend and reenact §30-13A-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Board of Professional Surveyors; changing requirements for membership on the board; staggering terms; providing for continued service of qualifying board members; providing for the disqualification of certain members who become licensees; and

providing that citizen member appointments represent different congressional districts,”

And,

H. B. 4241, Adding citizen members to the Real Estate Commission,

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

Com. Sub. for H. B. 4241 - “A Bill to amend and reenact §30-40-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Commission; changing the qualifications for membership on the commission; providing for continued service of qualifying board members; adding party affiliation limitation; and providing for the disqualification of certain members who become licensees,”

With the recommendation that the committee substitutes each do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4081, Board of Accountancy, rule relating to board rules and rules of professional conduct,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4081) was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Marcum, Phillips, Hamrick, P. White, J. Nelson, R. Smith, Arvon and Howell offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 24 – “Requesting the Division of Highways to name the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the ‘Cpl. Ronald “Duke” Varney Memorial Bridge’.”

Whereas, Ronald J. Varney, “Duke” was born on April 15, 1950. He spent his childhood in Varney, West Virginia where he attended Red Jacket High School. At the age of seventeen, he voluntarily enlisted in the United States Marine Corps where he defended his country as a Corporal in the Vietnam War. In May of 1972, he married Penny White, of Lenore, West Virginia, and they had three children, Kimberly, Kelly and Michael Varney. He also had seven grandchildren, Amber Rasnake, Ronnisue Justice, McKenzie Goff, Tori Varney, Kylee Varney, Waylon Parker Varney, Kelsey Stogsdill, and one great-grandson, Noah Michael Rasnake. He passed away in February, 2004, from cancer as a result of Agent Orange. He was a very loving and dedicated father who worked hard for his family. He was a retired coal miner who lived in Mingo County for fifty-four years. “Duke” was a friend to so many people and never failed to help anyone in need. He is sadly missed and sweetly remembered by all who had the pleasure of knowing him; and

Whereas, Naming the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the “Cpl. Ronald ‘Duke’ Varney Memorial Bridge” is an appropriate recognition of his contributions to his country, state, community and Mingo County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the “Cpl. Ronald ‘Duke’ Varney Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the Bridge No. 30A081 crossing County Route 52/26 and a creek on Musick Bottom Road in Mingo County, the “Cpl. Ronald ‘Duke’ Varney Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving wife and children of Cpl. Ronald ‘Duke’ Varney and their families.

Delegates Howell, A. Evans, Rowan and R. Smith offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 25 – “Declaring December 14 as ‘Frosty the Snowman Day’.”

Whereas, “Frosty the Snowman” was written by Walter “Jack” Rollins of Keyser, Mineral County, West Virginia and Steve Nelson. Walter “Jack” Rollins was born on September 15, 1906, and died on January 1, 1973. He wrote over 500 songs, several with Mr. Nelson. Frosty was released December 14, 1950, and performed by cowboy singer and actor Gene Autry and the Cass County Boys and quickly became a winter classic; and

Whereas, We can imagine this song to be about a jolly happy soul, perhaps a West Virginia mountaineer, “with a corn cob pipe and a carrot nose and two eyes made out of” West Virginia coal. What better way to celebrate the holiday season than honoring December 14 as “Frosty the Snowman” Day and at the same time remembering and honoring the songs of a native West Virginia Mountaineer who wrote the words to Frosty as well as “Here Comes Peter Cottontail”,

“Smokey the Bear” and the Hank Snow hit, “I Don’t Hurt Anymore”; therefore, be it

Resolved by the Legislature of West Virginia:

That December 14 be declared as “Frosty the Snowman Day”.

Delegates Romine, Rowan, Pethtel and Hamilton offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 26 – “Requesting the Division of Highways name the bridge located near Middlebourne in Tyler County (i.e., bridge number 48-11/6-0-41) that traverses Point Pleasant Creek the ‘Corporal Gary Wayne Weekley Memorial Bridge’.”

Whereas, Gary Wayne Weekley, a native West Virginian, was born in New Martinsville in Wetzel County, West Virginia on October 6, 1949; and

Whereas, Corporal Weekley joined the United States Army, beginning his tour of duty on January 30, 1970. Corporal Weekley served his country valiantly during the Vietnam War where he sacrificed his life at the young age of twenty years as the result of being struck by an explosive ordnance in Binh Dinh Province in South Vietnam.

Whereas, Corporal Weekley after giving the ultimate sacrifice on behalf of and in the service of this country should rightly be accorded a lasting memorial to commemorate his heroic deeds performed for the citizens of the United States; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect signs at both entrances to the bridge located near Middlebourne in Tyler County (i.e., bridge number 48-11/6-0-41) that traverses Point Pleasant

Creek naming the bridge the “Corporal Gary Wayne Weekley Memorial Bridge.”

Further Resolved, That the Clerk of the House of Delegates is hereby requested to forward a certified copy of this concurrent resolution to the Secretary of the Department of Transportation and all surviving family members of Corporal Weekley.

Delegates Hamrick, Trecost, Waxman and Miley offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 27 – “Requesting the Division of Highways to name bridge number 17-50/59-0.01, locally known as the North View Overpass, crossing U.S. Route 50 on N 13th Street in North View, Harrison County, the ‘Michael Angiulli Memorial Bridge’.”

Whereas, Michael “Mike” Angiulli was born in North View in Harrison County, West Virginia, on September 1, 1924, the son of the late John and Mary Agnes Checchia Angiulli; and

Whereas, In 1942, he graduated from Victory High School; and

Whereas, Mike was married to Roanna Gay Snyder and had five children: John Michael Angiulli, Michael “Mike” Angiulli, Mary Ann Preston, Cheryl Angiulli and Kenneth Snyder; and

Whereas, In 1943, Mike joined the Marine Corps and began serving in the E Company, 9th Marine Regiment, 3rd Marine Division. During his time with the Marine Corps, he attained the rank of Platoon Sergeant. While serving during World War II in the Pacific, he took part in three beach landings - Guam, Bougainville and Iwo Jima; and

Whereas, In 1945, upon returning from World War II, Mike became a Clarksburg Firefighter and later retired due to an injury; and

Whereas, In 1957, he and a small group formed the North View Athletic Club (“NVAC”) and at one time had three playgrounds in

North View. Mike was awarded the Clarksburg Man of the Year Award in 1958 and remained active in the NVAC his entire life; and

Whereas, In the early 1980's, Mike built one of the first signs entering the North View community with the help of Roger Diaz; and

Whereas, In the 1990's, Mike worked with Pete Iquinto and Liberty baseball. Mike was given the name "The Grass Doctor" by Pete; and

Whereas, Also in the 1990's and early 2000's, Mike made notebooks of World War II which he gave to area high schools and colleges, and also gave talks about World War II; and

Whereas, Mike fell ill in 2006 and was cared for by his family until he entered the West Virginia Veterans Nursing Facility in 2012; and

Whereas, Mike passed away on Thursday, July 23, 2015, at the Louis A. Johnson Veterans Administration Hospital in Clarksburg; and

Whereas, Mr. Angiulli was preceded in death by his wife, Roanna Gay Snyder Angiulli, on February 14, 2004, and son, Kenneth Snyder; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-50/59-0.01, locally known as the North View Overpass, crossing U.S. Route 50 on N 13th Street in North View, Harrison County, the "Michael Angiulli Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming it the "Michael Angiulli Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the family of the late Michael Angiulli.

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegates Deem and Overington:

H. J. R. 32 – “Proposing an amendment to the Constitution of the State of West Virginia, repealing sections four, five, six, seven, eight, nine and ten, article six thereof; and amending said Constitution by adding thereto a new article, designated article fifteen, all relating to the creation of a Citizens Redistricting Commission to redistrict Senate, House of Delegates, and congressional districts; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of the proposed amendment”; to the Committee on the Judiciary.

And,

By Delegates Sobonya, Moffatt, Miller, Frich, Rohrbach, Butler, Cowles, Householder, Kurcaba and Summers:

H. J. R. 33 – “Proposing an amendment to the Constitution of the State of West Virginia amending section two, article XII thereof, relating to the free schools of the State, numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Education then the Judiciary.

Delegates Howell, A. Evans, Rowan and R. Smith offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 6 – “Honoring the town of Piedmont, in Mineral County, West Virginia, on the occasion of the town’s 160th anniversary.”

Whereas, The town of Piedmont was chartered in the year 1856; and

Whereas, Piedmont is located in the Eastern Panhandle of West Virginia, on the south side of the North Branch of the Potomac River, at the foot of the Allegheny Front on the eastern edge of the Allegheny Mountains; and

Whereas, Piedmont is located at coordinates 39 degrees, 28 minutes, 49 seconds N and 79 degrees, 02 minutes, 53 seconds W (39.480232, -79.048086) and has a total area of 0.38 square miles of land; and

Whereas, The climate at Piedmont has mild differences between highs and lows, and has adequate rainfall throughout the year; and

Whereas, The main line of the Baltimore and Ohio Railroad reached Piedmont on July 21, 1851, and in the year 1853 connected Baltimore, Maryland and the Ohio River at Wheeling, Virginia, now West Virginia. The railroad line through Piedmont is still a busy segment of the B & O system, part of CSX transportation; and

Whereas, During the American Civil War, 1861 to 1865, the town of Piedmont, largely because of the railroad line, was repeatedly raided by McNeill's Rangers in efforts by the Confederates to disrupt train service; and

Whereas, William Luke established the West Virginia Paper Company (now NewPage Corporation) on 50 acres of Maryland land known as West Piedmont, adjacent to Westernport, Maryland, in 1888; and

Whereas, Well-known jazz performer Don Redman was born in Piedmont on July 29, 1900. Henry Louis Gates, a professor of African-American history at Harvard University, author of several books and television commentator and host was raised in Piedmont, an experience he described in his 1994 book "Colored People"; and

Whereas, Industrialist Henry Gassaway Davis, who developed coal, timber, banking and railroad interests in West Virginia, was elected to the West Virginia House of Delegates and to the State Senate, served two terms in the United States Senate, and in 1904 was a Democratic nominee for vice president of the United States, worked in Piedmont, West Virginia in the early part of his career; and

Whereas, The 2010 census shows there were 876 people, 385 households and 225 families living in Piedmont, with a racial makeup of 77.3% white, 17.9% African American, and the remainder Native American, Asian, Hispanic, Latino or other; and

Whereas, The median age of residents in the town was 37.1 years and the gender makeup of the town was 47.3% male and 52.7% female; therefore, be it.

Resolved by the House of Delegates:

That the House of Delegates hereby acknowledges the year 2016 as the 160th Anniversary of the town of Piedmont, West Virginia, and urges citizens to celebrate the many contributions made to the state and nation, by the town's citizens, past and present; and, be it

Further Resolved, That the Clerk of the House of Delegates prepare a copy of this resolution for the appropriate representatives from the Piedmont area.

Delegates Sobonya, Arvon, Azinger, Rohrbach, Deem, Duke, Espinosa, A. Evans, Faircloth, Fast, Fleischauer, Folk, Frich, Hamilton, Hamrick, Hicks, Hill, Howell, Ihle, Kelly, Kessinger, Marcum, McCuskey, Moffatt, Morgan, Moye, Pushkin, Rodighiero, Romine, Rowan, Rowe, Shaffer, P. Smith, Stansbury, Statler, Storch, Waxman, Weld, Westfall, Zatezalo, Mr. Speaker (Mr. Armstead) and Blackwell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 7 – “Designating that the month of April be proclaimed as Sarcoidosis Awareness Month beginning in 2016.”

Whereas, Sarcoidosis is an inflammatory disease most commonly affecting people of all ages and races worldwide. Studies have shown that Sarcoidosis affects young adults of both sexes, with more cases in females. The disease occurs at a higher rate among African Americans and people of European descent; and

Whereas, Many people with Sarcoidosis experience nonspecific symptoms of fever, fatigue, weight loss, night sweats and an overall feeling of malaise. These symptoms most often result in the disease going untreated. The disease most commonly targets the lungs and lymph nodes, but may occur in the eyes, skin or any other area of the body and it causes the immune system to attack the body’s own tissues; and

Whereas, While progress has been made in understanding Sarcoidosis, the cause is unknown and it is likely that there may be more than one cause. There is no cure for Sarcoidosis. Declaring a Sarcoidosis Awareness Month will encourage the citizens of West Virginia to gain greater understanding of this disease; and

Whereas, It will bring awareness to those persons living with the disease and their families. It will help to educate the physicians and the medical staffs that treat persons with this disease; and

Whereas, It will encourage support education programs and the funding of research programs to find a cure; therefore, be it

Resolved by the House of Delegates:

That the month of April be proclaimed as Sarcoidosis Awareness Month beginning in 2016.

Further Resolved, The Clerk of the House of Delegates forward a certified copy of this Resolution to the Governor of this State.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates O’Neal, Mr. Speaker (Mr. Armstead), Hanshaw, Moye, Fast, A. Evans, Azinger, Waxman, Romine, Rowan and Phillips:

H. B. 4012 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4 and §5-11C-5, all relating to establishing the West Virginia Religious Freedom Restoration Act to ensure that, in all cases where state action substantially burdens the exercise of religion, strict scrutiny is applied; to provide a claim or defense to a person or persons whose exercise of religion is substantially burdened by state action; including a short title; providing definitions; and addressing applicability construction, remedies and severability”; to the Committee on the Judiciary.

By Delegates Fast, Howell, Rowan, Gearheart, Hill, Kurcaba and Azinger:

H. B. 4267 - “A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating to commercial motor carriers generally; providing an exemption from regulation by the Public Service Commission for motor vehicles used exclusively in the transportation of roll-off solid waste containers; and requiring the commission to propose rules for legislative approval to implement the amended provisions of this section”; to the Committee on Roads and Transportation then the Judiciary.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4268 - “A Bill to amend and reenact §31-15A-16 of the Code of West Virginia, 1931, as amended, relating to dedication of severance tax proceeds to the West Virginia Infrastructure General Obligation Debt Service Fund; specifying reduction of the amount of severance

tax proceeds dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 4269 - “A Bill to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-4, §18-9A-5, §18-9A-7, §18-9A-10 and §18-9A-11 of said code, all relating to public school finance; eliminating authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to a growth county school facilities act fund; adjusting the formula for foundation allowance for professional educators; adjusting the formula for foundation allowance for service personnel; adjusting and eliminating certain adjustments of the foundation allowance for transportation costs; adjusting the calculation for the foundation allowance to improve instructional programs; and eliminating certain restrictions in the computation of local share”; to the Committee on Education then Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 4270 - “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, West Virginia Parole Board, fund 0440, fiscal year 2016, organization 0605, and to the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2016, organization 0621, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 4271 - “A Bill to amend and reenact §29-22A-10 and §29-22A-10d of the Code of West Virginia, 1931, as amended; and to

amend and reenact §29-25-22 and §29-25-22b of said code, all relating to ending discretionary transfers to the Licensed Racetrack Modernization Fund; transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the General Revenue Fund of the state during the fiscal year ending June 30, 2016; and closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund”; to the Committee on Finance.

By Delegates Fast, Shaffer, Hanshaw, Kurcaba, McCuskey, Manchin and Skinner:

H. B. 4272 - “A Bill to amend and reenact §29-21-13a of the Code of West Virginia, 1931, as amended, relating to Public Defender Services; increasing the hourly rate for attorneys for in court and out of court work including investigative services; permitting attorneys who spend at least sixty percent of their practice in appointed cases to enroll in the Public Employees Insurance Agency plans; and requiring the executive director to propose rules, for legislative approval, that relate to requirements for such attorneys to enroll in such plans”; to the Committee on the Judiciary then Finance.

By Delegates Fast, Hill, Shaffer and Azinger:

H. B. 4273 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-32, relating to requiring that patching repair of hard surfaced roads, highways and streets be by use of mechanical rollers for smoother final repair; and providing exceptions”; to the Committee on Roads and Transportation then Finance.

By Delegates Fast, Hill, Shaffer, Overington, Kurcaba, Kessinger and Border:

H. B. 4274 - “A Bill to amend and reenact §11-14-2 and §11-14-11 of the Code of West Virginia, 1931, as amended, all relating to gasoline and fuel excise tax; requiring a refund of gasoline or fuel excise tax when fuel is consumed by a commercial vehicle while that

vehicle is not operated upon the highways of this state”; to the Committee on Roads and Transportation then Finance.

By Delegates Fast, Hill, Shaffer, Azinger and Border:

H. B. 4275 - “A Bill to amend and reenact §5-11-10 of the Code of West Virginia, 1931, as amended, relating to requiring the Human Rights Commission, when investigating a complaint of discrimination, to specifically include an examination of the intent of the person or entity alleged to have committed the unlawful discriminatory practice”; to the Committee on the Judiciary.

By Delegates Fast, Shaffer, Kurcaba, Border and Azinger:

H. B. 4276 - “A Bill to amend and reenact §3-1-31 of the Code of West Virginia, 1931, as amended, relating to requiring all local special elections to be held on the days and hours of general, primary or state-wide elections”; to the Committee on the Judiciary.

By Delegates Fast, Gearheart, Shaffer and Kessinger:

H. B. 4277 - “A Bill to repeal §21-3-19 of the Code of West Virginia, 1931, as amended, relating to employer discrimination for use of tobacco products”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Fast, Hill, Shaffer, Kurcaba and Azinger:

H. B. 4278 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §46A-6-109a, relating to allowing a home improvement transaction to be performed under an oral contract”; to the Committee on the Judiciary.

By Delegates Hamilton, A. Evans, Romine, Wagner, Ambler, Eldridge, Pethtel, Sponaugle and Guthrie:

H. B. 4279 - “A Bill to amend and reenact §20-7-8 of the Code of West Virginia, 1931, as amended, relating to disposition of seized firearms”; to the Committee on the Judiciary.

By Delegates Kelly, Cooper, Perry, Sobonya, Atkinson, Azinger, Romine, McGeehan, Trecost, J. Nelson and Butler:

H. B. 4280 - “A Bill to amend and reenact §17C-15-44 of the Code of West Virginia, 1931, as amended relating to permitting persons who are twenty-one years of age or older to operate or be a passenger on a motorcycle without a helmet”; to the Committee on Roads and Transportation then the Judiciary.

By Delegate Byrd:

H. B. 4281 - “A Bill to amend and reenact §18-2-39 of the Code of West Virginia, 1931, as amended, relating to the administration of the statewide summative assessment, and providing that the assessment only be administered in grades three through eight and once at the high school level”; to the Committee on Education.

By Delegates Howell, Hamrick, Hill, Ihle, Hartman, Phillips, Moffatt, Atkinson, Faircloth, Morgan and Zatezalo:

H. B. 4282 - “A Bill to amend and reenact §5A-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend said code by adding thereto twelve new sections, designated §5F-2-1a, §5F-2-1b, §5F-2-1c, §5F-2-1d, §5F-2-1e, §5F-2-1f, §5F-2-1g, §5F-2-1h, §5F-2-1i, §5F-2-1j, §5F-2-1k and §5F-2-1l; to amend and reenact §21A-1-4 of said code; and to amend and reenact §29-15-1 of said code, all relating to the reorganization of certain code provisions that organize the executive branch of state government; and by amending code references reflecting new sections”; to the Committee on Government Organization then the Judiciary.

By Delegates Hamrick, Cadle, Ellington, Trecost, Foster, Atkinson, Butler, Rowan, Storch, Westfall and Waxman:

H. B. 4283 - “A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting or trapping on private lands; removing restrictions for hunting or trapping on private lands on Sundays; and clarifying that hunting on private land

at any time requires the written consent of the landowner”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Hamrick, Waxman, Storch, McCuskey, Westfall, Statler, Flanigan, P. Smith, Atkinson, Hill and Hanshaw:

H. B. 4284 - “A Bill to amend and reenact §17B-2-12 of the Code of West Virginia, 1931, as amended, relating to the issuance, expiration and renewal of driver’s license; providing that the license of any person who is working on behalf of West Virginia or the United States out of the United States does not expire until six months after that person returns to West Virginia; and providing that the driver’s license of family members of persons in the Armed Forces of the United States do not expire until six months after separation from the service by the military member”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Hamrick, Trecost, Waxman, Wagner, Atkinson, Butler, Statler, Rowan, Frich, Weld and Storch:

H. B. 4285 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-10-33; relating to making it a misdemeanor for a person to impersonate a veteran; and creating criminal penalties”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

By Delegates Westfall, Stansbury, McCuskey, B. White, Frich, Hamrick and Waxman:

H. B. 4286 - “A Bill to amend and reenact §33-11-3 of the Code of West Virginia, 1931, as amended, relating to the scope and application of the Unfair Trade Practices Act”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates A. Evans, J. Nelson, Fleischauer, Rowan, Longstreth, Reynolds, Kelly, Ferro, Lynch, Ireland and Atkinson:

H. B. 4287 - “A Bill to amend and reenact §15-1G-10 of the Code of West Virginia, 1931, as amended, relating to providing for the awarding of a West Virginia veterans’ service pin and a West Virginia

Service Cross and ribbon to qualifying West Virginia veterans; providing allowing the Military Awards Board to administer the issuance of the Service Cross and ribbon and veteran service pin; authorizing the board to set priorities in issuing Service Cross and ribbon and veteran service pins; authorizing the board to receive contributions for funding the issuance of awards; and removing unnecessary rule-making authority”; to the Committee on Veterans’ Affairs and Homeland Security.

HOUSE CALENDAR

Third Reading

H. B. 2147, Requiring the circuit court, when appointing counsel for alleged protected persons, to make appointments from a listing of all interested and qualified attorneys in the circuit; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 9**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2147) passed.

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

H. B. 2147 – “A Bill to amend and reenact §44A-2-7 of the Code of West Virginia, 1931, as amended, relating to appointing counsel for an alleged protected person; requiring the circuit court to make appointments from a listing of all interested attorneys in the circuit and on a rotating basis; and providing for the appointment of any competent counsel if no interested counsel are available.”

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

H. B. 2584, Allowing a judge to excuse a potential juror from jury duty until a later date based on seasonal employment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 10**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2584) passed.

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

Com. Sub. for H. B. 2588, Relating to the filing of financial statements with the Secretary of State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 11**), and there were—yeas 65, nays 34, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Arvon, Azinger, Border, Butler, Caputo, Cooper, Eldridge, D. Evans, Faircloth, Fleischauer, Folk, Hartman, Hornbuckle, Kelly, Kessinger, Longstreth, Lynch, Marcum, Miley, Miller, Moffatt, J. Nelson, Perry, Pushkin, Reynolds, Rodighiero, Romine, Shaffer, Sobonya, Sponaugle, Wagner and P. White.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2588) passed.

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

H. B. 2796, Providing paid leave for certain state officers and employees during a declared state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 12**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2796) passed.

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

Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 13**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2800) passed.

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

Com. Sub. for H. B. 4038, Relating to insurance requirements for the refilling of topical eye medication; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 14**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4038) passed.

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

Second Reading

Com. Sub. for H. B. 2130, Including law-enforcement officers among those professionals the assault or battery of which leads to enhanced criminal penalties; on second reading, coming up in regular order, was read a second time.

Delegate Manchin moved to amend the bill on page three, section ten-b, following line fifty-one, by adding a new subsection (f) to read as follows:

“(f) In determining the number of prior convictions for purposes of imposing punishment under subsection (d), the court shall disregard all such prior convictions occurring more than ten years prior to the offense in question.”

The question before the House being on the adoption of the amendment, the same was put by the Speaker and did not prevail.

The bill was then ordered to engrossment and third reading.

H. B. 4005, Repealing prevailing hourly rate of wages requirements; on second reading, coming up in regular order, was read a second time.

Delegates Miley, Caputo, Pushkin, Ferro, Sponaugle, Fluharty, Guthrie, Perdue, Morgan and Bates moved to amend the bill on page one, line one, following the enacting clause, by striking out the remainder of the bill, and inserting in lieu thereof, the following:

“That the Code of West Virginia, 1931, as amended, be amended and reenacted by adding thereto two new sections, designated §21-5A-1a and §21-5A-1b, all to read as follows:

ARTICLE 5A. WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.

§21-5A-1a. Repeal of prevailing wage in West Virginia for period of years.

Upon the effective date of the section enacted during the 2016 Regular Session of the West Virginia Legislature, the provisions of this article are repealed, and deemed null and void, until July 1, 2021, and then shall resume in full force and effect if no further legislative action is taken. This five year repeal of the terms of this article will allow for state construction activities, wages and other economic conditions impacted by the repeal the prevailing wage established in this article to take effect, and sufficient time for studies as required by section 1b of this article to be completed, and further, to allow the 2021 West Virginia Legislature to make a determination to whether this article shall be repealed permanently or allowed to return to full force and effect.

§21-5A-1b. Study of impact of repeal of prevailing wage in West Virginia.

(a) The West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic

Research at Marshall University in furtherance of section four, article three, chapter eighteen-b of this code, shall study the economic impacts of the repeal of the prevailing wage standards for construction of public improvements in West Virginia. The study shall be completed by July 31, 2020, and provide a comprehensive analysis of the impact of the repeal of prevailing wages, that includes at a minimum the following: the trend of wages paid to West Virginia workers employed by government contract in the state construction industry by region, before and after the repeal; the detailed costs of state construction projects that were subject to prevailing wage prior to and after repeal; the impact to overall employment of state construction industry prior to and after repeal; whether the repeal has reduced state resident workers versus non-resident workers in the state construction industry; the quality of construction practices, including cost overruns, contract amendments and timeliness of contract performance in state construction projects; the effect of reduced health insurance premium contributions on state Medicaid liability; and any other trends in the state construction industry that have occurred and have been identified by the researchers that have resulted by repeal of prevailing wage.

(b) The West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University shall submit all their studies to the Joint Committee on Government and Finance and each member of the Legislature no later than July 31, 2020.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the fundamental purpose of the bill was to repeal sections of code and the amendment added new sections to the bill which suspend prevailing wage, therefore the amendment was not germane to the fundamental purpose of the bill.

The bill was then ordered to engrossment and third reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Moore.

Remarks by Members

Delegate Perdue asked and obtained unanimous consent that the remarks of Delegate J. Nelson regarding the recently announced coal mining layoffs in Boone County be printed in the Appendix to the Journal.

Delegate Frich asked and obtained unanimous consent that the remarks of Delegate R. Smith regarding coal production decline be printed in the Appendix to the Journal.

Delegate Howell asked and obtained unanimous consent that the remarks of Delegate Arvon regarding coal production decline be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Cowles filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4218.

At 12:22 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, January 27, 2016.

WEDNESDAY, JANUARY 27, 2016

FIFTEENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, January 26, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4170, Removing restrictions for hunting or trapping on private lands on Sundays,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4170) was referred to the Committee on the Judiciary.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4110, Department of Health and Human Resources, rule relating to farmers market vendors,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4110) was referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4235, Relating to the publication requirements of the administration of estates,

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

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of entities delinquent in paying business and occupation taxes,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4163) was referred to the Committee on the Judiciary.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4138, Department of Transportation, rule relating to rail fixed guideway systems state safety oversight,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4138) was referred to the Committee on the Judiciary.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4009, Letting Our Counties Act Locally Act,

And,

H. B. 4200, Eliminating courtesy patrol programs,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4009 and H. B. 4200) were referred to the Committee on Finance.

Delegate Overington, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

H. B. 4141, Human Rights Commission, rule relating to the Pregnant Workers' Fairness Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4141) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4117, Department of Health and Human Resources, rule relating to family child care home registration requirements,

H. B. 4064, Department of Health and Human Resources, rule relating to child care licensing requirements,

And,

H. B. 4065, Department of Health and Human Resources, rule relating to family child care facility licensing requirements,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4117, H. B. 4064 and H. B. 4065) were each referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4142, Board of Examiners for Speech-Language Pathology and Audiology, rule relating to speech-language pathology and audiology assistants,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4142) was referred to the Committee on the Judiciary.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4218, Expanding the definition of “underground facility” in the One-Call System Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4218) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4282, Reorganizing certain code provisions that organize the executive branch of state government,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4282) was referred to the Committee on the Judiciary.

Messages from the Executive

The Speaker presented annual reports from various state agencies as required by the provisions of law, as follows:

Accountancy, Board of

Acupuncture, Board of

Alcohol Beverage Control Administration

Attorney General, Office of

Consumer Protection and Antitrust Division

Budget Office

Consolidated Report of Federal Funds (FY 2016)

Childrens Health Insurance Program

Children with Autism Trust Board

Chiropractic, Board of

Coal Severance Tax Fund, Gas and Oil Severance Tax General
Fund, County and Municipal Governments Consolidated
Budget Report

Commerce, Department of

Film Office, Division of Tourism (2011-12)

Commission on Special Investigations

Conservation Agency

Consolidated Public Retirement Board
Trooper Disability Experience Report

Consumer Advocate, Office of
Insurance Commission Report

Corrections, Division of

Court System (2013)

Dentistry, Board of Education, Department of
Compulsory School Attendance
Earn a Degree Graduate Early (EDGE)
Innovation Zone

Development Office
Marketing and Communications Office

Dietitians, Board of Licensed

Energy, Division of

Education, Department of
Alternative Education Elementary/Middle Pilot

Energy, Division of
Legal Challenges Potentially Impacting the Energy Industry

Engineers, Board of Professional

Environmental Protection, Department of
Advisory Council, Office of
Explosives and Blasting, Office of
Hazardous Waste, Office of
Oil and Gas, Office of
Underground Storage Tank Fund

Ethics Commission

Registered Lobbyists' Activity Report (2015)

Family Protection Services Board

Fire Commission

Comprehensive Report on the Review and
Recommendations on Volunteer and Part-Volunteer
Fire Service

Fire Marshal

Forestry, Division of

Logging Sediment Control Act
Managed Timberland Impact Assessment
Stewardship Contracting (2014 & 2015)

Foundation for Rape Information and Services

Health Care Authority

Broadband Availability

Health and Human Resources, Department of

Breast and Cervical Cancer Diagnostic and Treatment
Fund Children and Families Youth Services, Bureau for
Joint Committee on Children and Families; Foster Care
Maternal, Child and Family Health, Office of
(2010, 2011, 2012)

Sudden Unexplained Infant Death (SUID) (2010)

Women's Right to Know

Youth Services

Hearing Aid Dealers, Board of

Herbert Henderson Office of Minority Affairs

Insurance Commissioner, Office of

Consumer Advocate, Office of
Insurance Commissioner's Annual Report (2013) (2014)
Medical Malpractice

Investment Management Board

Jobs Investment Trust Board

Justice and Community Services, Division of
Community Corrections Act
Justice Reinvestment Initiative Executive Report
Juvenile Justice and Delinquency Prevention

Landscape Architects, Board of

Legislature Agency Report

Library Commission

Lottery Commission Report (2013 and 2014)

Massage Therapy Licensure, Board of

Medical Imaging and Radiation Therapy Technology,
Board of Examiners

Medicine, Board of

Military Affairs and Public Safety, Department of
Corrections, Division of

Motor Vehicles, Division of
Motorcycle Safety and Awareness Program

Municipal Home Rule Pilot Program Summary

Municipal Pensions Oversight Board
Municipal Policemen and Fireman's Pension and Relief

Natural Resources, Division of

Nursing Home Administrators Licensing Board

Occupational Therapy, Board of

Optometry, Board of (FY 2010, FY 2011, FY 2012)

Personnel, Division of

Physical Therapy, Board of

Professional Engineers, Board of

Professional Surveyors, Board of

Prosecuting Attorneys Institute Report

Psychologists, Board of Examiners

Public Employees Insurance Agency

Public Employees Insurance Autism Report

Public Service Commission

Consumer Advocate Division

Public Water System Supply Study Commission Report

Purchasing Division

Stringing Report

RESA II

Real Estate Appraiser Licensing and Certification Board

Real Estate Commission

Regional Education Service Agency

Registered Professional Nurses, Board of

Respiratory Care, Board of

Sanitarians, Board of

Seneca Health Services

Social Work Examiners, Board of
Special Investigations, Commission on
Speech Language Pathology and Audiology, Board of Examiners
State Auditor, Office of
Consolidated Budget Report
State Police
Recruitment of Females/Minorities
Supreme Court of Appeals Appellate Report
Surveyors, Board of Professional
Tax, Department of
Children with Autism Trust Board
Housing Index
Managed Timberland
Tourism, Division of (2008, 2009, 2011)
Transportation, Department of
Transportation Coordinating Council
Treasury Investments, Board of
Treasurer's Office
Prepaid Tuition and Savings Program, Board of
Veterinary Medicine, Board of
Volunteer West Virginia
Water Development Authority
West Virginia University Board of Governors

Workforce West Virginia
Development Report
Marcellus Shale Report to the Legislature
Narrative of the Workforce Investment Act

The above-referenced reports are on file in the Legislative Library.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 13 - “A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for overtaking and passing a school bus stopped for the purpose of receiving and discharging children; and providing penalties in the event that the driver of the passing vehicle cannot be ascertained”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 32 – “A Bill to amend and reenact §3-5-11, §3-5-18 and §3-5-19 of the Code of West Virginia, 1931, as amended, all relating to withdrawal of candidates for office and filling vacancies; requiring the Secretary of State to create a notarized statement of withdrawal form; setting certain deadlines for the filing of a notarized statement of withdrawal form in order to have one’s name removed from ballot; setting deadline for when the Secretary of State shall certify names of general election candidates to counties; prohibiting certification of the name of a candidate who filed a timely notarized statement of withdrawal; clarifying process for determining candidate is disqualified; removing the State Election Commission from process of voluntary withdrawal of candidates; authorizing executive committee

to replace a candidate who files a timely notarized statement of withdrawal and whose name would have otherwise appeared on the general election ballot; and setting and adjusting certain deadlines”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 102 - “A Bill to amend and reenact §7-4-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-29-12, all relating to West Virginia officials carrying concealed firearm nationwide as provided in the federal Law-Enforcement Officers Safety Act, 18 U. S. C. §926B; providing statutory authority necessary to give prosecuting attorneys and assistant prosecuting attorneys the option to carry firearms pursuant to that federal act upon completion of required training and annual background check; granting prosecuting attorneys and assistant prosecuting attorneys arrest powers under certain circumstances; providing that law-enforcement agencies are neither prohibited from nor required to permit an officer to carry his or her service weapon off duty; and requiring West Virginia lawenforcement agencies to offer access to training and certification for honorably retired officers to be permitted to carry a concealed firearm nationwide as a qualified retired law-enforcement officer as provided in the federal Law-Enforcement Officers Safety Act of 2004”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 311 - “A Bill to amend and reenact §31-17-8 of the Code of West Virginia, 1931, as amended, relating to making permanent the exception allowing a mortgage modification or refinancing loan to be made in participation with and in compliance with the federal Homes

Affordable Modification Program, a part of the federal Making Home Affordable program, or any other mortgage modification or refinancing loan funded through any other federal or state program or litigation settlement, when the aggregate total of the outstanding principal balances of all other primary or subordinate mortgage loans secured by the same property exceeds the fair market value of the property”; which was referred to the Committee on Banking and Insurance then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 323 - “A Bill to amend and reenact §61-3B-3 of the Code of West Virginia, 1931, as amended, relating to correcting subsection designations in the statute regarding trespass on property; and making other technical changes”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegates Sobonya, Moffatt, Miller, Rohrbach, Cadle, Summers, Cowles, J. Nelson, Kurcaba, Ihle and Frich:

H. J. R. 34 - “Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article XII thereof, relating to the free schools of the State, numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Education then the Judiciary.

And,

By Delegates Shaffer, R. Smith, Lynch, P. Smith, Blackwell, Faircloth, Byrd and Ireland:

H. J. R. 35 – “Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article ten thereof, relating to the homestead exemption for senior citizens; decreasing the age to sixty-two and increasing the amount of the exemption”; to the Committee on Finance then the Judiciary.

Motions

Delegate Sponaugle submitted a written motion to direct the Speaker to request an economic impact statement for H. B. 4005, Repealing prevailing hourly rate of wages requirements, therefore suspending House Rule 95c.

On this motion, the yeas and nays were taken (**Roll No. 15**), and there were—yeas 38, nays 61, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hartman, Hicks, Hornbuckle, Kelly, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecoast and P. White.

Absent and Not Voting: Flanigan.

So, two thirds of the members present and voting not having voted in the affirmative, the motion was rejected.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates McGeehan, Hill, Faircloth, Ihle and J. Nelson:

H. B. 4288 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating to creating the Save the Hospitals Act; exempting nonprofit hospitals that provide a certain amount of uncompensated care from sales tax and requiring West Virginia Hospital Finance Authority to promulgate rules to effectuate this section”; to the Committee on Health and Human Resources then Finance.

By Mr. Speaker (Mr. Armstead) and Delegates Miley, Bates, Lane and Shott:

H. B. 4289 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-2-11, relating to grand juries; authorizing prosecuting attorneys to designate law-enforcement officers and investigators as custodians of records, documents and other evidence subpoenaed by a grand jury; authorizing designated custodians to use subpoenaed records, documents and other evidence for investigative purposes prior to such records, documents or other evidence being presented to a grand jury; requiring presentation of subpoenaed materials held by the custodian be presented to the next session of the grand jury meeting after receipt; and limiting law enforcement use of such subpoenaed materials to legitimate investigation and prosecuted purposes relevant to the investigation underlying the issuance of the subpoena”; to the Committee on the Judiciary.

By Delegates Marcum and P. White:

H. B. 4290 - “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §20-2B-2a, relating to the Laurel Lake Wildlife Management Fund; providing sufficient funding to maintain the Laurel Lake Wildlife Management Area, including its facilities; providing the Director of the Division of Natural Resources shall provide legislative rules designed to fulfil the purpose of providing sufficient funding; requiring the Director of the Division of Natural Resources to collaborate with the Mingo County Commission to explore alternative means of funding the fund; and,

creating the Laurel Lake Wildlife Management Fund advisory board”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates J. Nelson, Phillips, Moffatt, Espinosa, Westfall, Perdue, Upson, Lane, Moye, Mr. Speaker (Mr. Armstead) and Miley:

H. B. 4291 - “A Bill to amend and reenact §61-8D-5 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for teachers who commit sexual offenses against children with whom they hold positions of trust; and, providing that upon conviction for sexual offenses against children with whom they hold positions of trust, such teachers are banned for life from volunteering for or being employed by any educational, vocational, training, day care, group home, foster care program, or rehabilitation facility in the state”; to the Committee on Education then the Judiciary.

By Delegates Marcum, Phillips, Hamilton, Hicks, Rodighiero, Westfall, Sobonya, R. Smith, P. White, Moye and Byrd:

H. B. 4292 - “A Bill amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to increasing criminal incarceration penalties for the transportation of controlled substances into the state”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4293 - “A Bill to amend and reenact §60A-9-4, §60A-9-5, §60A-9-5a, §60A-9-7 and §60A9-8 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Controlled Substances Monitoring Program database; requiring reporting when an opioid antagonist is dispensed by certain persons; clarifying code language related to seventy-two hour prescriptions; prohibiting licensing boards from issuing or reissuing licenses to practitioners who have not registered for the West Virginia Controlled Substances Monitoring Programs database; establishing a fine for failure to register for the West Virginia Controlled Substances Monitoring Program database; and establishing a fine for failure to access the West

Virginia Controlled Substances Monitoring Program as mandated by the code; clarifying language related to the Fight Substance Abuse Fund; placing administrative authority over the Fight Substance Abuse Fund with the Bureau for Public Health; revising code language to use defined terms; and reorganizing existing code language”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegate Miley

[By Request of the Executive]:

H. B. 4294 - “A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to sales tax exemption for certain sales of materials acquired for use in a highway construction or maintenance project; and specifying elimination for the fiscal year beginning July 1, 2015, of the refundable exemption for sales of construction and maintenance material acquired by a second party for use in the construction or maintenance of a highway project, with retroactive effect for the elapsed portion of that fiscal year, and resumption thereof for the fiscal year beginning July 1, 2016”; to the Committee on Roads and Transportation then Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4295 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-14; and to amend said code by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4 and §18-5E-5, all relating to Innovation in Education Schools and Innovation Zones; terminating funding for Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones; setting forth purpose of Innovation in Education Act; establishing and authorizing Innovation in Education school designation; setting forth components and requirements for Innovation in Education plan; requiring evaluations of Innovation in Education designated schools; authorizing amendment and suspension of components of Innovation in Education plans; authorizing termination of designation of a school as an Innovation in Education school; requiring promulgation of rule by state board; creating

Innovation in Education Fund; authorizing expenditures from Innovation in Education Fund; and authorizing investment of Innovation in Education Fund moneys”; to the Committee on Education then Finance.

By Delegates Rowan, Cooper, D. Evans, Moye, Perry, Ambler, Wagner, Fast, Duke, Campbell and Ferro:

H. B. 4296 - “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended relating to permitting county boards of education to accumulate instructional days and use them when needed in a later instructional term when inclement weather and emergencies prevent the otherwise full instructional term from being completed; and establishing an instructional day to be three hundred thirty minutes”; to the Committee on Education then Finance.

By Delegates Cadle, Foster, Border, Statler, McCuskey, Upson, Zatezalo, Blair, Stansbury, Hill and Kessinger:

H. B. 4297 - “A Bill to amend and reenact §61-3-30 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for destruction or theft of election campaign advertising”; to the Committee on the Judiciary.

By Delegates Rohrbach, Upson, Sobonya, Miller, Reynolds, Campbell and Cooper:

H. B. 4298 - “A Bill to amend and reenact §18-5-18 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-8-1a, all relating to changing the age effective date of children for whom county boards of education must provide kindergarten programs from September 1 to August 1; and changing the age effective date for students who are compelled to attend school from September 1 to August 1”; to the Committee on Education then Finance.

By Delegates J. Nelson, Phillips, Moffatt, R. Smith, McCuskey, Wagner, Bates, Eldridge, Stansbury, Arvon and Miley:

H. B. 4299 - “A Bill to amend and reenact §7-1-3d of the Code of West Virginia, 1931, as amended, relating to increasing the amount volunteer fire companies or paid fire departments may charge for

reimbursement for personnel and equipment used in performing fire fighting services, victim rescue or cleanup of debris”; to the Committee on Political Subdivisions then Finance.

By Delegates Espinosa, Upson, Householder, Blair, Faircloth, Folk, Duke, Howell, McGeehan, Zatezalo and Overington:

H. B. 4300 - “A Bill to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended, all relating to changes in distribution of net terminal income, excess net terminal income and excess lottery fund”; to the Committee on the Judiciary then Finance.

By Delegates Espinosa, Westfall, Ambler, Cooper, D. Evans, Statler, Hamrick, Kurcaba, Rohrbach, Upson and Householder:

H. B. 4301 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-36, relating to a framework for initiating comprehensive transformation of school leadership; making legislative findings that provide a context for leadership that promotes instructional improvement; stating purpose of section as framework for development of needed statutory and policy changes; stating further purpose to initiate transformation through general statement of legislative intent; providing certain expectations; stating intent for process of broad stakeholder input; requiring convening of stakeholders to assist state board; listing minimum issues to be considered for state recommendations; and requiring reports and recommendations to Legislature and Governor”; to the Committee on Education then Finance.

By Mr. Speaker (Mr. Armstead) and Delegates Bates, Miley, Lane and Shott:

H. B. 4302 - “A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, §4-5-5, and §4-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §4-5-7, all relating to the Commission on Special Investigations; clarifying the composition and chairmanship of the commission; redefining what constitutes a quorum for the voting

procedures of the commission; clarifying the contents of the commission's annual report; listing the existing and necessary commission staff positions; defining an agency's duty to cooperate with the commission during investigations and requiring agencies to disclose information and documents to commission; establishing the requirements for the commission to enter into executive session; establishing procedures for conducting executive session; removing the requirement that the Joint Committee on Government and Finance approve expenses of the commission; establishing a procedure for commission retention and disposal of records; defining a new felony offense of making a false statement to the commission; setting penalties for making a false statement to the commission; defining a new felony offense of impersonating a commission member or staff member; and setting penalties for impersonating a commission member or staff member"; to the Committee on the Judiciary.

By Delegates Cooper, D. Evans, Ambler and Rowan:

H. B. 4303 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-2d, relating to providing a salary increase for special education teachers"; to the Committee on Education then Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4304 - "A Bill to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to the allocation of premiums for employers and employees in the Public Employees Insurance Agency; establishing contribution levels of seventy-five percent for employers and twenty-five percent for employees with respect to health insurance premiums for the plan year commencing July 1, 2017, and each plan year thereafter"; to the Committee on Banking and Insurance then Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4305 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1,

§17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to authorizing transportation network companies to operate in the state; providing that transportation network companies and transportation network company drivers are not common carriers or motor carriers; requiring a permit from the Division of Motor Vehicles to operate a transportation network company; setting forth requirements for obtaining a permit; requiring an agent for service of process; authorizing transportation network companies to charge a fare for services; setting forth requirements for fare collection; requiring identification of transportation network company vehicles and drivers; requiring an electronic receipt; requiring automobile insurance; requiring disclosures from the transportation network company to transportation network company drivers; providing terms, conditions, and allowable exclusions from insurance coverage; setting limitations on transportation network companies; providing a zero tolerance policy for drug and alcohol use while working as a transportation network company driver; setting minimum requirements to become a transportation network company driver; requiring transportation network company vehicles to pass state inspection; prohibiting solicitation and street hails; prohibiting cash payments; requiring a no cash payment policy; requiring a policy of nondiscrimination; requiring record keeping; providing for controlling authority to regulate transportation network companies; providing exemption from certain taxes, fees and licensing requirements; providing for limitations and restrictions; and defining terms”; to the Committee on Roads and Transportation then Finance.

By Delegates Rowan, Border, Fast, Stansbury, Moye, Campbell, Overington, Romine, Hamilton, Perry and Phillips:

H. B. 4306 - “A Bill to amend and reenact §61-2-10a of the Code of West Virginia, 1931, as amended, relating to prohibiting persons who have committed crimes against the elderly from performing any court ordered public service involving the elderly”; to the Committee on Senior Citizen Issues then the Judiciary.

By Delegates Summers, Mr. Speaker (Mr. Armstead), Blair, Azinger, Waxman, McGeehan, Overington, Ihle, Phillips and Eldridge:

H. B. 4307 - “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to carrying a firearm for self defense in a state park, state forest, state recreational area or state wildlife management area under the Division of Natural Resources”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Rowan, Border, Fast, Stansbury, Moye, Campbell, Overington, Romine, Duke, Phillips and Ferro:

H. B. 4308 - “A Bill to amend and reenact §36-1-20 of the Code of West Virginia, 1931, as amended; and to amend and reenact §42-4-2 of said code, all relating to barring persons who are convicted of certain criminal offenses from acquiring property from their victims through joint tenancy or inheritance; and creating exceptions”; to the Committee on Senior Citizen Issues then the Judiciary.

By Delegates Rowan, Border, Fast, Stansbury, Moye, Campbell, Overington, Romine, Duke, Pethel and Ferro:

H. B. 4309 - “A Bill to amend and reenact §61-2-29b of the Code of West Virginia, 1931, as amended, relating to increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person, protected person or incapacitated adult; increasing the criminal penalty for the offense of financial exploitation of \$1,000 or more”; to the Committee on Senior Citizen Issues then the Judiciary.

By Delegates O'Neal, Anderson, Espinosa, E. Nelson, Arvon, Bates, Fleischauer, Frich, Statler, Kurcaba and Miley:

H. B. 4310 - “A Bill to repeal §18B-1E-1, §18B-1E-2, §18B-1E-3 and §18B-1E-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-1C-1 and §18B-1C-2 of said code, all relating to the West Virginia University Institute of Technology; finding that there is a need to maintain the valuable educational services provided by the West Virginia University Institute of

Technology; finding that there are continued enrollment and facilities issues facing the West Virginia University Institute of Technology in Montgomery, West Virginia; finding that the West Virginia University Institute of Technology, West Virginia University, Marshall University, Concord University, Bluefield State College, and other private partners should collaborate; eliminating the requirement that the headquarters of the West Virginia University Institute of Technology remain in Montgomery, West Virginia; clarifying provisions relating to the West Virginia University Institute of Technology Board of Visitors; eliminating outdated provisions; and repealing provisions relating to the West Virginia University Institute of Technology Revitalization Project”; to the Committee on Education.

By Delegates Howell, Arvon, Blair, Phillips, Hartman, Ihle, Cadle, McGeehan, Moffatt, Atkinson and Morgan:

H. B. 4311 - “A Bill to amend and reenact §30-22-5 of the Code of West Virginia, 1931, as amended, relating to adding citizen members to the Board of Landscape Architects; and providing for the disqualification of citizen members who become licensees”; to the Committee on Government Organization.

By Delegates Howell, Arvon, Blair, Phillips, Hill, Hartman, Stansbury, McGeehan, R. Smith, Hamrick and Morgan:

H. B. 4312 - “A Bill to amend and reenact §30-9-3 of the Code of West Virginia, 1931, as amended, relating to adding citizen members to the Board of Accountancy; and providing for the disqualification of citizen members who become licensees”; to the Committee on Government Organization.

By Delegates Howell, Arvon, Blair, Phillips, Hill, Hartman, Stansbury, McGeehan, Moffatt, Atkinson and Morgan:

H. B. 4313 - “A Bill to amend and reenact §30-12-1 and §30-12-11 of the Code of West Virginia, 1931, as amended, all relating to adding citizen members to the board of Architects; providing for the disqualification of citizen members who become licensees; and exempting certain nonpracticing architects from the prohibition against using certain titles”; to the Committee on Government Organization.

By Delegates Rohrbach, Stansbury, Bates, Ellington, Householder, Miller, Perdue, Waxman and B. White:

H. B. 4314 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-6-27; and to amend said code by adding thereto a new section, designated §61-10-33, all relating to prohibiting the sale of powdered or crystalline alcohol; defining terms; prohibiting the sale of pure caffeine products; providing exclusions and creating criminal penalties”; to the Committee on Health and Human Resources then the Judiciary.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:**

H. B. 4315 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-8a, relating to air-ambulance fees for emergency treatment or air transportation; allowing providers of air ambulance services not under contract to collect an amount up to the equivalent paid for federal reimbursement for services rendered to employees or dependents; and requiring providers of air ambulance services that enter into a subscription service agreement with employees or dependents to accept the subscription fee as payment in full for services rendered”; to the Committee on Banking and Insurance then Finance.

By Delegates Espinosa, Ellington, Duke, Perry, Moye, Upson, Wagner, Ambler, Cooper, D. Evans and Kelly:

H. B. 4316 - “A Bill to amend and reenact §18A-4-2a of the Code of West Virginia, 1931, as amended, relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification; and requiring the submission of satisfactory evidence to the West Virginia Department of Education for reimbursement”; to the Committee on Education then Finance.

House Calendar

Third Reading

Com. Sub. for H. B. 2130, Including law-enforcement officers among those professionals the assault or battery of which leads to

enhanced criminal penalties; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 16**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Border, Faircloth, Folk, McGeehan, Miller and Sobonya.

Absent and Not Voting: Flanigan and Manchin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2130) passed.

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

H. B. 4005, Repealing prevailing hourly rate of wages requirements; on third reading, coming up in regular order, was read a third time.

Delegate Sponaugle was addressing the House when Delegate Sobonya arose to a point of order, regarding the content of the Gentleman's remarks, to which the Speaker replied point well taken and asked the Gentleman from the 55th to confine his remarks to the question before the House.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 17**), and there were—yeas 55, nays 44, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Kelly, Longstreth, Lynch,

Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Romine, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecoast, Wagner and P. White.

Absent and Not Voting: Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4005) passed.

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

First Reading

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

H. B. 4189, Expiring funds to the unappropriated balance in State Fund, General Revenue, from the Department of Revenue,

Com. Sub. for H. B. 4227, Adding citizen members to the Real Estate Appraiser Licensing and Certification Board,

Com. Sub. for H. B. 4230, Adding citizen members to the Board of Registration for Professional Engineers,

Com. Sub. for H. B. 4238, Adding citizen members to the Board of Professional Surveyors,

And,

Com. Sub. for H. B. 4241, Adding citizen members to the Real Estate Commission.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Flanigan.

Remarks by Members

Delegate Lane asked and obtained unanimous consent that the remarks of Delegates Boggs, Butler, Campbell, Caputo, Cowles, Deem, Ferro, Fluharty, Folk, Guthrie, Hicks, Hornbuckle, Householder, Howell, Ihle, Ireland, Manchin, Miley, Pethtel, Pushkin, Reynolds, Shaffer, Skinner, Sponaugle and Walters regarding the passage of H. B. 4005 be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Stansbury filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4177.

Delegate Pushkin filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4258.

Delegate Stansbury filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4258.

At 3:13 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, January 28, 2016.

THURSDAY, JANUARY 28, 2016

SIXTEENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, January 27, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Nelson, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. B. 4079, Department of Veterans' Assistance, rule relating to the state home for veterans,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4079) was referred to the Committee on the Judiciary.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4175, Relating generally to home schooling,

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

Com. Sub. for H. B. 4175 - “A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating generally to home schooling; clarifying that student who is home schooled may not be classified as habitually absent; requiring superintendent to show probable cause when seeking order to deny home instruction; changing requirement that parent of child who is to be home schooled notify county superintendent annually of intent to home school to a one time notification; requiring notice upon change in county of residence; requiring notice of intent to home school to include certain assurances; removing requirement for notice of intent two weeks prior to withdrawal from school; removing requirement that person providing home instruction have a high school diploma or equivalent; removing requirement that person providing home instruction outline plan of instruction for ensuing year; removing requirement to submit results of required student assessments to superintendent annually; removing requirement for parent or legal guardian to pay assessment cost when given outside public school; requiring use of test normed within ten years; permitting parent to administer required nationally normed standardized test; providing that student has made acceptable academic progress if it is within or above the fourth stanine rather than fiftieth percentile, or if below that stanine then the student must show improvement from the previous year; removing requirement to provide written narrative of portfolio assessment to superintendent annually; requiring certified teacher to review a student’s progress and provide written narrative; removing requirement to provide certification number of the certified teacher; requiring parent or legal guardian to keep academic assessments for three years; providing that county board may only notify parent or legal guardian of availability of certain special education assistance and services if parent or legal guardian

requests it; and requiring parent or legal guardian to submit to superintendent results of required assessments at grade levels three, five, eight and eleven by certain date,”

With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 107 - “A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §56-12-1, §56-12-2, §56-12-3, §56-12-4, §56-12-5, §56-12-6, §56-12-7 and §56-12-8, all relating to creating the Uniform Interstate Depositions and Discovery Act”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 157 - “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to promulgation of administrative rules by Department of Revenue; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments recommended by the Legislature; directing various

agencies to amend and promulgate certain legislative rules; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to nonintoxicating beer licensing and operations procedures; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to private club licensing; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to distilleries and mini-distilleries; directing the Lottery Commission to amend and promulgate legislative rule relating to limited video lottery; authorizing the Racing Commission to promulgate legislative rule relating to thoroughbred racing; authorizing Racing Commission to promulgate legislative rule relating to pari-mutuel wagering; authorizing Department of Tax and Revenue to promulgate legislative rule relating to payment of taxes by electronic funds transfer; and authorizing Department of Tax and Revenue to promulgate legislative rule relating to an exchange of information agreement between Commissioner of the Tax Division of the Department of Revenue and Secretary of the Department of Commerce, Secretary of the Department of Environmental Protection, Director of the Division of Forestry of the Department of Commerce and Commissioners of the Public Service Commission"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 195 - "A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Health and Human Resources; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies

to promulgate certain legislative rules with various amendments recommended by the Legislature; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access, registry and employment screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to fees for service; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to infectious medical waste; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to tuberculosis testing, control, treatment and commitment; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to farmers market vendors; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the certification of opioid overdose prevention and treatment training programs; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to chronic pain management licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to neonatal abstinence centers; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child-care licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child-care facility licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child-care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia Works Program sanctions; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to qualifications for a restricted provisional license to practice as a social worker within the

department; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to goals for foster children”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 342 - “A Bill supplementing and amending by decreasing the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources – Division of Human Services, fund 0403, fiscal year 2016, organization 0511, and to the Bureau of Senior Services, fund 0420, fiscal year 2016, organization 0508, by supplementing, amending and decreasing the appropriations for the fiscal year ending June 30, 2016”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 357 - “A Bill making a supplementary appropriation of Lottery Net Profits from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the Bureau of Senior Services - Lottery Senior Citizens Fund, fund 5405, fiscal year 2016, organization 0508, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 360 - “A Bill making a supplementary appropriation from the balance of moneys remaining as an unappropriated balance from the

State Fund, State Excess Lottery Revenue Fund, to the Department of Health and Human Resources, Division of Human Services, fund 5365, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 364 - “A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016, in the amount of \$51,800,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701, in the amount of \$1,940,500 from the Department of Revenue, Insurance Commissioner – Examination Revolving Fund, fund 7150, fiscal year 2016, organization 0704, and in the amount of \$4,800,000 from the Department of Revenue, Insurance Commissioner, WV Health Insurance Plan Fund, fund 7161, fiscal year 2016, organization 0704.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (S. B. 364) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Foster, McGeehan, Butler, Ihle, Azinger, Fast, Moffatt, J. Nelson, Summers, Waxman and Miller:

H. B. 4317 - “A Bill to amend and reenact §48-9-209 of the Code of West Virginia, 1931, as amended, relating to limiting factors in parenting plans; and changing language relating to parental activity of ‘making repeated fraudulent reports of domestic abuse’ to making ‘one

or more’ such reports as a factor a court may consider in imposing limits on a parenting plan in order to protect a child from harm”; to the Committee on the Judiciary.

By Delegates Foster, McGeehan, Butler, Ihle, Azinger, Fast, Moffatt, J. Nelson, Waxman, Kessinger and Miller:

H. B. 4318 - “A Bill amend and reenact §48-9-206 of the Code of West Virginia, 1931, as amended, relating to including consideration, by a court, of the employment or working schedule of a parent necessary to provide expenses and income to support a child as a factor in determining an allocation of custodial responsibility”; to the Committee on the Judiciary.

By Delegates Weld, McGeehan, J. Nelson, Cooper, Ireland, Longstreth and Anderson:

H. B. 4319 - “A Bill to amend and reenact §59-1-2a of the Code of West Virginia, 1931, as amended, relating to including in the definition of ‘veteran’ active members of the Guard and Reserve components of the Armed Forces of the United States in order to exempt them from fees charged by the Secretary of State”; to the Committee on Veterans' Affairs and Homeland Security then Finance.

By Delegates Westfall, McCuskey and B. White:

H. B. 4320 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17C-24-1, relating to directing the Commissioner of the Division of Highways to promulgate rules providing for a limited, one-time period whereby individuals who have unpaid traffic violations, other than serious traffic offenses, may make a one-time payment of all outstanding violations at a reduced rate”; to the Committee on Roads and Transportation then Finance.

By Delegates Foster, Cadle, McGeehan, Butler, Ihle, Azinger, Fast, Moffatt, J. Nelson, Waxman and Summers:

H. B. 4321 - “A Bill to amend and reenact §11-13W-1 of the Code of West Virginia, 1931, as amended, relating to tax credits for apprenticeship training in construction trades; and removing

requirement that eligibility is limited to programs jointly administered by labor and management trustees”; to the Committee on Industry and Labor then Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4322 - “A Bill to amend and reenact §18B-3D-1 and §18B-3D-4 of the Code of West Virginia, 1931, as amended, all relating to the Workforce Development Initiative Program and expanding the Learn and Earn Program; eliminating authority for Workforce Development Initiative Program grant funding for equipment and eliminating exception to dollar-for-dollar grant funding match from private sector partners”; to the Committee on Education then Finance.

By Delegates Cowles and Miley

[By Request of the Executive]:

H. B. 4323 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents by well operators and pipeline operators; defining terms; establishing reporting requirements; establishing obligations of local emergency telephone operators; providing for recording and handling of calls; setting forth administrative civil penalty; and providing appeal process”; to the Committee on Industry and Labor then Energy.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4324 - “A Bill to amend and reenact §21A-10-11 of the Code of West Virginia, 1931, as amended, relating to authorizing information sharing by Workforce West Virginia related to administration of the Workforce Innovation and Opportunity Act with agencies of state government responsible for vocational rehabilitation, employment and training”; to the Committee on Government Organization then the Judiciary.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4325 - “A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to requiring promulgation of a rule to provide for payment of tuition by county boards of education to the Mountaineer Challenge Academy for students graduating with a high school diploma from the Mountaineer Challenge Academy”; to the Committee on Education then Finance.

House Calendar

Second Reading

H. B. 4189, Expiring funds to the unappropriated balance in State Fund, General Revenue, from the Department of Revenue; on second reading, coming up in regular order, was, at the request of Delegate Cowles, and by unanimous consent, laid over.

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

Com. Sub. for H. B. 4227, Adding citizen members to the Real Estate Appraiser Licensing and Certification Board,

Com. Sub. for H. B. 4230, Adding citizen members to the Board of Registration for Professional Engineers,

Com. Sub. for H. B. 4238, Adding citizen members to the Board of Professional Surveyors,

And,

Com. Sub. for H. B. 4241, Adding citizen members to the Real Estate Commission.

First Reading

H. B. 4235, Relating to the publication requirements of the administration of estates; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Remarks by Members

Delegate J. Nelson asked and obtained unanimous consent that the remarks of Delegate Ellington regarding S. B. 6, Requiring drug screening and testing of applicants for TANF program, be printed in the Appendix to the Journal.

Delegate Manchin asked and obtained unanimous consent that the remarks of Delegate Hornbuckle regarding All Lives Matter be printed in the Appendix to the Journal.

Delegate Manchin asked and obtained unanimous consent that the remarks of Delegate Skinner regarding the public hearing on H. B. 4012 be printed in the Appendix to the Journal.

Delegate Shaffer asked and obtained unanimous consent that the remarks of Delegate Fleischauer regarding equal pay be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4319.

At 12:31 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, January 29, 2016.

FRIDAY, JANUARY 29, 2016

SEVENTEENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, January 28, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4245, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4245) was referred to the Committee on the Judiciary.

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4244, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4244) was referred to the Committee on the Judiciary.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4315, Relating to air-ambulance fees for emergency treatment or air transportation,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4315) was referred to the Committee on Finance.

Delegate Miller, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 2897, Young Entrepreneur Reinvestment Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2897) was referred to the Committee on Finance.

Delegate Rowan, Chair of the Committee on Senior Citizen Issues, submitted the following report, which was received:

Your Committee on Senior Citizen Issues has had under consideration:

H. B. 4306, Prohibiting persons who have committed crimes against the elderly from performing any court ordered public service involving the elderly,

And,

H. B. 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4306 and H. B. 4309) were each referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4243, Extending the time that certain nonprofit community groups are exempt from the moratorium on creating new nursing home beds,

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

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4112, Department of Health and Human Resources, rule relating to emergency medical services,

H. B. 4115, Department of Health and Human Resources, rule relating to chronic pain management licensure,

And,

H. B. 4116, Department of Health and Human Resources, rule relating to neonatal abstinence centers,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4112, H. B. 4115 and H. B. 4116) were each referred to the Committee on the Judiciary.

Delegate Canterbury, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 4093, Consolidated Public Retirement Board, rule relating to the Teachers' Contribution System,

And,

H. B. 4094, Consolidated Public Retirement Board, rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4093 and H. B. 4094) were each referred to the Committee on the Judiciary.

Delegate Canterbury, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 4092, Consolidated Public Retirement Board, rule relating to the Teachers' Defined Contribution System,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4092) was referred to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 262 - "A Bill to amend and reenact §25-1-17 and §25-1-18 of the Code of West Virginia, 1931, all relating to law enforcement not needing to obtain court orders prior to receiving recordings of inmate phone calls and inmate mail for investigative

purposes; eliminating requirement for promulgation of legislative rules relating to monitoring of inmate telephone conversations and mail; requiring commissioner to promulgate policy directive establishing recordkeeping procedure to memorialize telephone conversations and mail provided to law enforcement for investigation; requiring records of such transfers be maintained for three years; allowing an inmate's attorney access to telephone conversations and inmate mail supplied to law enforcement and exceptions thereto; clarifying that inmate mail and telephone provisions apply only to inmates in physical custody of commissioner; and clarifying that information supplied to law enforcement is not subject to disclosure under the Freedom of Information Act"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 290 - "A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to assignment of wages by employers and payment of wages by payroll card; authorizing assignment without notarization or required statement that assignment cannot be for more than twenty-five percent of employee's wages; allowing wage assignments to be valid for longer than one year; and removing requirement for written agreement to pay employee by payroll card"; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Miley, Waxman, Trecost, Lane, Hamrick and Caputo offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 28 - "Requesting the Division of Highways to name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the 'U.S. Army CPL John Belcastro Bridge'."

Whereas, John Belcastro, was born on June 12, 1922, in Shinnston, West Virginia. He was the first born of one of the first set of twins born in Shinnston and one of six sons born to Frank and Anita Bartolo Belcastro. After graduation from Shinnston High School in 1942, John Belcastro spent four years in the United States Army during World War II. He entered the United States Army in October of 1942, attained the rank of Corporal T/5 and was honorably discharged on January 18, 1946. Mr. Belcastro was a member of the Tenth Armored Division, 90th Reconnaissance Cavalry, Third Army under General George Patton. He spent Christmas of 1944 fighting in the Battle of the Bulge in which the Tenth Armored Division led the Third Army all the way to Austria. He also fought in the Ardennes Forest, the Rhineland and Central Europe. In May of 1945, Mr. Belcastro was chosen to be a part of a secret mission. As soon as the war ended, he was part of the team hand-picked to rescue 118 German scientists who were defecting to America. Those German scientists included Wernher Von Braun who was instrumental in starting the American space program in Huntsville, Alabama; and

Whereas, CPL Belcastro received a Purple Heart, a Bronze Star for bravery, the Croix De Guerre Presidential Citation and Good Conduct Medal. He also was awarded the American Theater Ribbon, the Middle Eastern Theater Ribbon, the World War II Victory Ribbon, the Diplome from the Republique Francais' Ministere De La Defense Liberation of France and the Knight of the French Legion of Honor; and

Whereas, When the war ended, CPL Belcastro returned to Shinnston where he worked in the coal industry for forty-three years. While working in the mines, he volunteered to be a member of the mine rescue squad, serving in that capacity from 1950 to 1964 during which time he helped in rescue efforts in twelve explosions and fires. Mr. Belcastro received the Consol Safety Award for twenty-five years with no lost time accidents. He was a member of United Mine Workers Local #1501 where he held many offices including serving on the COMPAC committee for twelve years, holding the office of treasurer for eight years and social chairman for eighteen years; and

Whereas, John Belcastro displayed his talent as an imitator and impersonator by being named the winner of the Wilken's Amateur Hour held in Pittsburgh; the winner of the All Stars Amateur Hour held at the Ritz Theater in Clarksburg; performed with the Paul Whitman Orchestra at the Warner Theater in Morgantown; with Vaughn Monroe at the Ritz in Clarksburg; and Frank Yankovic's Polish Band at the Clarksburg Armory; and

Whereas, John Belcastro and Sylvia, his wife of sixty-eight years, are members of St. Ann's Catholic Church where he has served as an usher, lector, and president of the men's Holy Name Society for three terms. He served as both Vice-President and Treasurer of the Clarksburg Deanery of the Holy Name Society and on the Board of Directors for the Wheeling-Charleston Diocese. He is also a member of the Knights of Columbus #942 and a weekly adorer in the Perpetual Adoration Chapel. For years, he was the "Voice of the Spartans" as he served as the announcer for the Shinnston High football games and also for the Shinnston Little League baseball games. Mr. Belcastro held the position of Cub Master for Pack 59 for the Shinnston Area Boy Scouts. He belongs to the Clarksburg Senior Citizens and delivered Meals on Wheels. He is a Life Member of the Veterans of Foreign Wars #573 in Clarksburg, AARP, and a Life Member of the Shinnston American Legion Post 31 where he served on the Color Guard and as chairman of various committees as well as serving as Service Officer for the VA Hospital and the Old Soldier's Home in Weston. John Belcastro was captain of the seven time winning Italian Trivia Team in conjunction with the Italian Heritage Festival and received a diploma from the University of Hard Knocks at Alderson-Broaddus College in 1999. He is one of the longest serving members of the Board of Directors of the Monongahela Valley Association of Health Centers Fairmont Clinic, having served for over forty years; and

Whereas, On June 12, 2016, Mr. Belcastro will celebrate his 94th birthday. He has lived all his life in Shinnston. He is a long time pillar of his community and it is fitting that an enduring memorial be

established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the “U.S. Army CPL John Belcastro Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U.S. Army CPL John Belcastro Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to Mr. John Belcastro.

Delegates Manchin, Caputo and Longstreth offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 29 – “Requesting the Division of Highways to name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek, and connecting the town of Farmington to United States Route 250, the ‘Harry C. “Buck” Markley Jr. Memorial Bridge’.”

Whereas, Harry C. “Buck” Markley, was born on May 27, 1935, in Farmington, West Virginia. He was the son of Harry and Virginia Pyles Markley. He graduated from Farmington High School and worked in Marion County at Wall Plaster and Angelucci Trucking before transitioning to the coal fields of the Four States, Blacksville and Grant Town mines. He served as a federal mine inspector from

1972 through 1996 and was a member of the Four States, Blacksville, and the federal mine rescue teams; and

Whereas, Harry Markley was a devoted public servant, serving on the Farmington Town Council and as Mayor of Farmington for eighteen years, as well as serving with the Farmington Volunteer Fire Department for forty-five years, and forty years as chief of Company Seven. During Harry Markley's career in public service, he also served on the Marion County Fire Board. As mayor, Harry Markley took the steps necessary to make Farmington easily accessible by leading the effort to reconstruct the bridge connecting Farmington to United States Route 250 in 1985; and

Whereas, Harry Markley passed away on June 23, 2015, in his home in Marion County. He has been an outstanding citizen and leader of Farmington, and it is fitting that Harry C. "Buck" Markley Jr.'s legacy is memorialized on the very bridge that he helped to create; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek in Marion County, the "Harry C. 'Buck' Markley Jr. Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "Harry C. 'Buck' Markley Jr. Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to Mrs. Carolyn Sue Bazan Markley.

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegates Ferro, Lynch, Pethtel, Fluharty, Hamilton, Skinner, Storch, Caputo, Hartman and Perry:

H. J. R. 36 - “Proposing an amendment to the Constitution of the State of West Virginia amending article X thereof, by adding thereto a new section, designated section thirteen, relating to allowing counties, cities and municipal corporations to approve, by a vote of the people, levies and excess levies by a simple majority of the votes cast for and against the same, notwithstanding any other provision of the Constitution to the contrary; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Hamrick and Waxman:

H. B. 4326 - “A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to making special registration plates for volunteer fire fighters good for five years”; to the Committee on Roads and Transportation then Finance.

By Delegates Phillips, Marcum, Perdue, J. Nelson, Eldridge, Rodighiero, Rohrbach, Sobonya, Moffatt, Weld and O’Neal:

H. B. 4327 - “A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to authorizing a special registration plate for elk”; to the Committee on Roads and Transportation then Finance.

By Delegates Storch, Fleischauer, Moore, Longstreth, P. White, Guthrie, Flanigan, Folk, Frich, Upson and Blair:

H. B. 4328 - “A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended, relating to the ‘Equal Pay Act of 2016’; making it unlawful for an employer to require, as a condition of

employment, that an employee refrain from disclosing information about his or her wages, benefits, or other compensation or sharing information about another employee's wages, benefits, or other compensation; making it unlawful for employer to prohibit employees from disclosing information about his or her wages, benefits, or other compensation or sharing information about another employee's wages, benefits, or other compensation"; to the Committee on Industry and Labor then the Judiciary.

By Delegates McGeehan, Faircloth, Azinger, Folk, Ihle, J. Nelson, Moffatt and Butler:

H. B. 4329 - "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 and §5-30-5, all relating to providing that all future federal, state and local statutes, ordinances, laws, orders, rules, and any other actions which attempt to restrict, tax, or regulate the possession, use, discharge in lawful self-defense, transportation, purchase, acquisition, sale, transfer, ownership, carrying, manufacture, or repair of firearms, firearm accessories, ammunition and their accouterments are invalid and unenforceable; making it a felony to attempt to enforce a federal, state or local statute, ordinance, law, order, rule, or any other action which attempts to restrict, tax, or regulate possession, use, discharge in lawful self defense, transportation, purchase, acquisition, sale, transfer, ownership, carrying, manufacture, or repair of firearms, firearm accessories, ammunition or their accouterments; prohibiting such laws, orders, rules, policies and other actions by executive departments and state agencies, and providing a felony for violation; providing definitions; making findings; providing penalties; requiring the Attorney General to defend citizens of West Virginia who are prosecuted by the United States government for violation of a federal law relating to the possession, use, discharge in lawful self-defense, transportation, purchase, acquisition, sale, transfer, ownership, carrying, manufacture, or repair of a firearm, a firearm accessory or ammunition; providing exemptions; providing for retroactivity; and

providing that ex post facto laws are not created”; to the Committee on the Judiciary.

By Delegates Cadle, Ihle, Butler, Weld, Ireland, Zatezalo, Azinger, Kelly, Anderson, Sobonya and Deem:

H. B. 4330 - “A Bill to amend and reenact §20-2-64 of the Code of West Virginia, 1931, as amended, relating to make unlawful to take a fish, water animal or other aquatic organism from state waters to stock a commercial pond or lake”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates R. Smith, J. Nelson, Wagner, Stansbury, Hamilton, Cadle, Statler, Eldridge, Flanigan, Atkinson and Butler:

H. B. 4331 - “A Bill to amend and reenact §20-2-5a of the Code of West Virginia, 1931, as amended, relating to providing the Director of the Division of Natural Resources the authority to offer up to \$1,000 for information leading to the arrest and conviction of persons who have injured or killed game; creating additional penalty of reward amount for any person convicted following receipt of information by the Division of Natural Resources leading to his or her arrest and conviction”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Fleischauer, Statler, Shaffer, Kurcaba, McCuskey, Shott, Fast, Rowe, Skinner, Summers and Byrd:

H. B. 4332 - “A Bill to amend and reenact §11-16-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-7-4 of said code, all relating to requiring licensees authorized to serve alcoholic liquors or nonintoxicating beer to have certain liability insurance coverage to cover the premises of the licensee; establishing statutory minimum level of insurance coverage; and directing the Alcoholic Beverage Control Commissioner, upon a finding that either statutory minimum insurance coverage is inadequate, to increase statutory minimum coverage amounts by legislative rule”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Shott, Howell, Miller, Ellington, Gearheart, Hamrick, Cadle and Butler:

H. B. 4333 - “A Bill to amend and reenact §11-1C-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-1C-5c, all relating to assessment value of certain motor vehicles for purposes of ad valorem property taxes; providing that the minimum assessed value of a motor vehicle is \$700 for purposes of ad valorem property taxes; and providing that the assessed value of an antique motor vehicle is \$5,000 for purposes of ad valorem property taxes”; to the Committee on Roads and Transportation then Finance.

By Delegates Summers, Campbell, Miller, Sobonya, Faircloth, Bates, Westfall, Householder, Cooper, Eldridge and Fleischauer:

H. B. 4334 - “A Bill to repeal §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a, §30-15-7b, §30-15-7c and §30-15-8, of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-1, §30-7-2, §30-7-6, §30-7-7, §30-7-15a, §30-7-15b and §30-7-15c of said code; and to amend said code by adding thereto a new section, designated §30-7-15d, all relating to the licensure and authority of advanced practice registered nurses; repealing separate and redundant provisions relating to nurse-midwives; updating and adding definitions of terms; requiring a license to practice as an advanced practice registered nurse; establishing license requirements for an advanced practice registered nurse; updating the prerequisites and application requirements to apply for authority to prescribe drugs; modifying the types and amounts of controlled substances that may be prescribed by authorized advanced practice registered nurses; permitting the signature of an advanced practice registered nurse to have the same force and effect as that of a physician insofar as patient care documentation is concerned; removing the requirement for collaborative relationships with physicians as an ongoing requirement for practice for certified nurse-midwives; removing the requirement for collaborative relationships with

physicians as an on-going requirement for prescriptive authority for advanced practice registered nurses; removing certain notifications; and permitting certain fees to be set by rule”; to the Committee on Health and Human Resources then Government Organization.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4335 - “A Bill to amend and reenact §16-46-3, §16-46-5 and §16-46-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-46-3a, all relating to authorizing a pharmacist or pharmacy intern to dispense, pursuant to a protocol, an opioid antagonist without a prescription; requiring the Board of Pharmacy in consultation with the Bureau for Public Health to develop a protocol; requiring patient counseling; requiring educational materials; requiring documentation of distribution of opioid antagonists in the West Virginia Controlled Substances Monitoring Program database; revising existing reporting requirements; providing limited liability to pharmacist and pharmacy interns; revising reporting requirements; and reorganizing existing code language”; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 4336 - “A Bill supplementing and amending by decreasing the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources – Division of Human Services, fund 0403, fiscal year 2016, organization 0511, and to the Bureau of Senior Services, fund 0420, fiscal year 2016, organization 0508 by supplementing, amending, and decreasing the appropriations for the fiscal year ending June 30, 2016”; to the Committee on Finance.

By Delegates Phillips, Marcum, Perdue, J. Nelson, Morgan, Cowles, O’Neal, Ellington, Westfall, Campbell and Perry:

H. B. 4337 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-4-7,

relating to requiring the General Services Division to provide former Legislators with access cards to the State Capitol building”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

House Calendar

Third Reading

Com. Sub. for H. B. 4227, Adding citizen members to the Real Estate Appraiser Licensing and Certification Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 18**), and there were—yeas 75, nays 23, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Campbell, Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Perdue, Perry, Pethtel, Pushkin, Skinner, Sponaugle and P. White.

Absent and Not Voting: Boggs and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4227) passed.

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

Com. Sub. for H. B. 4227 - “A Bill to amend and reenact §30-38-6 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board; changing the qualifications for membership on the board; providing for continued service of qualifying board members; and

providing for the disqualification of certain members who become licensees.”

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

Com. Sub. for H. B. 4230, Adding citizen members to the Board of Registration for Professional Engineers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 19**), and there were—yeas 75, nays 23, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Campbell, Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Perdue, Perry, Pethtel, Pushkin, Skinner, Sponaugle and P. White.

Absent and Not Voting: Boggs and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4230) passed.

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

Com. Sub. for H. B. 4238, Adding citizen members to the Board of Professional Surveyors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 20**), and there were—yeas 72, nays 26, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Campbell, Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Perdue, Perry, Pethtel, Pushkin, Rodighiero, Skinner, Sponaugle and P. White.

Absent and Not Voting: Boggs and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4238) passed.

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

Com. Sub. for H. B. 4238 -“A Bill to amend and reenact §30-13A-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Board of Professional Surveyors; changing qualifications for membership on the board; providing for continued service of qualifying board members; providing for the disqualification of certain members who become licensees; and providing that citizen member appointments represent different congressional districts.”

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

Com. Sub. for H. B. 4241, Adding citizen members to the Real Estate Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 21**), and there were—yeas 73, nays 25, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Campbell, Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Perdue, Perry, Pushkin, Rodighiero, Skinner, Sponaugle and P. White.

Absent and Not Voting: Boggs and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4241) passed.

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

Second Reading

S. B. 364, Supplemental appropriation expiring funds from General Revenue; on second reading, coming up in regular order, was reported by the Clerk.

Delegate Cowles asked unanimous consent that the bill lie over, which consent was not given, Delegate Sponaugle objecting.

Delegate Cowles then moved that the bill lie over.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 22**), and there were—yeas 64, nays 34, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Boggs and Walters.

So, a majority of the members present and voting having voted in the affirmative, the motion to lay the bill over one day prevailed.

H. B. 4189, Expiring funds to the unappropriated balance in State Fund, General Revenue, from the Department of Revenue; on second

reading, coming up in regular order, was, on motion of Delegate Cowles, laid over.

H. B. 4235, Relating to the publication requirements of the administration of estates; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

Com. Sub. for H. B. 4175, Relating generally to home schooling; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Boggs and Walters.

Remarks by Members

Delegate Ilhe asked and obtained unanimous consent that the remarks of Delegate Morgan regarding a one percent tax increase to fund PEIA and other state bills be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Hamrick filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4228.

Delegate Waxman filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2852.

At 12:49 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, February 1, 2016.

MONDAY, FEBRUARY 1, 2016

TWENTIETH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, January 29, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 2119, Intrastate Coal and Use Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2119) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4311, Adding citizen members to the Board of Landscape Architects,

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

Com. Sub. for H. B. 4311 - “A Bill to amend and reenact §30-22-5 of the Code of West Virginia, 1931, as amended, relating to the Board of Landscape Architects; changing the qualifications for membership on the board; providing for continued service of qualifying board members; and providing for the disqualification of certain members who become licensees,”

And,

H. B. 4313, Adding citizen members to the Board of Architects,

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

Com. Sub. for H. B. 4313 - “A Bill to amend and reenact §30-12-1 and §30-12-11 of the Code of West Virginia, 1931, as amended, all relating the Board of Architects; changing the qualifications for membership on the board; providing for continued service of qualifying board members; providing for the disqualification of certain members who become licensees; and exempting certain nonpracticing architects from the prohibition against using certain titles,”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on the Judiciary has had under consideration:

S. B. 1, Establishing WV Workplace Freedom Act,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage of

Com. Sub. for S. B. 14 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7I-1, §55-7I-2, §55-7I-3, §55-7I-4, §55-7I-5, §55-7I-6 and §55-7I-7, all relating to providing limits on successor corporation asbestos-related liabilities; setting forth legislative findings and purpose; defining terms; setting forth the applicability of article and certain exclusions; limiting liability of successor corporations in successor asbestos-related liabilities; providing applicability of limitation in the case of prior merger or consolidation with prior transferor; setting forth guidelines for establishment of fair market value of total gross assets; requiring inclusion of intangible assets in calculation of fair market value; detailing how liability insurance is to be valued; providing for adjustment of fair market value of total gross assets; discontinuing adjustment of fair market value of total gross assets once certain conditions met; excluding liability insurance from annual adjustments; directing liberal construction of act with regard to successors; and setting forth applicability of act to certain claims”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2016, and requested the concurrence of the House of Delegates in the passage of

Com. Sub. for S. B. 146 - “A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to replacing days per week requirement for early childhood education programs

with instructional minutes per week and instructional minutes per year requirements”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage of

Com. Sub. for S. B. 202 - “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Commerce; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and with various amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping; authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to deer hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to wild boar hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to elk restoration and management; authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection; authorizing the Division of Labor to promulgate a legislative rule relating to the Elevator Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to the licensing of elevator mechanics and technicians and registration of apprentices; authorizing the Office of Miners’ Health, Safety and Training to promulgate a legislative rule

relating to substance abuse screening standards and procedures; directing the Tourism Commission to amend and promulgate a Division of Tourism rule relating to the direct advertising grants program; and authorizing WorkForce West Virginia to promulgate a legislative rule relating to the West Virginia Prevailing Wage Act”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage of

Com. Sub. for S. B. 216 - “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Human Rights Commission to promulgate a legislative rule relating to the Pregnant Workers’ Fairness Act”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 2 - “Urging Congress to provide funding for the West Virginia National Guard to sustain and enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C130s and other aircraft to meet global airspace requirements for 2020.”

Whereas, In the event of a regional catastrophe, West Virginia’s east-west highways, including I-68 and I-64, are links to the major exit corridors from the FEMA National Capital Region (NCR) westward and, assuming that a regional catastrophe will likely include Baltimore to the north of the NCR and Richmond to the south of the NCR,

westward evacuation utilizing these highways is highly likely and is, in fact anticipated; and

Whereas, The routes through West Virginia will traverse rural areas that do not have infrastructure adequate for what could be a mass of evacuees in the worst-case scenario; experience in regional emergencies, such as Superstorm Sandy in 2012, illustrates some shortcomings in planning that is less focused on regions and more on states; and

Whereas, West Virginia is perfectly, and geographically, postured to support any emergency or disaster response to the NCR, including mass evacuation westward; and

Whereas, FEMA regions do not necessarily represent grouping of states likely to be involved in some scenarios; FEMA Region III contains the NCR and West Virginia as its western-most edge and in a major catastrophe, Regions V, with Ohio, Indiana and Illinois, VII with Missouri, and IV with Kentucky, Tennessee, and North Carolina are likely to be involved in some combinations; and

Whereas, The National Guard, through the use of Emergency Management Assistance Compacts, can operate across state lines to provide vital response capability in security, transportation, medical, housing, communications, command and control, and others based on its dual role in military preparedness and state civil support; and

Whereas, Military Force Structure assigned to the National Guard must be considered by federal military planners for the dual use they can encounter; National Guard Organizations require personnel, equipment, organization, training, leadership and funding to maintain federal military standards and to be prepared to respond to a domestic emergency or disaster; and

Whereas, Regional catastrophic planning is dependent on National Guard assets, capabilities and responsiveness. Consequently, it is also

critical that federal military planners assess the impact of their force structure changes on regional capability needs as well as those that are state specific; and

Whereas, The C-130 H3 “Hercules” aircraft assigned to the 130th Airlift Wing of the West Virginia National Guard at Yeager Airport in Charleston, West Virginia will eventually become obsolete without system modernization to the communication, navigation, and surveillance (CNS) components; National Air Traffic Control agencies and the International Civil Aviation Organization are modernizing airspace faster than the US Air Force is updating C-130 avionics capabilities; and

Whereas, Aircraft component acquisition becomes increasingly difficult as fewer C-130 H aircraft remain in the Air Force inventory and the unique components of the C-130, including its self-contained navigational system, face short term supply chain shortages that could be remedied with aircraft avionics modernization; and

Whereas, The contract to perform maintenance on aircraft flight computers is renewed annually and this perpetual reliance on short term contracts increases sustainment cost and challenges mission effectiveness and operational planning; and

Whereas, Reliance on short term contracts and antiquated avionics will increase Air Force expense in the long run as it translates to more expensive mission-essential contracts and increased fuel expenditures due to inefficient routing; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges Congress to provide funding for the West Virginia National Guard to sustain and enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C130s and other aircraft to meet global airspace requirements for 2020; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the House of Representatives and to the members of West Virginia congressional delegation.

Resolutions Introduced

On motion for leave, a joint resolution was introduced, read by its title, and referred as follows:

By Delegates Marcum, Phillips, Sobonya, McCuskey, Westfall, Storch, Frich, Reynolds, Rohrbach, Shott and Householder:

H. J. R. 37 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section seven, article IV thereof; and amending section three, article VI thereof, all relating to limiting the number of consecutive terms Senators and Delegates may serve; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Lane, Anderson, Blair, Hamrick, Ambler, D. Evans, Border, McCuskey, Householder, Ireland and Zatezalo:

H. B. 4013 - "A Bill to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §3-1-51, and to amend and reenact §17B-2-1 of said code, all relating to voting procedures; requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; setting forth the requirements for that documentation; identifying acceptable documentation; exempting from disclosure the address of individuals in the Address Confidentiality Program; directing the Secretary of

State to educate voters about the identification requirement and develop a program to help ensure that all eligible voters obtain identification; providing for casting of provisional ballot by a person without adequate proof of identification; providing certain exemptions from the requirement to present a photo identification card; modifying provisional ballot procedures; providing for issuance of identification cards at no charge; and establishing procedures for persons over a certain age and lacking certain documents to acquire photo identification cards”; to the Committee on the Judiciary.

By Delegates Lane, Sobonya, Householder, Moffatt, McGeehan, Butler, Perdue, Fleischauer and Rodighiero:

H. B. 4338 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to the state’s Medicaid Home and Community-Based Services Intellectual/Developmental Disability Waiver; requiring the West Virginia Bureau for Medical Services to file a request with the Centers for Medicare & Medicaid Services to reinstate the terms of the state’s amended Intellectual/Developmental Disability Waiver that was approved and in place prior to July 1, 2015; and requiring the Bureau to seek legislative approval before filing a future request with the Centers for Medicare & Medicaid Services to amend or renew an Intellectual/Developmental Disability Waiver in a manner that alters the scope or nature of services provided under a current waiver”; to the Committee on Health and Human Resources then Finance.

By Delegates Cadle, Foster, Butler, Ihle, Lynch, Atkinson, R. Smith, Gearheart, Ireland, Howell and Storch:

H. B. 4339 - “A Bill to amend and reenact §20-2-4 of the Code of West Virginia, 1931, as amended, relating to wildlife resources; the information required when electronically registering wildlife by persons who are not required to obtain license or permits; and requiring the Director of the Division of Natural Resources to propose rules that provide a means of identifying these persons other than by the use of a social security number”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Howell, Foster, Canterbury, Summers, Waxman, Azinger, Rohrbach, Storch, Cadle, R. Smith and Perdue:

H. B. 4340 - “A Bill to amend and reenact §30-1-5, of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §30-1D-1, all relating generally to boards of examination for licensure; amending licensing requirements for an act which may be called Lynette’s Law; requiring information regarding completed disciplinary actions in which discipline was ordered, to be posted on a website with public access; and requiring certain boards regulating professions to require national criminal background checks on applicants being licensed for the first time in West Virginia”; to the Committee on Government Organization.

By Delegates Howell, Gearheart, Blair, Householder, Walters, O’Neal, Summers, Waxman, Azinger, Rohrbach and Cadle:

H. B. 4341 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act of 2016; prohibiting the relocation, removal, alteration, renaming, rededication, or other disturbance of any statue, monument, memorial, nameplate, or plaque which is located on public property and has been erected for, or named, or dedicated in honor of certain historical military, civil rights, and Native American events, figures, and organizations; prohibiting any person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas; and authorizing the West Virginia State Historic Preservation Office to grant waivers under certain circumstances”; to the Committee on Government Organization.

By Delegates Rohrbach, Sobonya, Bates, Ellington, Miller, Perdue, Shott, Stansbury, Waxman and B. White:

H. B. 4342 - “A Bill to amend and reenact §61-3-49 of the Code of West Virginia, 1931, as amended, relating to the purchase of scrap metal”; to the Committee on the Judiciary.

By Delegates Skinner, Storch, Hamrick, Miley, Campbell, Hamilton, Westfall, Walters, Moore, Flanigan and Shott:

H. B. 4343 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, §47-12-6 and §47-127, all relating to the Youth Mental Health Protection Act; legislative findings; purpose; definitions; prohibition on conversion therapy; referral services; and discipline”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Rohrbach, Stansbury, Bates, Byrd, Perdue, Waxman and B. White:

H. B. 4344 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2-17, relating to establishing local needle exchange programs; providing for administration by local public health official; declaring exemption from certain liabilities; and requiring annual reporting”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Howell, Arvon, Blair, Phillips, Hill, Hartman, Ihle, Cadle, Stansbury, R. Smith and Morgan:

H. B. 4345 - “A Bill to repeal §5A-6A-1, §5A-6A-2, §5A-6A-3, §5A-6A-4, §5A-6A-5, §5A-6A-6, §5A-6A-7, §5A-6A-8 and §5A-6A-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Permitting and Licensing Information Act”; to the Committee on Government Organization then the Judiciary.

By Delegates Hamilton, A. Evans, Romine, Wagner and Guthrie:

H. B. 4346 - “A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to bear hunting and offenses and penalties”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Ellington, Summers, Faircloth, Rohrbach, Sobonya, Stansbury, Storch, Upson and B. White:

H. B. 4347 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to providing pregnant women priority to substance abuse treatment”; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

House Calendar

Third Reading

H. B. 4235, Relating to the publication requirements of the administration of estates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 23**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cooper.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4235) passed.

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

H. B. 4235 – “A Bill to amend and reenact §44-3A-4, §44-3A-4a and §44-3A-32 of the Code of West Virginia, 1931, as amended, relating to notice requirements for claims against an estate; time limits on short form settlements of estates; and barring recovery for claims against an estate not presented within specified time period.”

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

Second Reading

S. B. 364, Supplemental appropriation expiring funds from General Revenue; on second reading, coming up in regular order, was read a second time.

Delegates Sponaugle, Fluharty, Ferro, Eldridge, Trecost, Manchin, Hornbuckle, Hartman, Lynch, Skinner, Shaffer, Moore, Miley, Pushkin, Fleischauer and Caputo moved to amend the bill on page two, line twenty-five, following the word “and”, by inserting the following:

“Whereas, The Public Employees Insurance Agency is facing a \$120,000,000.00 shortfall for the fiscal year 2017, and the resulting increased premiums and benefit cuts must be avoided, and therefore a transfer to that Agency of \$58,540,500 will prevent this while other funding sources are being identified; and ”,

And,

By amending the enacting section on page two, line nine, following the words “June 30, 2016”, by striking out the period and inserting a comma and the following:

“and these moneys shall be apportioned from the State Fund, General Revenue to the State Budget Office, Public Employees Insurance Reserve Fund, fund 7400, fiscal year 2016, organization 0703.”

Delegate Lane was addressing the House when Delegate Marcum arose to a point of order, regarding the content of the Gentleman’s remarks, to which point the Speaker asked the Gentleman from the 38th to confine his remarks to the merits of the bill.

Delegate Frich was addressing the House when Delegate Miley stated a point of order, regarding the content of the Lady’s remarks, to which point the Speaker reminded the Lady from the 51st that she had been recognized to ask questions of Delegate Sponaugle, who had the floor.

During the debate, the Speaker reminded Members to confine their remarks to the amendment under consideration.

Delegates Ambler, Anderson, Arvon, Duke, A. Evans, Blackwell, Boggs, Border, Byrd, Campbell, Eldridge, Ellington, Espinosa, D. Evans, Ferro, Flanigan, Frich, Gearheart, Hamilton, Hanshaw, Householder, Ihle, Lynch, Marcum, McGeehan, Morgan, Moore, Moye, E. Nelson, J. Nelson, Perry, Rodighiero, Rowan, Shaffer, P. Smith, Stansbury, Storch, Sumner, Wagner, Walters, Waxman, Weld, and P. White requested to be excused from voting on the adoption of the amendment to H. B. 4189 under the provisions of House Rule 49.

The Speaker replied that any impact on the Members would be as a member of a class of persons possibly to be affected by the adoption of the amendment, and refused to excuse the Members from voting.

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

The yeas and nays having been ordered, they were taken (**Roll No. 24**), and there were—yeas 36, nays 63, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Cooper.

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

The bill was then ordered to third reading.

H. B. 4189, Expiring funds to the unappropriated balance in State Fund, General Revenue, from the Department of Revenue; on second

reading, coming up in regular order, was, on motion of Delegate Cowles, laid upon the table.

Com. Sub. for H. B. 4175, Relating generally to home schooling; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

H. B. 4243, Extending the time that certain nonprofit community groups are exempt from the moratorium on creating new nursing home beds; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Cooper.

Remarks by Members

It was ordered by the House that all remarks regarding Delegate Sponaugle's amendment to S. B. 364 be printed in the Appendix to the Journal.

Delegate Ihle asked and obtained unanimous consent that the remarks of Delegate McGeehan delivered on Friday, January 29, 2016, on the repeal of Common Core, be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Marcum filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4210.

At 1:05 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, February 2, 2016.

TUESDAY, FEBRUARY 2, 2016

TWENTY-FIRST DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, February 1, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4316, Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4316) was referred to the Committee on Finance.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4301, Relating to a framework for initiating comprehensive transformation of school leadership,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4301) was referred to the Committee on Finance.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4222, Providing for the transfer of ownership, operation and maintenance of certain assets of the West Virginia Parkways Authority to the Division of Highways,

And,

H. B. 4228, Relating to transportation network companies,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4222 and H. B. 4228) were each referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4244, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia, And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 4244 - “A Bill to amend and reenact §31C-2-6 of the Code of West Virginia, 1931, as amended, relating to eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia; requiring public notice to be given of application; setting forth requirements for the public notice; and providing for notice to banking institutions and credit unions when requested for in writing,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4245, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution’s most recent year-end audited financial statement,

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

Com. Sub. for H. B. 4245 “A Bill to amend and reenact §31A-4-20 of the Code of West Virginia, 1931, as amended, relating to requirements for the review of the financial condition of state chartered banks; requiring the cashier or executive officer of a state banking institution to provide shareholders with the institution’s most recent fiscal year audited financial statement; authorizing alternative delivery to shareholders and consolidated or combined statements; requiring that the board of directors of a bank, or its controlling bank holding company, appoint an outside independent auditing firm;

eliminating the requirement that a bank transmit a copy of an audit report of its financial condition to the division of financial institutions; eliminating the approval required for a shareholder committee to utilize or employ registered or certified public accountants; and eliminating the division examiner's ability to require the presence of the examining committee or executive committee during an examination,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

S. B. 32, Relating to withdrawal of candidates for office and filling vacancies,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 15 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating generally to manufacturers and sellers of prescription drugs and medical devices and liability of those entities for alleged inadequate warning or instruction; and adopting the learned intermediary doctrine as defense to civil action based upon inadequate warnings or instructions”; to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 27 – “A Bill to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-2-2 of said code, all relating to permitting county commissions to hire outside attorneys to assist in collection of taxes or to represent the county before any United States Bankruptcy Court; providing for county commissions to limit fees to be paid to any attorneys so hired; providing for reimbursement of actual expenses incurred by attorneys in the course of representation; and providing for sharing cost of collection with various taxing units”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 150 – “A Bill to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Transportation; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Office of Administrative Hearings to promulgate a legislative rule relating to appeal procedures; authorizing the Division of Highways to promulgate a legislative rule relating to the state transportation infrastructure fund program; and authorizing the Division of Public Transit to promulgate a legislative rule relating to rail-fixed guideway systems state safety oversight”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 288 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b, relating to creating a one-day special license for charitable events to sell nonintoxicating beer; setting fee for license; and authorizing commissioner to waive certain restrictions by rule or order”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 329 – “A Bill to amend and reenact §49-1-207 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-2-125 of said code; and to amend and reenact §49-4-502, §49-4-604, §49-4-605, §49-4-607, §49-4-701 and §49-4-709 of said code, all relating to defining “juvenile referee”; eliminating sunset provision for the commission to study residential placement of children; clarifying that prosecuting attorneys are not required to represent any party other than Department of Health and Human Resources in child abuse and neglect cases; clarifying that Department of Health and Human Resources is required to make an effort to terminate parental rights when parent has committed sexual assault or sexual abuse; and making technical changes”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 338 – “A Bill amend and reenact §61-7A-1, §61-7A-2, §61-7A-3 and §617A-4 of the Code of West Virginia, 1931, as amended, all relating generally to compiling and maintaining of West Virginia Central State Mental Health Registry; clarifying that only certain mental illness commitments are to be reported to registry; prohibiting reporting children under fourteen years of age to registry;

requiring names to be reported to Administrator of the Supreme Court of Appeals; and making technical corrections”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 379 – “A Bill to amend and reenact §61-7A-1, §61-7A-2, §61-7A-3 and §61-7A-4 of the Code of West Virginia, 1931, as amended, all relating generally to compiling and maintaining of West Virginia Central State Mental Health Registry; clarifying that only certain mental illness commitments are to be reported to registry; prohibiting reporting children under fourteen years of age to registry; requiring names to be reported to Administrator of the Supreme Court of Appeals; and making technical corrections”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Hamilton, Lynch and P. Smith offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 30 – “Requesting the Division of Highways to name the bridge carrying County Route 11 over the Buckhannon River in Upshur County, bridge number 49-11-17.13 (49A032), latitude 38.78276, longitude -80.22227, locally known as the Alexander Larch bridge, the ‘U.S. Army PFC Everett Henry Woody Memorial Bridge’ .”

Whereas, PFC Everett Henry Woody was born on August 20, 1931, in Upshur County; and

Whereas, PFC Everett Henry Woody died in the Korean War on July 1, 1953; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and country by making the ultimate sacrifice; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name the bridge carrying County Route 11 over the Buckhannon River in Upshur County, bridge number 49-11-17.13 (49A032), latitude 38.78276, longitude -80.22227, locally known as the Alexander Larch bridge, the “U.S. Army PFC Everett Henry Woody Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the twin bridges, both northbound and southbound, as the “U.S. Army PFC Everett Henry Woody Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to Larry W. Brown, Commander, VFW Post 3663.

Delegates Sponaugle, A. Evans, Romine, Hamilton, Hartman, Lynch and Campbell offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 31 – “Requesting the Division of Highways to name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the ‘Wilbur Lee Clayton Memorial Bridge’.”

Whereas, Wilbur Lee Clayton was born in the small town of Moorefield, West Virginia, and attended elementary and high school there before heading off to Potomac State College, followed by West Virginia University; and

Whereas, Wilbur Lee Clayton's college education was interrupted when he joined the United States Air Force in July, 1963, attended basic training at Lackland Air Force Base in San Antonio, Texas, and spent eleven months at Chanute Air Force Base in Rantoul, Illinois, being trained in Minuteman Missile maintenance; and

Whereas, In July, 1964, he was assigned to the 341st Missile Maintenance Squadron at Malmstrom Air Force Base in Great Falls, Montana, where his work involved primarily the alignment and targeting of Minuteman Missiles; and

Whereas, After being honorably discharged in July, 1967, Wilbur Lee Clayton resumed his education at Eastern Montana College in Billings, Montana, and following tradition established by his grandfather and grandmother, earned a Bachelor's Degree in Education; and

Whereas, In 1970 he returned east to Franklin County, Virginia to be closer to his parents; remaining there until 1978, at which time he was hired to teach social studies at Moorefield High School, fulfilling a desire to return home to Hardy County and the family farm where he grew up, and where he then built his home, raised his three children, and happily remained until his untimely death in 1992; and

Whereas, Being a positive influence in the lives of hundreds of his junior high and high school students during his twenty-four years of teaching was without question Wilbur Lee Clayton's greatest contribution to the State of West Virginia; and

Whereas, Being highly respected and genuinely loved by students and colleagues, he was a man of quiet mannerism and subtle sense of humor that was reflected in his teaching style; and

Whereas, Wilbur Lee Clayton's classroom became a place where students felt comfortable and confident, knowing there was an even playing field. All were treated the same; consequences were dealt out fairly; rewards were given equally; and

Whereas, There was a two-way exchange of respect between teacher and student; and

Whereas, After all these years after his unexpected death at age fifty-two, his former students praise him for the competent, compassionate, humorous teacher that he was, and still acclaim him as their favorite teacher ever; and

Whereas, There can be no greater contribution than to be this quiet, unassuming man who served his country proudly and then set for himself the task of being a wonderful, competent and compassionate teacher and positive role model. To honor Wilbur Lee Clayton, who lived a simple life devoted to helping students succeed not only in school, but more importantly, in life; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 1-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the “Wilbur Lee Clayton Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “Wilbur Lee Clayton Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Marcum, P. White, Hamrick, J. Nelson, O’Neal, Summers, Foster, Blair, Sobonya, Kessinger, R. Smith, Hicks, Atkinson, Bates, Butler, Byrd, Eldridge, A. Evans, Fast, Ferro, Folk, Frich, Hamilton, Ireland, Kelly, Kurcaba, McCuskey, Moffatt, Morgan, Moye, Phillips, Reynolds, Rodighiero, Romine, Rowan, Storch, Weld, Westfall and Zatezalo offered the following resolution, which was read

by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 32 – “Requesting the Division of Highways to name bridge number 30-3/5-1.60 (30A182) (37.81271, -82.27014), locally known as Lower Canterbury Box Beam Bridge, carrying County Route 3/5 over Laurel Creek in Mingo County the ‘Johnny Mack Bryant Memorial Bridge’.”

Whereas, Johnny Mack Bryant born July 19, 1977, to John and Linda (Colley) Bryant; and

Whereas, Johnny Mack Bryant was married to the love of his life Leeann Hammond and had two children, Johnny and Mackenzie; and

Whereas, Johnny Mack Bryant worked for Buck Deskins and Randy Akers doing carpentry and installing metal roofs until he went to work for Coal River Mining where he died in a mining accident on July 27, 2012; and

Whereas, Johnny Mack Bryant loved to hunt, fish, ride four wheelers, dirt bikes and hill climbing. He won National Championships for hill climbing in West Virginia and Massachusetts and traveled as far as Minnesota to hill climb; and

Whereas, Johnny Mack Bryant had two sisters, Mattie Cassidy and Lori Williams of Ohio. He had a niece Allyson and many aunts, uncles and cousins who love and miss him; and

Whereas, Johnny Mack Bryant’s two best friends were Wes Maynard and Brandon Urban who have memorial rides and golf tournaments every year in his name to honor him; and

Whereas, Johnny Mack Bryant always had a smile on his face no matter what and about one thousand people attended his wake and funeral; and

Whereas, It is fitting that the bridge which is located at the beginning of the hollow where Johnny Mack Bryant lived and his body is now buried be named for him; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 30-3/5-1.60 (30A182) (37.81271, 82.27014), locally known as Lower Canterbury Box Beam Bridge, carrying County Route 3/5 over Laurel Creek in Mingo County the “Johnny Mack Bryant Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge to be the “Johnny Mack Bryant Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and the family of Johnny Mack Bryant.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Butler, Moffatt, Waxman, McGeehan, Espinosa, Kelly, Faircloth, Summers, Atkinson, Hamrick and Cowles:

H. B. 4014 - “A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating generally to academic content standards and assessments in schools; removing a reference to the No Child Left Behind Act; addressing education standards; defining ‘Learning Standards’; defining ‘college and career ready’; making certain findings with respect to the state board’s adoption of Common Core State Standards; establishing a designated name to refer to West Virginia educational standards; requiring the state board to

replace the current content standards and objectives for English language arts and mathematics with educational standards in effect prior to adoption of the Common Core State Standards; requiring the state board to withdraw from a Memorandum of Agreement relating to adoption of Common Core State Standards; requiring that state board to withdraw as a governing state in the Smarter Balanced Assessment Consortium; requiring the state board to withdraw any pending or effective policies and regulations aligning West Virginia's educational standards with Common Core State Standards; prohibiting the state board from entering into any agreement, memorandum of understanding, or contract which cedes or limits Constitutional authority and obligation to provide a thorough and efficient system of education; requiring the state board to provide a report to the Legislative Oversight Commission on Education and Accountability; requiring the state board to adopt new or revised educational standards that meet certain criteria; specifying that a certain process be followed prior to adopting new or revised educational standards; requiring that waivers for instructional resources be granted to teach new or revised standards; requiring guidelines be developed for county boards of education on informing the public and providing input at the local level; prohibiting evaluation of teachers based upon student achievement until training completed; requiring removal of Common Core based instructional resources from the state multiple list; establishing a process of notification and input for future changes to educational standards; addressing overlap of West Virginia educational standards with Common Core State Standards; addressing requests for waiver from federal law; requiring consultation prior to adopting a comprehensive statewide student assessment program that is aligned with West Virginia educational standards; requiring that student assessments be limited to once a year in certain grades; establishing the minimum criteria for student assessments; prohibiting use of Common Core aligned assessments; and providing for assessment in transition period to new or revised West Virginia educational standards"; to the Committee on Education.

By Delegates Frich, Canterbury, Ambler, Hamilton, Faircloth, Butler, McCuskey, Westfall, Trecoast, Storch and Miller:

H. B. 4348 - “A Bill to amend and reenact §4-2A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6-7-2 and §6-7-2a of said code, all relating to decreasing the basic compensation paid to members of the Legislature and salaries paid to other state officers by five percent”; to the Committee on the Judiciary then Finance.

By Delegates Hill, Statler, Stansbury, Kessinger, Duke, Espinosa, Shott, Faircloth, Upson and Blair:

H. B. 4349 - “A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for overtaking and passing a school bus stopped for the purpose of receiving and discharging children, and providing penalties in the event that the driver of the passing vehicle cannot be ascertained”; to the Committee on the Judiciary.

By Delegates Pushkin, Reynolds, Upson, McCuskey, Shott, Weld, Fleischauer, Guthrie, Byrd, Skinner and Marcum:

H. B. 4350 - “A Bill to amend and reenact §15-2C-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §15-2C-2a; and to amend and reenact §15-2C-3, §15-2C-4 and §15-2C-8 of said code, all relating to creating a domestic violence registry; providing a purpose; directing the Criminal Identification Bureau of the West Virginia State Police to establish and maintain the registry; providing for confidential inquiry of persons on the registry; establishing criteria for placement on and releasing information from the registry; requiring prosecuting attorneys to provide certain information; and defining terms”; to the Committee on the Judiciary.

By Delegates Westfall, Atkinson, Butler, Ihle, Cadle, B. White, Hamrick and McCuskey:

H. B. 4351 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-16b,

relating to transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture”; to the Committee on Agriculture and Natural Resources then Education.

By Delegates E. Nelson, Ellington, Summers, Waxman, Lane and Kurcaba:

H. B. 4352 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to the selling of certain state owned health care facilities by the Secretary of the Department of Health and Human Resources; requiring the secretary to submit a plan for the divestures to the Governor and Joint Committee on Government and Finance by November 30, 2016; creating in the State Treasury a special revenue account to be known as the ‘Health Care Facilities Liquidation Fund’; requiring the secretary to prepare an accounting of all such assets, and providing that expenditures from the fund are not authorized from collections deposited in the fund but are to be made only in accordance with appropriation by the Legislature”; to the Committee on Health and Human Resources then Finance.

By Delegates Ellington, Summers, Stansbury and Rohrbach:

H. B. 4353 - “A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §16-3C-2a and §16-3C-2b; and to amend and reenact §16-4-19 of said code, all relating to testing for HIV and sexually transmitted diseases; authorizing the billing of persons for HIV and sexually transmitted disease testing or sexually transmitted disease treatment done by state or local public health agencies; informing persons who wish to opt-out of HIV-related testing that anonymous testing is available; authorizing magistrate and circuit courts to order testing of persons accused of certain sex crimes; requiring prosecuting attorneys to file motion for testing upon request of a victim or the victim’s parent or guardian; establishing a time-frame for mandatory testing; providing for follow-up HIV related testing as medically appropriate; providing that the costs associated with testing may be borne by the state when the a defendant or juvenile

respondent is financially unable to pay; authorizing the billing of a defendant's or juvenile respondent's health insurance provider; requiring the testing of juvenile's adjudicated of certain sex crimes; removing counseling requirement; removing an exemption for providers regulated by the Insurance Commissioner; removing a limitation on the amount that may be charged for medication used to treat sexually transmitted diseases; and removing archaic language related to the testing of sexually transmitted diseases"; to the Committee on Health and Human Resources.

By Delegates Lane, Hamilton, Canterbury, Guthrie, Campbell, Hornbuckle, Sponaugle, Skinner, Byrd and Fluharty:

H. B. 4354 - "A Bill to amend and reenact §31B-10-1006 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-9-53a of said code, all relating to notices of revocation of certificate of authority to conduct business"; to the Committee on the Judiciary.

By Delegates Ellington, Rohrbach, Sobonya and Stansbury:

H. B. 4355 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to requiring the Bureau of Medical Services to request certain waivers from the Center from Medicaid and Medicare Services"; to the Committee on Health and Human Resources.

By Delegates McGeehan and Sponaugle:

H. B. 4356 - "A Bill to amend and reenact §3-1-8 of the Code of West Virginia, 1931, and to amend and reenact §3-2-5 of said code; all relating to the criteria for political party status; allowing a group of affiliated voters to become a recognized political party if the group's candidate receives one percent of the votes in an election for any one of six statewide offices, including that of Governor, Secretary of State, Treasurer, Auditor, Attorney General or Commissioner of Agriculture; allowing a group of affiliated voters to become a recognized political party if five thousand or more individuals have identified as members of the group on their current voter registration forms; and requiring voting registration forms to provide a space for individuals who do not

select a political party affiliation to write the name of a group of affiliated voters to which they belong”; to the Committee on the Judiciary.

By Delegates McGeehan, Kurcaba, Folk, Azinger and Hamilton:

H. B. 4357 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25, relating to allowing a taxpayer a personal income tax credit for each dependent that participated in home educational instruction for the most recent academic year”; to the Committee on Education then Finance.

By Delegates Statler, Kurcaba, Rohrbach, Sobonya, Summers, Ellington, Blair, Flanigan, Butler, Frich and Fleischauer:

H. B. 4358 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-11c, and to amend said code by adding thereto a new section, designated §30-14-8a, all relating to out of state physicians and surgeons traveling with sports teams within this state; authorizing a physician or surgeon who is licensed to practice medicine or osteopathic medicine in another state to provide medical care to sports team members under certain circumstances”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Miley, Trecoast, Caputo, Boggs and Perdue:

H. B. 4359 - “A Bill to amend and reenact §30-18-7 of the Code of West Virginia, 1931, as amended, relating to requiring the issuance of a photo identification to persons employed as a security guard by a security guard firm; and requiring for wearing of identification when in uniform”; to the Committee on Government Organization.

By Delegates Shaffer, Sponaule, Shott, Reynolds, Miley, Mr. Speaker (Mr. Armstead), Hanshaw and Weld:

H. B. 4360 - “A Bill to amend and reenact §30-2-4 of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalty for the unlawful practice of law”; to the Committee on the Judiciary.

By Delegates Marcum, Phillips, J. Nelson, Frich, P. White, R. Smith, Westfall, Rodighiero, Hicks, Faircloth and Wagner:

H. B. 4361 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-3-19, relating to requiring that senior status circuit judges only fill vacancies in districts or counties in which they were not previously elected”; to the Committee on the Judiciary.

By Delegates Kurcaba, Fleischauer, Statler, Householder, Espinosa, Overington, Weld, Summers, Blair, Byrd and Upson:

H. B. 4362 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-9d, relating to crimes against the person; establishing a felony offense of strangulation; defining terms; and providing penalties”; to the Committee on the Judiciary.

By Delegates Fleischauer, Moore, Morgan, Manchin, Longstreth, Caputo, Hornbuckle, P. White and Lynch:

H. B. 4363 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8 and §21-3E-9, all relating to labor; providing for healthy workplaces by providing remedies for hostile work environments; defining terms; providing an affirmative defense for employers; banning retaliation in certain circumstances; providing an employer duty to respond to third-party acts of malice; restricting applicability to employment practices not covered by existing state laws on human rights or wrongful discharge; and providing certain time limitations for commencing action”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Skinner, McGeehan, Hamrick, Fluharty, Householder, Blair, Sponaugle, Manchin, Miley, Byrd and Marcum:

H. B. 4364 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3 and §21-5G-4, all relating to employment and

privacy protection; prohibiting an employer from requesting or requiring that an employee or applicant disclose any user name, password, or other means for accessing a personal account or service through certain electronic communications devices; prohibiting an employer from taking or threatening to take, certain disciplinary actions for an employee's refusal to disclose certain password and related information; prohibiting an employer from failing or refusing to hire an applicant as a result of the applicant's refusal to disclose certain password and related information; prohibiting an employee from downloading certain unauthorized information or data to certain websites or webbased accounts; providing that an employer is not prevented from conducting certain investigations for certain purposes, including gathering information needed for compliance with mandatory state or federal regulations; and duties not created under this article"; to the Committee on the Judiciary.

By Delegates Ellington, Arvon, Bates, Cooper, Householder, Rohrbach, Stansbury, Summers and Waxman:

H. B. 4365 - "A Bill to repeal §16-2D-4a, §16-2D-4b, §16-2D-5a, §16-2D-5b, §16-2D-5c, §16-2D-5d, §16-2D-5e and §16-2D-7a of the Code of West Virginia, 1931, as amended; to amend and reenact §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-6, §16-2D-7, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14 and §16-2D-15; and to amend said code by adding thereto six new sections, designated §16-2D-16, §16-2D-17, §16-2D-18, §16-2D-19, §16-2D-20 and §16-2D-21, all relating to the certificate of need process; providing legislative findings; defining terms; providing powers to the authority; providing duties to the authority; providing rulemaking authority; continuing a special revenue account; providing a process to update certificate of need standards; providing a process to update the state health plan; providing a process to review the cost effectiveness of the certificate of need standards; providing a process for the Health Care Authority to review whether a certificate of need is required; providing health services that require a certificate of need; providing an exemption process; providing exemptions to the certificate of need requirement; providing criteria the

authority shall use to determine whether to grant a certificate of need; changing the certificate of need process; requiring the creation of a process to review an uncontested certificate of need application; requiring the authority to make certain findings to approve a certificate of need; providing an appeal process; prohibiting the transfer of a certificate of need; permitting the authority to perform a compliance review of an issued certificate of need; creating an injunction process; establishing a statute of limitations; establishing a civil penalty; to the Committee on Health and Human Resources then the Judiciary.

House Calendar

Third Reading

S. B. 364, Supplemental appropriation expiring funds from General Revenue; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 25**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Boggs and Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 364) passed.

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

On this question, the yeas and nays were taken (**Roll No. 26**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Boggs and Moore.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 364) takes effect from its passage.

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

Com. Sub. for H. B. 4175, Relating generally to home schooling; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 27**), and there were—yeas 80, nays 18, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Anderson, Blackwell, Caputo, Eldridge, Ferro, Fleischauer, Guthrie, Lane, Longstreth, Lynch, Manchin, Marcum, Miley, Perdue, Pethtel, Skinner, Sponaugle and P. White.

Absent and Not Voting: Boggs and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4175) passed.

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

Second Reading

H. B. 4243, Extending the time that certain nonprofit community groups are exempt from the moratorium on creating new nursing home beds; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 1, Establishing WV Workplace Freedom Act,

Com. Sub. for H. B. 4311, Relating to qualifications of members of the Board of Landscape Architects, And,

Com. Sub. for H. B. 4313, Relating to qualifications of members of the Board of Architects.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Boggs and Moore.

Remarks by Members

Delegate Kurcaba asked and obtained unanimous consent that the remarks of Delegates Ferro and Guthrie regarding Com. Sub. for H. B. 4175 be printed in the Appendix to the Journal.

Delegate Faircloth asked and obtained unanimous consent that the remarks of Delegate Folk regarding the passage of S. B. 364 be printed in the Appendix to the Journal.

Delegate Ellington asked and obtained unanimous consent that the remarks of Delegate Gearheart regarding the passage of S. B. 364, Delegate Bates regarding the proposal to raise the tax on tobacco and Delegate Phillips regarding the decline of the coal industry be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Hamrick filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4343.

At 12:26 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, February 3, 2016.

WEDNESDAY, FEBRUARY 3, 2016

TWENTY-SECOND DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, February 2, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2801, Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2801) was referred to the Committee on the Judiciary.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4299, Increasing the amount volunteer fire companies or paid fire departments may charge for reimbursement,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4299) was referred to the Committee on Finance.

Delegate Overington, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

H. B. 4323, Relating to the reporting of emergency incidents by well operators and pipeline operators,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4323) was referred to the Committee on Energy.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4236, Relating to the classification of certain species,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4236) was referred to the Committee on Government Organization.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 2449, Permitting co-owners of cows to receive raw milk from those cows,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2449) was referred to the Committee on Health and Human Resources.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house,

H. B. 4255, Relating to the taking and registration of wildlife including electronic registration of beaver, otter and big game animals,

And,

H. B. 4346, Relating to bear hunting and offenses and penalties,

And reports the same back, with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4174, H. B. 4255 and H. B. 4346) were each referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4259, Relating to the regulation of vapor products,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4259) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4197, Allowing required HIV and hepatitis testing for the protection of law-enforcement officers who may have been exposed,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4197) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4314, Prohibiting the sale of powdered or crystalline alcohol,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4314) was referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4163 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto four new sections, designated §8-13-24, §8-13-25, §8-13-26 and §8-13-27, all relating to providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2511, Health Care Sharing Ministries Freedom to Share Act,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2511 - “A Bill to amend and reenact §33-15-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §33-15F-1, §33-15F-2 and §33-15F-3; and to amend and reenact §33-16-1 of said code, all relating to creating the ‘Health Care Sharing Ministries Freedom to Share Act’; exempting health care sharing ministries from state statutory requirements of individual and group accident and health insurance policies; setting forth the conditions that must be met; providing a short title; and defining a term,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2366, Relating generally to the solicitation of minors,

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

Com. Sub. for H. B. 2366 - “A Bill to amend and reenact §61-3C-14b of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8A-4 of said code, all relating generally to the solicitation of minors; clarifying the law pertaining to the use of a computer to solicit a minor; creating a new felony offense of soliciting a minor through use of a computer and committing any overt act

designed to bringing himself or herself within the physical presence of the minor to engage in prohibited sexual activity with the minor; establishing penalties; establishing the offense as a lesser included crime; and prohibiting the use or distribution of obscene materials by an adult to solicit or seduce a person who is known or believed to be a minor at least four years younger than the adult for unlawful sexual activity,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

S. B. 342, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services,

S. B. 357, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund,

And,

S. B. 360, Supplemental appropriation to Division of Human Services,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4145, Relating to carry or use of a handgun or deadly weapon,

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

Com. Sub. for H. B. 4145 - “A Bill to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code; and to amend said code by adding thereto one new section, designated §61-7-4a, all relating to carry or use of a handgun or deadly weapon; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization applies only to persons under twenty-one years of age and prohibited persons; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; permitting persons eighteen years and older to obtain a concealed carry permit; requiring actual live firing of ammunition in training; requiring an applicant for a concealed carry permit to provide a copy of instructor’s certification; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs’ Bureau of Professional Standards, prepare uniform applications for licenses and license cards; entitling a person who is granted a license and pays fees after the effective date of W.Va. Code §61-7-4 to a tax credit equal to the amount actually paid not to exceed \$100; creating a provisional license to carry concealed deadly weapons for persons between eighteen and twenty-one years of age; establishing provisional license application requirements and procedures; exempting members of the United States Armed Forces, Reserve or National Guard from permit requirements; permitting prosecuting attorneys, assistant prosecuting attorneys or investigators employed by a prosecuting attorney to elect to carry a concealed firearm pursuant to the federal Law Enforcement Officers Safety Act; eliminating the requirement for persons twenty-one years of age and older to possess a permit to carry a concealed deadly weapon provided that certain conditions are met, including being a United States citizen or legal resident, being

twenty-one years of age or older and not prohibited from possessing firearms; providing that a person who displays a valid photo identification or concealed weapon permit may not be unreasonably detained for purposes of verifying whether that person is a prohibited person; requiring a school principal to report certain violations to the State Police; and permitting private schools written policies to govern whether a person may possess a firearm or other deadly weapon in or on a private primary or secondary education building, structure or facility.”

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegate Shott:

H. B. 4393 - “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section designated §61-7-15a, relating to enhanced penalties for use of a firearm during commission of a felony; providing for enhanced penalties for use of a firearm during commission of a felony; and providing exceptions to such enhanced penalties.”

On motion for leave, a bill was introduced (Originating in the Committee on Finance and reported with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary), which was read by its title, as follows:

By Delegates E. Nelson, Householder, Miller, D. Evans, Boggs, Walters, Waxman, Guthrie, Longstreth, Reynolds and Frich:

H. B. 4406 - “A Bill to amend chapter 64 of the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated article §64-12-1, relating to reauthorizing, with amendment, the existing legislative rule contained in title two hundred thirteen, series one, of the code of state rules, filed and effective April 14, 2015, under the authority of section two, article six-d, chapter twelve of said Code

of West Virginia, authorizing the Enterprise Resource Planning Board to establish by legislative rule a user fee for the maintenance of the enterprise resource system.”

The Speaker referred the bill to the Committee on the Judiciary.

Select Committee Reports

Delegate Ellington, Chair of the Committee on the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4176, Permitting the Regional Jail and Correctional Facility Authority to participate in the addiction treatment pilot program,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4176) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4248, Relating to methadone regulation,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4248) was referred to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 271 – “A Bill to amend and reenact §30-9-2, §30-9-3 and §30-9-7 of the Code of West Virginia, 1931, as amended, all relating to regulation of the practice of accountancy; redefining attest services; protecting board members from civil liability; and revising requirements for issuance of certificate as certified public accountant including criminal background check”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 333 – “A Bill to amend and reenact §20-2-4, §20-2-21 and §20-2-22 of the Code of West Virginia, 1931, as amended, all relating to the taking and registration of wildlife, including electronic registration of beaver, otter and big game animals”; which was referred to the Committee on Agriculture and Natural Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 334 – “A Bill to amend and reenact §20-1-2 of the Code of West Virginia, 1931, as amended, relating to classification of certain species; identifying coyote as a fur-bearing animal; identifying woodchuck as a game animal; identifying coyote, porcupine and all species of cervids as wild animals; and providing an exception”; which was referred to the Committee on Agriculture and Natural Resources then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 336 – “A Bill to amend and reenact §20-2-42a, §20-2-42q, §20-2-42s and §20-2-42v of the Code of West Virginia, 1931, as amended, all relating to crossbow hunting; prohibiting use of crossbow with Class A hunting and trapping license; permitting crossbow hunting with Class RB and Class RRB licenses; permitting crossbow hunting with Class UU license; and permitting crossbow hunting with Class BG stamp”; which was referred to the Committee on Agriculture and Natural Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 343 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-2-11, relating to grand juries generally; authorizing prosecuting attorneys to designate law-enforcement officers and investigators as custodians of records, documents and other evidence subpoenaed by grand jury; authorizing designated custodians use subpoenaed records, documents and other evidence for investigative purposes prior to such records, documents or other evidence being presented to grand jury; requiring custodians execute disclosure statements to preserve grand jury secrecy; authorizing custodian to share subpoenaed materials with other law-enforcement officers and agencies; allowing for successor custodians; requiring presentation of subpoenaed materials held by custodian be presented to the next session of the grand jury meeting after receipt; limiting law-enforcement use of such subpoenaed materials to legitimate investigative and prosecutorial purposes relevant to investigation underlying the issuance of subpoena; and defining ‘prosecuting attorney and investigator’”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 16 – “Requesting Division of Highways name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the ‘U. S. Army CPL John Belcastro Bridge’.”

Whereas, John Belcastro, was born on June 12, 1922, in Shinnston, West Virginia. He was the first born of one of the first set of twins born in Shinnston and one of six sons born to Frank and Anita Bartolo Belcastro. After graduation from Shinnston High School in 1942, John Belcastro spent four years in the U. S. Army during World War II. He entered the U.S. Army in October of 1942, attained the rank of Corporal T/5 and was honorably discharged on January 18, 1946. Mr. Belcastro was a member of the 10th Armored Division, 90th Reconnaissance Cavalry, 3rd Army under General George Patton. He spent Christmas of 1944 fighting in the Battle of the Bulge in which the 10th Armored Division led the 3rd Army all the way to Austria. He also fought in the Ardennes Forest, the Rhineland and Central Europe. In May of 1945, Mr. Belcastro was chosen to be a part of a secret mission. As soon as the war ended, he was part of the team hand-picked to rescue 118 German scientists who were defecting to America. Those German scientists included Wernher Von Braun who was instrumental in starting the American space program in Huntsville, Alabama; and

Whereas, CPL Belcastro received a Purple Heart, a Bronze Star for bravery, the Croix De Guerre Presidential Citation and Good Conduct Medal. He also was awarded the American Theater Ribbon, the Middle Eastern Theater Ribbon, the World War II Victory Ribbon, the Diplome from the Republique Francais’ Ministere De La Defense

Liberation of France and the Knight of the French Legion of Honor;
and

Whereas, When the war ended, CPL Belcastro returned to Shinnston where he worked in the coal industry for forty-three years. While working in the mines, he volunteered to be a member of the mine rescue squad, serving in that capacity from 1950 to 1964 during which time he helped in rescue efforts in twelve explosions and fires. Mr. Belcastro received Consol Safety Award for twenty-five years with no lost time accidents. He was a member of United Mine Workers Local #1501 where he held many offices including serving on the COMPAC committee for twelve years, holding the office of treasurer for eight years and social chairman for eighteen years; and

Whereas, John Belcastro displayed his talent as an imitator and impersonator by being named the winner of the Wilken's Amateur Hour held in Pittsburgh; the winner of the All Stars Amateur Hour held at the Ritz Theater in Clarksburg; performed with the Paul Whitman Orchestra at the Warner Theater in Morgantown; with Vaughn Monroe at the Ritz in Clarksburg; and Frank Yankovic's Polish Band at the Clarksburg Armory; and

Whereas, John Belcastro and Sylvia, his wife of sixty-eight years, are members of St. Ann's Catholic Church where he has served as an usher, lector, and president of the men's Holy Name Society for three terms. He served as both Vice-President and Treasurer of the Clarksburg Deanery of the Holy Name Society and on the Board of Directors for the Wheeling-Charleston Diocese. He is also a member of the Knights of Columbus #942 and a weekly adorer in the Perpetual Adoration Chapel. For years he was the "Voice of the Spartans" as he served as the announcer for the Shinnston High football games and also for the Shinnston Little League baseball games. Mr. Belcastro held the position of Cub Master for Pack 59 for the Shinnston Area Boy Scouts. He belongs to the Clarksburg Senior Citizens and delivered Meals on Wheels. He is a Life Member of the Veterans of Foreign Wars #573 in Clarksburg, AARP, and a Life Member of the Shinnston American

Legion Post 31 where he served on the Color Guard and as chairman of various committees as well as serving as Service Officer for the VA Hospital and the Old Soldier's Home in Weston. John Belcastro was captain of the seven time winning Italian Trivia Team in conjunction with the Italian Heritage Festival and received a diploma from the University of Hard Knocks at Alderson-Broaddus College in 1999. He is one of the longest serving members of the Board of Directors of the Monongahela Valley Association of Health Centers Fairmont Clinic, having served for over forty years; and

Whereas, On June 12, 2016, Mr. Belcastro will celebrate his 94th birthday. He has lived all his life in Shinnston. He is a long time pillar of his community and it is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-20-25.38 (17A106), locally known as Haywood Bridge, carrying West Virginia Route 20 over West Fork River and CSX railroad in Harrison County, the "U. S. Army CPL John Belcastro Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "U.S. Army CPL John Belcastro Bridge"; and, be it

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

Resolutions Introduced

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegate Bates:

H. J. R. 38 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article VI thereof, relating to imposing term limits for senators and delegates; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on the Judiciary.

And,

By Delegates Bates, Lane and Pushkin:

H. J. R. 39 - "Proposing an amendment to the Constitution of the State of West Virginia, amending, article IV thereof by adding thereto a new section, designated section thirteen, relating to the arrangement of congressional, senatorial and delegate districts after census by creating a State Apportionment Commission; designating for appointment, terms of office, duties of and eligibility for commissioners; establishing process for commission to develop plans; providing that State Apportionment Commission must submit redistricting plans to each house; providing that each house may reject its plan by a two-thirds vote of the members elected; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Canterbury, E. Nelson, Frich, Westfall, Guthrie and Longstreth:

H. B. 4366 - "A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof"; to the Committee on Finance.

By Delegates Lane, Hamilton, Canterbury, Guthrie, Campbell, Hornbuckle, Reynolds, Sponaugle, Skinner, Byrd and Fluharty:

H. B. 4367 - “A Bill to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended, relating to background checks for applicants for private investigator and security guard licensure”; to the Committee on the Judiciary.

By Delegates Marcum, Shott, Lane, Sobonya, Kessinger, P. White, Blair, Summers, R. Smith, Ireland and McCuskey:

H. B. 4368 - “A Bill to amend and reenact §51-3-16 of the Code of West Virginia, 1931, as amended, relating to authorizing the use of bailiffs who are not law-enforcement officers”; to the Committee on the Judiciary.

By Delegates Hamilton, Romine, A. Evans, Canterbury, Ambler, Cooper, Hill, Sponaugle, Campbell, Lynch and Wagner:

H. B. 4369 - “A Bill to amend and reenact §11-13A-3b of the Code of West Virginia, 1931, as amended, relating to decreasing and ending the tax on timber”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates Skinner, Fluharty, Reynolds, Blair, Kelly, Storch, Flanigan, Campbell, Ihle, Hartman and Perry:

H. B. 4370 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to discrimination in employment of all public employees; prohibiting discrimination in the appointment, promotion, demotion or dismissal based upon sexual orientation; prohibiting favoritism or discrimination in any aspect of employment based upon sexual orientation”; to the Committee on Government Organization then the Judiciary.

By Delegates Howell, Arvon, Zatezalo, Border, Phillips, Hill, Hartman, Ihle, Cadle, Stansbury and Morgan:

H. B. 4371 - “A Bill to repeal §5A-1-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §4-11-5 of said code; to amend and reenact §12-1-12a of said code; to amend and reenact §12-6-6 of said code; and to amend and reenact §12-6C-15 of said code; all relating to the Council of Finance and Administration and abolishing the Council of Finance and Administration”; to the Committee on Government Organization.

By Delegates Hicks, Frich, Reynolds, Marcum, Westfall, Rodighiero, Deem, R. Smith, J. Nelson and Eldridge:

H. B. 4372 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, relating to creating tax credits for new and/or existing small businesses in this state and operating entirely within West Virginia”; to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

By Delegates Skinner, Campbell, Eldridge and Marcum:

H. B. 4373 - “A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to prohibiting exposing a dog or cat that is a companion animal to extreme weather conditions that results in injury or death”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Hicks and Fleischauer:

H. B. 4374 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-14b, relating to providing for security of private, employer-sponsored insurance and/or retirement plans”; to the Committee on Banking and Insurance then Finance.

By Delegate Westfall:

H. B. 4375 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-43,

relating to entering reciprocal agreements to recognize hunting, fishing and trapping licenses issued by other states; authorizing the Director of Natural Resources to enter into reciprocal agreements; providing for recognition of other licensees without additional fee or application; and providing for notice to the public”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Westfall, McCuskey, B. White, Stansbury and Weld:

H. B. 4376 - “A Bill to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to requiring automobile liability insurance providers must give a policyholder a ten day notice of an intent to cancel the policy if the reason for cancellation is nonpayment of a premium”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Storch, Anderson, Trecoast, Manchin, Fluharty, Zatezalo, Weld and D. Evans:

H. B. 4377 - “A Bill to repeal §7-18-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-18-1 and §7-18-3 of said code, all relating to eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; redefining certain terms; exempting hotel rooms occupied by government officials on official business under certain circumstances”; to the Committee on Political Subdivisions then Finance.

By Delegates Shott, Lane, McCuskey, Sobonya, Hanshaw, Miller, Arvon, Border and Kessinger:

H. B. 4378 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §44A-3-17 and §44A-3-18, all relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person; defining ‘relative’; providing a relative may apply for access to a ‘protected person’; setting forth time standards in which to conduct a hearing after an application is filed; providing for an

emergency hearing under particular circumstances; providing for service of an application upon a guardian and setting time standards for service thereof; providing for the entry of an order by the court following application and a hearing conducted thereon; providing standards for a court to observe and implement in issuing a ruling on an application; providing the court may issue attorney's fees to a prevailing party; setting forth particular duties for a guardian; and, providing criteria upon which a court may relieve a guardian of further responsibility"; to the Committee on the Judiciary.

By Delegates Storch, A. Evans, Kessinger, Upson, Campbell, Ferro, Rohrbach, Bates, Romine, Reynolds and Fluharty:

H. B. 4379 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §59-1-2c, relating to the voluntary deposit of refunds for the overpayment of fees to the Children's Trust Fund"; to the Committee on the Judiciary.

By Delegates Ellington, Summers, Rohrbach and Stansbury:

H. B. 4380 - "A Bill to amend and reenact §9-5-9 and §9-5-18 of the Code of West Virginia, 1931, as amended, all relating to liability of spouses or relatives for support, defining terms, requiring financial information, setting amount to be paid for indigent funeral service expenses, limiting number of indigent funeral services to be paid by the department in any state fiscal year; and redefining funeral service expenses to mean expenses for cremation unless objectionable pursuant to decedent's religion or otherwise prohibited by federal law, state law or regulation"; to the Committee on Health and Human Resources then Finance.

By Delegates Lane, Hamilton, Canterbury, Campbell, Guthrie, Hornbuckle, Sponaugle, Skinner, Byrd and Fluharty:

H. B. 4381 - "A Bill to amend and reenact §3-5-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-8-5b of this code, all relating to where candidates filing fees are paid, apportionment of candidate filing fees to counties and where campaign finance statements are filed"; to the Committee on the Judiciary.

By Delegates Reynolds, Faircloth, Fluharty, Hicks, Moffatt, Folk, Skinner, Byrd, Phillips, Eldridge and Blackwell:

H. B. 4382 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new a section, designated §24-2-11, relating to prohibiting fuel surcharges in certain instances; and providing for rule-making”; to the Committee on the Judiciary.

By Delegates Phillips, Reynolds, Marcum, Hamrick, Walters, Sobonya, P. White, Butler, McCuskey, Weld and Hanshaw:

H. B. 4383 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, relating to making individuals responsible for the costs relating to the filing of excessive false complaints with state agencies and departments”; to the Committee on the Judiciary.

By Delegates Butler, Gearheart, Waxman, Summers, Miller, Perry, McGeehan, Hamrick, Kurcaba, Wagner and Cadle:

H. B. 4384 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-3h, relating to permitting students to opt out of taking certain academic assessments; prohibiting adverse academic or disciplinary actions from being taken against a student for opting out of an assessment; prohibiting state colleges and universities from denying admission due to refusing to take an assessment; prohibiting nonparticipation in an assessment to be included when calculating a participation rate; allowing a general parental refusal to participate in standardized testing to apply to all standardized testing; and defining a term”; to the Committee on Education.

By Delegates Cadle, D. Evans, Cooper, Ambler, Moye, Perry, Fast, Kessinger, Campbell, Hartman and Waxman:

H. B. 4385 - “A Bill to amend and reenact §25-1-11d of the Code of West Virginia, 1931, as amended, relating to providing a \$2,500 increase in the annual salary of employees of the Division of Corrections”; to the Committee on Government Organization then Finance.

By Delegates Ellington, Rohrbach and Stansbury:

H. B. 4386 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new a section, designated §27-6A-2a, relating to requiring the Department of Health and Human Resources to be notified of hearings involving criminal defendants to be placed in state inpatient mental health facilities; and requiring the court to give deference to any recommendations made by the department”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates J. Nelson, Moffatt, R. Smith, Ihle, McGeehan, Folk, Faircloth and Foster:

H. B. 4387 - “A Bill to amend and reenact §8-12-5a of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-6 and §61-7-6a of said code, all relating to exceptions to prohibitions against carrying one or more concealed deadly weapons and reciprocity agreements for licenses to carry concealed weapons; and providing that any law-abiding person eighteen years of age or older may carry a concealed deadly weapon anywhere within the boundaries of the state, including on or within municipally owned or controlled buildings, recreation centers or properties, without first obtaining a license to carry concealed deadly weapons”; to the Committee on the Judiciary.

By Delegates Rohrbach, Ellington, Householder, Bates, Byrd, Sobonya, Summers, Upson and B. White:

H. B. 4388 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5X-1 and §16-5X-2, all relating to stroke centers; requiring the Bureau for Public Health to designate hospitals as comprehensive stroke centers, primary stroke centers or acute stroke ready hospitals; providing rule-making authority; requiring the office of Emergency Medical Services to establish protocols to treat and transport stroke patients”; to the Committee on Health and Human Resources.

By Delegates Hamilton, A. Evans, Romine, Wagner, Ambler, Pethtel, Sponaule and Guthrie:

H. B. 4389 - “A Bill to amend and reenact §20-2-42a, §20-2-42q, §20-2-42s and §20-2-42v of the Code of West Virginia, 1931, as

amended, all relating to crossbow hunting; prohibiting the use of a crossbow with a Class A hunting and trapping license, permitting crossbow hunting with Class RB and Class RRB licenses, permitting crossbow hunting with a Class UU license; and permitting crossbow hunting with a Class BG stamp”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Rohrbach, Morgan, Trecoast, Reynolds and Hornbuckle:

H. B. 4390 - “A Bill to amend and reenact §31-18E-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Land Reuse Agency Authorization Act; including a municipal land bank as an agency that may acquire property; providing that a municipal land bank may have the right of first refusal to buy any tax delinquent property, within municipal limits, for taxes owed and any related fees before the tax delinquent property is placed for public auction at tax sales”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Howell, Summers, Sobonya, Waxman, D. Evans, Kurcaba, Walters, Atkinson, Anderson, Ireland and Butler:

H. B. 4391 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-1-16, relating to issuing identification documents to homeless individuals residing at homeless shelters within this state at no cost; stating legislative intent; defining terms; establishing eligibility requirements for homeless individuals to receive identifying documents at no cost; creating a process by which a homeless individual may apply for certain identifying documents to be provided at no cost; requiring the division to issue certain identifying documents to eligible homeless individuals at no cost; and requiring the commissioner to develop forms”; to the Committee on the Judiciary then Finance.

By Delegates Walters, Canterbury, Hanshaw, Skinner, Ireland, Gearheart, Fleischauer, Rowe and Storch:

H. B. 4392 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-1-9a, relating

to authorizing each county commission to establish a special fund to be used for minor road repair within the county”; to the Committee on Political Subdivisions then Finance.

House Calendar

Third Reading

H. B. 4243, Extending the time that certain nonprofit community groups are exempt from the moratorium on creating new nursing home beds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 28**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4243) passed.

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

Second Reading

S. B. 1, Establishing WV Workplace Freedom Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk.

Whereupon,

Delegate Shott asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate Shott, the bill was amended on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“Be it enacted by the Legislature of West Virginia:

That §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6 and §21-5G-7, all to read as follows:

ARTICLE 1A. LABOR-MANAGEMENT RELATIONS ACT FOR THE PRIVATE SECTOR.

§21-1A-3. Rights of employees.

Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities, ~~except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in subdivision (3), subsection (a), section four of this article including the right to refrain from paying any dues, fees, assessments or other similar charges however denominated of any kind or amount to a labor organization or to any third party including, but not limited to, a charity in lieu of a payment to a labor organization.~~ including the right to refrain from paying any dues, fees, assessments or other similar charges however denominated of any kind or amount to a labor organization or to any third party including, but not limited to, a charity in lieu of a payment to a labor organization.

§21-1A-4. Unfair labor practices.

(a) It shall be an unfair labor practice for an employer:

(1) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in section three of this article;

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: *Provided*, That an employer shall not be prohibited from permitting employees to confer with him or her during working hours without loss of time or pay;

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in any labor organization. ~~*Provided, however, That nothing contained in this article, or in any other statute of this state, shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this section as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (I) if such labor organization is the representative of the employees as provided in section five of this article, in the appropriate collective bargaining unit covered by such agreement when made, and (ii) unless following an election held as provided in subsection (d), section five of this article, within one year preceding the effective date of such agreement, the board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: *Provided further, That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;**~~

(4) To discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under this article; and

(5) To refuse to bargain collectively with the representatives of his or her employees, subject to the provisions of subsection (a), section five of this article.

(b) It shall be an unfair labor practice for a labor organization or its agents:

(1) To restrain or coerce: (A) Employees in the exercise of the rights guaranteed in section three of this article: *Provided*, That this subdivision shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his or her representatives for the purposes of collective bargaining or the adjustment of grievances;

(2) To cause or attempt to cause an employer to discriminate against an employee in violation of subdivision (3), subsection (a) of this section or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his or her failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(3) To refuse to bargain collectively with an employer, provided it is the representative of his or her employees subject to the provisions of subsection (a), section five of this article;

(4) (i) To engage in or induce or encourage any individual employed by any person to engage in, a strike or a refusal in the course of employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services; or (ii) to threaten, coerce, or restrain any person, where in either case an object thereof is:

(A) Forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by subsection (e) of this section;

(B) Forcing or requiring any person to cease using, selling, handling, transporting or otherwise dealing in the products of any other producer, processor or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his or her employees unless such labor organization has been certified as the representative of such employees under the provisions of section five of this article: *Provided*, That nothing contained in this ~~clause (B)~~ shall paragraph may be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing;

(C) Forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his or her employees if another labor organization has been certified as the representative of such employees under the provisions of section five of this article;

(D) Forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft or class rather than to employees in another labor organization or in another trade, craft or class, unless such employer is failing to conform to an order of certification of the board determining the bargaining representative for employees performing such work: *Provided*, That nothing contained in this subsection ~~(b)~~ shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his or her own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required by law to recognize;

(5) To require of employees covered by an agreement authorized under subdivision (3), subsection (a) of this section, the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of

labor organizations in the particular industry, and the wages currently paid to the employees affected;

(6) To cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed; and

(7) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his or her employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees:

(A) Where the employer has lawfully recognized in accordance with this article any other labor organization and a question concerning representation may not appropriately be raised under subsection (c), section five of this article;

(B) Where within the preceding twelve months a valid election under subsection (c), section five of this article has been conducted; or

(C) Where such picketing has been conducted without a petition under subsection (c), section five of this article being filed within a reasonable period of time not to exceed fifteen days from the commencement of such picketing: *Provided*, That when such a petition has been filed the board shall forthwith, without regard to the provisions of said subsection (c), section five or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the board finds to be appropriate and shall certify the results thereof. Nothing in this subdivision (7) of this subsection shall be construed to permit any act which would otherwise be an unfair labor practice under this subsection. (b)

(c) The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice, or be prohibited under this article, if such expression contains no threat of reprisal or force or promise of benefit.

(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making a concession: *Provided*, That where there is in effect a collective-bargaining contract covering employees, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification:

(1) Gives a written notice to the other party of the proposed termination or modification sixty days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification;

(2) Offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(3) Notifies the commissioner of labor of the existence of a dispute;

(4) Continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract for a period of sixty days after such notice is given or until the expiration date of such contract, whichever occurs later. The duties imposed upon

employers, employees, and labor organizations by subdivisions (2), (3) and (4) of this subsection (d) shall become inapplicable upon an intervening certification of the board, under which the labor organization or individual, which is a party to the contract, has been superseded as or ceased to be the representative of the employees subject to the provisions of subsection (a), section five of this article, and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within the sixty-day period specified in this subsection shall lose his or her status as an employee of the employer engaged in the particular labor dispute, for the purposes of sections three, four and five of this article, but such loss of status for such employee shall terminate if and when he or she is redeployed by such employer.

(e) It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting, or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person and any such contract or agreement entered into heretofore or hereafter shall be to such extent unenforceable and void.

ARTICLE 5G. WEST VIRGINIA WORKPLACE FREEDOM ACT.

§21-5G-1. Definitions.

As used in this article, the following terms have the following definitions:

(a) The term ‘person’ means any individual, proprietorship, partnership, firm, association, corporation, labor organization or any other legal entity.

(b) The term ‘labor organization’ means any organization, agency, union or employee representation committee of any kind, that exists, in whole or in part, to assist employees in negotiating with employers concerning grievances, labor disputes, wages, rates of pay, or other terms or conditions of employment.

(c) The term ‘employer’ means any person employing at least one individual in the state, or any agent of an employer employing at least one individual in the state.

(d) The term ‘state’ means any officer, board, branch, commission, department, division, bureau, committee, agency, authority or other instrumentality of the State of West Virginia.

§21-5G-2. Individual’s right to refrain from affiliating with a labor organization.

A person may not be required, as a condition or continuation of employment, to:

(1) Become or remain a member of a labor organization;

(2) Pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to any labor organization; or

(3) Pay any charity or third party, in lieu of those payments, any amount that is equivalent to or a pro rata portion of dues, fees, assessments or other charges required of members of a labor organization.

§21-5G-3. Contracting for exclusion from employment because of affiliation or nonaffiliation with a labor organization.

Any agreement, contract, understanding or practice, either written or oral, implied or expressed, between any labor organization and an

employer or public body which provides for the exclusion from employment of any person because of membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor organization or employee organization of any kind is hereby declared to be unlawful, null and void, and of no legal effect.

§21-5G-4. Criminal penalty.

Any person who knowingly requires another person, as a condition or continuation of employment, to perform any of the conduct enumerated in section two of this article, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000.

§21-5G-5. Civil relief; damages.

Any person injured as a result of any violation or threatened violation of this article shall have a cause of action, and, if proven in a court of competent jurisdiction, may be entitled to the following relief against a person or persons violating or threatening to violate this article:

(1) Compensatory damages;

(2) Costs and reasonable attorney fees, which shall be awarded if the injured person substantially prevails;

(3) Punitive damages in accordance with the provisions of section twenty-nine, article seven, chapter fifty-five of this code;

(4) Preliminary and permanent injunctive relief; and

(5) Any other appropriate equitable relief.

§21-5G-6. Exceptions.

This article does not apply:

(1) To any employee or employer covered by the federal Railway Labor Act, 45 U.S.C. 151, et. seq.;

(2) To any employee of the United States or a wholly owned corporation of the United States;

(3) To any employee who is employed on property over which the United States government has exclusive jurisdiction for purposes of labor relations; or

(4) Where the provisions of this article would otherwise conflict with, or be preempted by, federal law.

§21-5G-7. Construction; applicability; severability.

(a) Construction. — Except to the extent expressly prohibited by the provisions of this article, nothing in this article is intended, or should be construed, to change or affect any law concerning collective bargaining or collective bargaining agreements in the building and construction industry.

(b) Applicability. — This article applies to any written or oral contract or agreement entered into, modified, renewed or extended after July 1, 2016: *Provided*, That the provisions of this article shall not otherwise apply to or abrogate a written or oral contract or agreement in effect on or before June 30, 2016.

(c) Severability. — If any provision of this act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.”

The bill was then ordered to third reading.

Com. Sub. for H. B. 4311, Relating to qualifications of members of the Board of Landscape Architects; on second reading, coming up

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

Com. Sub. for H. B. 4313, Relating to qualifications of members of the Board of Architects; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 32, Relating to withdrawal of candidates for office and filling vacancies,

Com. Sub. for H. B. 4244, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia,

And,

Com. Sub. for H. B. 4245, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

Leaves of Absence

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

Miscellaneous Business

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4248.

At 12:11 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 4, 2016.

THURSDAY, FEBRUARY 4, 2016

TWENTY-THIRD DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, February 3, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Nelson, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. B. 2951, Recognizing those in active military service as residents for the purpose of obtaining concealed carry permits while stationed at a West Virginia military installation,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2951) was referred to the Committee on the Judiciary.

Delegate Nelson, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. B. 4319, Including in the definition of "veteran" active members of the Guard and Reserve in order to exempt them from fees charged by the Secretary of State,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4319) was referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4096, Board of Examiners in Counseling, rule relating to licensing,

And,

H. B. 4099, Board of Examiners in Counseling, rule relating to marriage and family therapists licensing,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4096 and H. B. 4099) were each referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4097, Board of Examiners in Counseling, rule relating to marriage and family license renewal and continuing professional education requirements,

And,

H. B. 4098, Board of Examiners in Counseling, rule relating to licensed professional counselor license renewal and continuing professional education requirements,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4097 and H. B. 4098) were each referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4186, Relating to additional duties of the Public Service Commission,

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

Com. Sub. for H. B. 4186 - "A Bill to amend and reenact §29A-1-3 of the Code of West Virginia, 1931, as amended, and to

amend said code by adding thereto a new section, designated §24A-22b, all relating to the Public Service Commission; establishing a complaint review process; setting forth burden of proof on carrier; developing a process for aggrieved parties to recover charges; establishing factors for commission to consider whether charges are fair, just, and reasonable; providing commission authority to establish civil penalties for violations; prohibiting indemnification in certain instances; requiring carriers to list rates on invoices; authorizing commission to suspend or revoke operating authority; providing limited rule-making authority to the commission as it relates to Common Carriers by Motor Vehicles; sunsetting the rule and providing for its reauthorization; and providing for a legislative audit,”

With the recommendation that the committee substitute do pass.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4325, Requiring promulgation of a rule to provide for payment of tuition by county boards of education to the Mountaineer Challenge Academy,

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

In accordance with the former direction of the Speaker, the bill (H. B.4325) was referred to the Committee on Finance.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4261, Prohibiting the sale or transfer of student data to vendors and other profit making entities,

And,

H. B. 4291, Increasing penalties for teachers who commit sexual offenses against children,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4261 and H. B. 4291) were each referred to the Committee on the Judiciary.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4322, Expanding the Learn and Earn Program,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4322) was referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration:

H. B. 4073, Racing Commission, rule relating to thoroughbred racing,

H. B. 4074, Racing Commission, rule relating to pari-mutuel wagering,

H. B. 4105, State Election Commission, rule relating to the West Virginia Supreme Court of Appeals public campaign financing program,

And,

H. B. 4137, Department of Tax and Revenue, rule relating to the payment of taxes by electronic funds transfer,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4073, H. B. 4074, H. B. 4105 and H. B. 4137) were each referred to the Committee on the Judiciary.

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

Your Committee on Finance has had under consideration:

H. B. 4078, Department of Tax and Revenue, rule relating to an exchange of information,

H. B. 4121, Division of Highways, rule relating to the state transportation infrastructure fund program,

And,

H. B. 4133, Property Valuation and Procedures Commission, rule relating to tax map sales,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4078, H. B. 4121 and H. B. 4133) were each referred to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 123 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-4F-1, §16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3E-3 of said code; to amend and reenact §30-5-14 of said code; to amend and reenact §30-7-15a of said code; and to amend and reenact §30-14-11 of said code, all relating to treatment for sexually transmitted diseases; providing for expedited partner therapy; defining terms; allowing prescribing of antibiotics to sexual partners of patient without prior examination of partner; requiring patient counseling; establishing counseling criteria; requiring informational materials be prepared by the Department of Health and Human Resources; providing limited liability for providing expedited partnership therapy; requiring rulemaking; and providing that physicians, physician assistants, pharmacists and advanced practice registered nurses are not subject to disciplinary action for providing certain treatment for sexually transmitted diseases for sexual partners of patient”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 254 - “A Bill to amend and reenact §7-11-5 of the Code of West Virginia, 1931, as amended, relating to prohibiting

county parks and recreation commissions from promulgating or enforcing rules and regulations which prohibit possession of firearms; and providing magistrate courts with concurrent jurisdiction”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 261 - “A Bill to amend and reenact §5-1-25 of the Code of West Virginia, 1931, as amended, relating to the designation of daylight saving time”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 268 - “A Bill to repeal §5A-1-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §4-11-5 of said code; to amend and reenact §12-1-12a of said code; to amend and reenact §12-6-6 of said code; and to amend and reenact §12-6C-15 of said code; all relating to Council of Finance and Administration; eliminating requirement for the Governor to receive a recommendation from the council on matters related to appropriation of federal funds; eliminating requirement for State Treasurer to submit reports to the council; eliminating requirement for the West Virginia Investment Management Board to submit audits and information to the council; and eliminating requirement for West Virginia Board of Treasury Investments to submit audits, reports and information to the council”; which was referred to the Committee on Government Organization then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 306 - “A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to sale of county or district property; permitting property be sold at an on-site public auction or by utilizing an Internet-based service; and requiring notice of sale include notice of the time, terms, manner and place of sale or the Internet-based service to be utilized”; which was referred to the Committee on Political Subdivisions then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 369 - “A Bill to repeal §18-2-5g of the Code of West Virginia, 1931, as amended; to repeal §18-2E-3g of said code; to repeal §18B-5-8 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-5 of said code; to amend and reenact §18-3-12 of said code; to amend and reenact §18-5-44 of said code; to amend and reenact §18-20-5 and §18-20-8 of said code; to amend and reenact §18A-2-3 of said code; to amend and reenact §18A-4-7a of said code; to amend and reenact §18A-5-1a of said code; to amend and reenact §18B-1-10 of said code; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-1D-8 of said code; to amend said code by adding thereto a new section, designated §18B-1D-8a; to amend and reenact §18B-1E-3 and §18B-1E-4 of said code; to amend and reenact §18B-2B-6 of said code; to amend and reenact §18B-2C-3 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-10-1 of said code; to amend and reenact §18B-13-5 of said code; to amend and reenact §18B-18-6 of said code; to amend and reenact §18C-3-4 of said code; to amend and reenact §18C-5-7 of said code; and to amend and reenact §18C-7-5 of said code, all relating to legislative education reporting requirements; repealing obsolete section providing for establishment of a special five-year demonstration professional development school project for improving academic achievement including requirement for status reports to commission; repealing requirement for review, evaluation and report to commission on reports required to be written by

principals and teachers; repealing section requiring Higher Education Policy Commission to report to commission on in-state and out-of-state contracts and purchases; removing requirement for Office of Education Performance Audits to report to commission on each appeal of on-site review findings; removing requirement for report to the commission on the effectiveness of staff development resulting from expenditures from Strategic Staff Development Fund; removing requirement for status report to commission relating to Special Community Development School Pilot Program; removing requirement for report to commission on progress of implementation of early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the program; removing requirement for report to the commission and the Joint Committee on Government and Finance that addresses, at a minimum, certain early childhood education program issues; removing requirement for State Superintendent of Schools to review the rules, policies and standards of the state and federal law for serving the needs of certain exceptional children and removing requirement for report to commission on the findings of the review along with an accounting of the services provided and the costs thereof; removing requirement for annual report to commission, the Joint Committee on Education, the Legislative Commission on Juvenile Law, and other agencies, as appropriate, which recommends policies, procedures and legislation for effectively providing early intervention services and reports on the status of existing programs; removing requirement for State Board of Education to review the status of employing prospective employable professional personnel and the requirement for an annual report to the commission which must include certain minimum prospective employable professional personnel-related items; removing requirement that county board of education submit a copy of its policy defining which policies are lateral positions to the state board within thirty days of any adoption or modification and the requirement that the state board compile a report and submit the report to the commission; removing the requirement that county boards report the number of students determined to be dangerous students to the state

board, and the requirement that the state board compile the statistics and report its findings to the commission; removing the reporting requirements on the cooperative relationship between Potomac State College and Eastern West Virginia Community and Technical College; removing the requirement that the Higher Education Policy Commission report on its performance, capital investment priorities, and recommendations for statutory changes; listing certain reports that are not required to be made annually to the Legislature but instead requiring them to be combined with other reports, including certain personnel, classification, compensation and human resources reports, all capital appropriation requests, priorities and campus and state capital development plans, all academic related matters and reports, and all financial aid reports; removing obsolete requirements that the findings, conclusions and recommendations of the Revitalization Project for WVU-Tech study, together with the revitalization plan for implementation, shall be reported to the Higher Education Policy Commission and the governing board, that the revitalization plan be delivered to the Legislative Oversight Commission on Education Accountability, and that the commission consider the proposed plan and approve or disapprove; removing requirement that Chancellor report to the Legislative Oversight Commission on Education Accountability on allocation of funds to support revitalization project at WVU-Tech and on progress made in implementing the purposes and intent of revitalization project article and components of the revitalization plan; removing requirement that Higher Education Policy Commission and governing board provide to the Legislative Oversight Commission on Education Accountability a detailed summary of all revitalization project activities undertaken; removing requirement that Community and Technical College Council report on its performance, capital investment priorities and recommendations for statutory changes; removing requirement for report on community and technical college progress toward meeting statutory goals and whether statewide independently accredited community and technical college should be created; removing requirement for status report on workforce development initiatives; removing requirement for annual report on

auxiliary fees; removing requirement that Higher Education Policy Commission report on technical assistance and associated costs provided to qualified businesses within the higher education and industry partnership; removing requirement for annual status report on the Eminent Scholars Endowment Trust Fund; removing requirement of an annual report on number of nursing scholarship recipients; removing requirement to report on status of Higher Education Adult Part-Time Student Grant Program; and removing requirement for annual recommendation to encourage PROMISE recipients to live and work in West Virginia after graduation”; which was referred to the Committee on Education.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Hanshaw, Sponaule, McCuskey, Skinner, Manchin, Marcum, Hicks, Miley, Fluharty and Shaffer:

H. B. 4394 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5A-8A-1, §5A-8A-2, §5A-8A-3, §5A-8A-4, §5A-8A-5, §5A-8A-6, §5A-8A7, §5A-8A-8, §5A-8A-9, §5A-8A-10 and §5A-8A-11, all relating to adopting the Uniform Electronic Legal Material Act; providing a short title, definitions, applicability, legal material in official records, authentication of electronic records, effects of authentication, preservation and security of legal material in official electronic records, public access to legal materials in electronic records, standards, uniformity of application and construction and relation to electronic signatures in Global and National Commerce Act”; to the Committee on the Judiciary.

**By Mr. Speaker (Mr. Armstead), and Delegate Miley
[By Request of the Executive]:**

H. B. 4395 - “A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding

thereto a new article designated §16-5X-1, §16-5X-2, §165X-3, §16-5X-4, §16-5X-5, §16-5X-6, §16-5X-7, §16-5X-8, §16-5X-9, §16-5X-10 and §16-5X-11; and to amend and reenact §60A-9-5 of said code, all relating to the licensing and regulation of medication-assisted treatment programs for substance use disorders; repealing the regulation of opioid treatment programs; providing definitions; creating licenses for medication-assisted treatment programs, including providers and clinics; providing for regulation and oversight by the Office of Health Facility Licensure and Certification; designating necessity for a medical director and prescribing minimum training and performance requirements; allowing enrollment as a Medicaid provider; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards and patient treatment standards for any provider or clinic prescribing or dispensing medication-assisted treatment medications; restricting the location of medication-assisted treatment clinics; allowing for variances from certification or licensure standards; permitting inspection warrants; providing for an administrative review and appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules, including emergency rules; establishing a state authority and state oversight authority for medication-assisted treatment programs; mandating data collection; and granting the Office of Health Facility Licensure and Certification access to the Controlled Substances Monitoring Database for use in certification, licensure and regulation of health facilities”; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

By Mr. Speaker (Mr. Armstead), and Delegate Miley

[By Request of the Executive]:

H. B. 4396 - “A Bill to amend and reenact §5B-2B-1, §5B-2B-2, §5B-2B-3, §5B-2B-4, §5B-2B4a, §5B-2B-5, §5B-2B-6 and §5B-2B-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5B-2B-4b, all

relating to the West Virginia Workforce Development Board; updating West Virginia Workforce Investment Act to West Virginia Innovation and Opportunity Act; defining terms; creating West Virginia Workforce Development Board; providing for composition of West Virginia Workforce Development Board; setting forth requirements for board members; setting forth duties of board; updating reporting requirements; requiring open proceedings of board and updating language”; to the Committee on Industry and Labor then Government Organization.

By Delegates Deem, Kelly, Azinger, Border and Anderson:

H. B. 4397 - “A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to exempting certain child care facilities from licensure, certification, approval and registration requirements”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Skinner, Eldridge, Manchin, Campbell, Perry and Bates:

H. B. 4398 - “A Bill to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to exempting residents, who are honorably discharged from the Armed Forces of the United States of America, from the requirement of obtaining a license to hunt, trap or fish in this state”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Skinner, Manchin, Bates, Perdue, Eldridge, Campbell and Guthrie:

H. B. 4399 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-46-7, relating to permitting pharmacists to furnish naloxone hydrochloride in accordance with standardized procedures developed and approved by both the West Virginia Board of Pharmacy and the West Virginia Board of Medicine; and granting rule-making authority”; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

By Delegate Skinner:

H. B. 4400 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §44E-1-1, §44E-1-2, §44E-1-3, §44E-1-4, §44E-1-5, §44E-1-6, §44E-17, §44E-1-8, §44E-1-9, §44E-1-10, §44E-1-11, §44E-1-12, §44E-1-13, §44E-1-14, §44E-1-15, §44E1-16, §44E-1-17 and §44E-1-18, all relating to enacting the Uniform Fiduciary Access to Digital Assets Act; providing for a short title, definitions, applicability, terms of service agreements, procedures for disclosing digital assets, disclosures of content of electronic communications of a deceased user, disclosures of other digital assets of a deceased user, disclosures of contents of electronic communications of principals, disclosures of other digital assets of principals, disclosures of digital assets held in trust when the trustee is the original user, disclosures of the contents of electronic communications held in trust when the trustee is not an original user, disclosures of other digital assets held in trust when the trustee is not an original user, disclosures of digital assets to a conservator of a protected person, fiduciary duties and authorities, custodian compliance and immunity, uniformity of application and construction and relation to electronic signatures in Global and National Commerce Act”; to the Committee on the Judiciary.

By Delegates Skinner, Hornbuckle, Manchin, Fleischauer, Pushkin, Byrd, Rowe and Reynolds:

H. B. 4401 - “A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating to voter registration; providing that each person who receives a driver’s license or official identification card is automatically registered to vote without party identification”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Skinner and Faircloth:

H. B. 4402 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3 and §46A-6N-4, all relating to an e-mail

privacy act, confidentiality of electronic communications, search warrant requirement required disclosure of customer records and delayed notice”; to the Committee on the Judiciary.

By Delegates Sponaugle, Phillips, Hartman, Hamilton, Lynch, Perry, Campbell, A. Evans, Romine, Rowan and McGeehan:

H. B. 4403 - “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to school calendar; and changing mandatory instructional days from one hundred eighty days to minutes based upon minimum amount of hours of instruction offered to students provided by state board rules”; to the Committee on Education.

By Delegates Skinner, Fleischauer, Fluharty, Walters, Flanigan, Moore, Rowe, Byrd, Pushkin, Perdue and Guthrie:

H. B. 4404 - “A Bill to amend and reenact §5-11-2, §5-11-3, §5-11-4, §5-11-8, §5-11-9 and §511-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5-11A-3, §511A-5, §5-11A-6 and §5-11A-7 of said code, all relating to unlawful discriminatory practices; prohibiting discrimination based upon age or sexual orientation; and defining sexual orientation”; to the Committee on the Judiciary.

By Delegates McGeehan, Folk, Ihle, Faircloth, Azinger, Storch and Butler:

H. B. 4405 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-1A-1, §18-1A-2, §18-1A-3, §18-1A-4 and §18-1A-5, all relating to academic content standards in public schools; discontinuing and prohibiting the use of Common Core academic content standards; adopting alternative academic content standards; discontinuing the use of Common Core based assessments; establishing a committee and process for developing alternate statewide assessments of student progress; prohibiting the state board or any public school from sharing student data without parental consent; and prohibiting acceptance of federal

funding if such funding is conditioned upon sharing student data without parental consent”; to the Committee on Education.

House Calendar

Third Reading

S. B. 1, Establishing WV Workplace Freedom Act; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Anderson in the Chair

Delegate Sobonya was addressing the House when Delegate Fluharty arose to a point of order, regarding the content of the Gentlelady’s remarks, to which point the Speaker Pro Tempore asked the Gentlelady from the 18th to confine her remarks to the bill before the House.

Mr. Speaker, Mr. Armstead, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 29**), and there were—yeas 54, nays 46, absent and not voting none, with the nays being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, A. Evans, Ferro, Flanigan, Fleischauer, Fluharty, Guthrie, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethel, Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Romine, Rowe, Shaffer, Skinner, P. Smith, Sponaule, Statler, Storch, Trecost and P. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 1) passed.

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

S. B. 1 - “A Bill to amend and reenact §21-1A-3 and §21-1A-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6 and §21-5G-7, all relating to establishing the West Virginia Workplace Freedom Act; removing certain provisions under the Labor-Management Relations Act for the Private Sector to be consistent with the West Virginia Workplace Freedom Act; clarifying what constitutes an unfair labor practice under the Labor-Management Relations Act for the Private Sector to be consistent with the West Virginia Workplace Freedom Act; eliminating the statutory provisions that allow an employment agreement to require membership in a labor organization as a condition of employment; granting employees the right to refrain from paying any dues, fees, assessments, or other similar charges, however denominated, of any kind or amount to a labor organization as a condition or continuation of employment; granting employees the right to refrain from paying any dues, fees, assessments, or other similar charges, however denominated, of any kind or amount to any third party, including a charity, in lieu of payment to a labor organization as a condition or continuation of employment; eliminating statutory provisions that allow, as an exception to the prohibitions against unfair labor practices by an employer, an employment agreement to require membership in a labor organization as a condition of employment; eliminating statutory provisions that allow an employer to justify discrimination against an employee for nonmembership in a labor organization in certain circumstances; prohibiting any requirement that a person become or remain a member of a labor organization as a condition or continuation of employment; prohibiting any requirement that a person pay any dues, fees, assessments, or other similar charges, however denominated, of any kind or amount to a labor organization as a condition or continuation of employment; prohibiting any requirement that, as a condition or continuation of employment, a person pay any charity or third party in lieu of paying dues, fees, assessments, or other similar charges, however denominated, of any kind or amount that is equivalent to or a pro rata portion of dues, fees, assessments or other

charges required of members of a labor organization; providing that any agreement, contract, understanding or practice of any kind between any labor organization and an employer or public body which provides for the exclusion from employment of any person because of membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor organization or employee organization of any kind to be unlawful, null and void, and of no legal effect; creating a criminal offense for any person who knowingly requires another person, as a condition or continuation of employment, to perform any conduct prohibited by the West Virginia Workplace Freedom Act; providing for criminal penalties; providing for civil relief; establishing a civil cause of action which, if proven in a court of competent jurisdiction, may permit a person to recover damages including compensatory and punitive damages, costs and attorney's fees, injunctive relief or other appropriate equitable relief against any person or persons violating or threatening to violate the West Virginia Workplace Freedom Act; providing for exceptions to the application of the West Virginia Workplace Freedom Act; defining terms; establishing provisions addressing the construction, applicability and severability of the West Virginia Workplace Freedom Act; clarifying application of the West Virginia Workplace Freedom Act to collective bargaining or collective bargaining agreements in the building and construction industry; and providing that the West Virginia Workplace Freedom Act applies to any written or oral contract or agreement entered into, modified, renewed or extended after July 1, 2016 and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2016."

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

Com. Sub. for H. B. 4311, Relating to qualifications of members of the Board of Landscape Architects; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 30**), and there were—yeas 80, nays 19, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Caputo, Eldridge, Fleischauer, Fluharty, Folk, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Moore, Morgan, Moye, Perry, Pushkin, Skinner and Sponaugle.

Absent and Not Voting: Byrd.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4311) passed.

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

Com. Sub. for H. B. 4313, Relating to qualifications of members of the Board of Architects; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 31**), and there were—yeas 79, nays 20, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Moye, Perdue, Perry, Pushkin, Skinner and Sponaugle.

Absent and Not Voting: Byrd.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4313) passed.

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

Second Reading

S. B. 32, Relating to withdrawal of candidates for office and filling vacancies; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section eleven, line fourteen, after the words “special primary elections”, by inserting the following italicized words “or nonpartisan elections held in conjunction with a primary election” followed by a colon.

On page two, section eleven, line eighteen, after the words “special general elections”, by inserting the following italicized words “or nonpartisan elections held in conjunction with a general election” followed by a colon.

And,

On page four, section eighteen, line twenty-five, after the words “person who has”, by inserting the word “timely”.

The bill was then ordered to third reading.

Com. Sub. for H. B. 4244, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4245, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution’s most recent year-end audited financial statement; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 342, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services,

S. B. 357, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund,

S. B. 360, Supplemental appropriation to Division of Human Services,

Com. Sub. for H. B. 2366, Relating generally to the solicitation of minors,

Com. Sub. for H. B. 2511, Health Care Sharing Ministries Freedom to Share Act,

Com. Sub. for H. B. 4145, Relating to carry or use of a handgun or deadly weapon,

Com. Sub. for H. B. 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes,

And,

H. B. 4393, Relating to enhanced penalties for use of a firearm during commission of a felony.

Remarks of Members

Delegate Howell asked and obtained unanimous consent that all remarks regarding the debate on S. B. 1, Establishing WV Workplace Freedom Act, be printed in the Appendix to the Journal.

At 4:42 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 5, 2016.

FRIDAY, FEBRUARY 5, 2016

TWENTY-FOURTH DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, February 4, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Miller, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 2444, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals, And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2444 – “A Bill to amend and reenact §5B-2-5 of the Code of West Virginia, 1931, as amended, relating to providing assistance to small businesses; requiring that the director of the West Virginia Development Office report biennially and offer

recommendations for reducing the burdens imposed on small businesses; and further identifying the report's contents," With the recommendation that the committee substitute do pass.

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4265, Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4265) was referred to the Committee on Finance.

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

S. B. 311, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program,

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

In accordance with the former direction of the Speaker, the bill (S. B. 311) was referred to the Committee on Finance.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 4th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 364), Supplemental appropriation expiring funds from General Revenue.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4365, Relating to the certificate of need process,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4365) was referred to the Committee on the Judiciary.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on February 4, 2016, he approved S. B. 364.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 4005, Repealing prevailing hourly rate of wages requirements.

A message from the Senate, by

The Clerk of the Senate, announced the passage, by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 40 - “A Bill to amend and reenact §29-26-2 of the Code of West Virginia, 1931, as amended, relating to modifying funding assistance from Courthouse Facilities Improvement Authority; and changing definition of facilities that are eligible for funding assistance from courthouse facilities that are occupied by county or judicial officials to ones that are currently occupied by those officials or upon renovation will be county owned and occupied by county or judicial officials or programs”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 109 - “A Bill to repeal §31A-2-4c of the Code of West Virginia, 1931, as amended; to repeal §38-1-8a of said code; to repeal §44-13-4a of said code; to amend and reenact §31-18-6 of said code; and to amend and reenact §59-1-10 of said code, all relating to repealing provisions concerning filing certain foreclosure disclosure forms; repealing provisions requiring compiling and maintaining information relating to certain deeds of trust; and eliminating all requirements concerning certain foreclosure disclosure forms”; which was referred to the Committee on Banking and Insurance and then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of

the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 5 - “Requesting the Division of Highways name Exit 153 on West Virginia Interstate-79 in Monongalia County, the ‘Coach Bill Stewart Exit’.”

Whereas, William L. “Bill” Stewart, best known as Coach Stew, was born in Grafton, WV on June 11, 1952, to the late Blaine Eugene and Roberta Lee Rutherford Stewart. William L. “Bill” Stewart was a native of New Martinsville, West Virginia. He married the former Karen Kacor on July 1, 1978. He had one son, Blaine. On May 21, 2012, William L. “Bill” Stewart passed away due to an apparent heart attack; and

Whereas, William L. “Bill” Stewart graduated from Fairmont State College in 1975, with a degree in education, where he was a three-year letterman and team captain for the WVIAC champions in 1974. His coaching career began at Fairmont State in 1974, when he was a student assistant coach for a season. One year later he became an assistant coach at Sistersville (WV) High School in 1975. In 1994, he assumed the head coaching position at Virginia Military Institute. In three years, he compiled an 8–25 record. Bill Stewart gave current Pittsburgh Steelers’ head coach Mike Tomlin his first job as an assistant at VMI in 1995. Coach Tomlin later returned the favor by vouching for Stewart with the West Virginia University administration; and

Whereas, William L. “Bill” Stewart moved to Salem College in 1977 where he was an assistant football and head track coach for two seasons. In 1979, he was an assistant coach at the University of North Carolina. He has also been an assistant coach at Marshall University (1980), William and Mary (1981–1983), Navy (1984), North Carolina (1985–1987), Arizona State (1988–1989) and Air Force (1990–1993); and

Whereas, In 1998, Bill Stewart served as the offensive line coach for the Montreal Alouettes of the Canadian Football League. His line blocked for Mike Pringle, the first 2,000-yard rusher in CFL history. In 1999, he moved on to be the offensive coordinator of the Winnipeg Blue Bombers where he coached two all-conference receivers and a one thousand-yard rusher. In 2000 WVU head coach Don Nehlen hired Stewart at WVU in January as the quarterbacks coach. Following the retirement of then Coach Nehlen, Stewart was retained by Rich Rodriguez when he became the head coach after the 2000 season. Stewart remained the quarterbacks coach and special teams coach until 2007 when he moved to coach the tight ends and served as associate head coach; and

Whereas, Following Rodriguez's departure to become the head coach at the University of Michigan on December 16, 2007, Stewart was named interim head coach of the Mountaineers for the 2008 Fiesta Bowl game. In that game Stewart led the team to a 48-28 upset win over the #3 Oklahoma Sooners. During the press conference following the awards ceremony, Fiesta Bowl MVP and West Virginia quarterback Pat White said of Stewart, "He needs that job. He deserves it, the head coaching job"; and

Whereas, On January 3, 2008, a day after the Fiesta Bowl victory, Bill Stewart was announced as West Virginia's 32nd head coach; and

Whereas, It is fitting that we honor on this day William L. "Bill" Stewart, American Football Coach, former WVU Football Coach, family man, friend and man who lived by his Christian faith; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Exit 153 in Monongalia County on Interstate 79 the "Coach Bill Stewart Exit"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying Exit 153 as the “Coach Bill Stewart Exit” and, be it,

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the family of Coach William “Bill” Stewart.

Resolutions Introduced

Delegate Hamrick offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 33 – “Requesting the Division of Highways to name Bridge Number 17-9-5.09 (17A350) (39.3443, -80.4013) locally known as Gregory Run Bridge carrying County Route 9 over Ten Mile Creek, in Harrison County, the ‘U.S. Army Air Force S/SGT Harold ‘Dean’ Baker Memorial Bridge’.”

Whereas, Harold “Dean” Baker was born on October 13, 1923, in Salem, West Virginia, the son of William Henry Baker and Mae Davis Baker. He enlisted in the U. S. Army Air Force on December 8, 1942, and received an honorable discharge on October 31, 1945. During his service he was a Staff Sergeant with the 15th Air Force of the 737th Bomb Squadron, 454th Bomb Group as an Aerial Gunner and Radio Operator. On April 21, 1944, while on a mission to bomb oil fields in Romania, the B-24 Bomber he was on developed engine problems and crash landed in Yugoslavia on its return. He was taken prisoner and was in Stalag Luft 3 in Poland and later taken to Nuremberg, Germany. He was liberated on April 25, 1945; and

Whereas, Harold “Dean” Baker married Georgia L. Elbon in 1946 and lived in Reynoldsville until his death in September, 2000. He retired as a self-employed carpenter at the age of 42, due to disabling arthritis, and other health problems. He was a member of the Veterans

of Foreign Wars Post No. 573, Disabled American Veterans Chapter 1, Barb-Wire Mountaineers, West Virginia ex-prisoners of war, and the Reynoldsville Baptist Church. He was survived by sons Kevin Baker and wife, Terri Baker, Sardis, West Virginia, Gary Baker and wife, Cheryl Baker, Reynoldsville, West Virginia, daughters Cathy Wells and husband, William Wells, Salem, West Virginia and a now deceased daughter Vicki Baker Bowers, eight grandchildren, four great-grandchildren and two great great grandchildren; and

Whereas, Naming the Bridge Number 17-9-5.09 (17A350) (39.3443, -80.4013) locally known as Gregory Run Bridge carrying County Route 9 over Ten Mile Creek, in Harrison, the “U.S. Army Air Force S/SGT Harold ‘Dean’ Baker Memorial Bridge” is an appropriate recognition of his contributions to his country, state, community and Harrison County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the Bridge Number 17-9-5.09 (17A350) (39.3443, -80.4013) locally known as Gregory Run Bridge carrying County Route 9 over Ten Mile Creek, in Harrison County, the “U.S. Army Air Force S/SGT Harold ‘Dean’ Baker Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U.S. Army Air Force S/SGT Harold ‘Dean’ Baker Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving relatives of Harold “Dean” Baker.

Delegate Miller offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 34 – “Requesting the Division of Highways to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754) locally known as New Girl Scout Camp Bridge, carrying County Route 25/11 over Mud River in Cabell County, the ‘U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge’.”

Whereas, Billy Joe Vickers, the son of Herman C. Vickers and Opal Vickers of Milton, West Virginia, was born March 24, 1947, the third of four sons born to the couple; and

Whereas, Billy Joe Vickers graduated from Milton High School, married Linda Dillon, whom he had known since the seventh grade, and had a daughter, Pammy. Both Pammy Vickers Mahon and Linda Dillon Vickers live in Barboursville, West Virginia; and

Whereas, Billy Jo Vickers enlisted in the United States Marine Corps Reserve June 22, 1966, and was assigned later to active duty with Company A, 1st Battalion, 7th Marines, 1st Marine Division, southwest of DaNang, Viet Nam, arriving there February 10, 1968. While on a combat patrol April 8, 1968, along the bank of the Song Yen River, near the vicinity of La Chau hamlet in Hieu Duc District of Quang Nam Province, Private First Class Billy Joe Vickers and two fellow Marines were killed as a result of detonation of an antipersonnel mine; and

Whereas, Private First Class Billy Joe Vickers’ two older brothers, Herman O’Dell Vickers and Jimmy Lou Vickers, also served in the nation’s military, Herman in the U.S. Navy and Jimmy in the U.S. Marine Corps; and

Whereas, Both older brothers currently live in Culloden, Cabell County, West Virginia; and

Whereas, Private First Class Billy Joe Vickers’ younger brother, Danny Vickers, lives with his family at the home place where the four brothers all grew up; and

Whereas, The family home place is located at the end of the bridge hereby to be named for Private First Class Billy Joe Vickers; and

Whereas, The body of Private First Class Billy Joe Vickers was buried in Brown Cemetery, Ball's Gap, Cabell County, West Virginia; and

Whereas, It is proper that Private First Class Billy Joe Vickers' service to and sacrifice for his country be remembered by this fitting memorial; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754) locally known as New Girl Scout Camp Bridge, carrying County Route 25/11 over Mud River in Cabell County, the "U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Perdue, Marcum, Hicks, Rodighiero, Reynolds and Rohrbach offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 35 – "Requesting the Division of Highways to name bridge number 50-052-21.27 (50A001), carrying United States Route 52 over Hurricane Creek in Wayne County, beginning at latitude 38.192421, longitude – 82.599808 and ending at latitude 38.191797,

longitude - 82.600180, the ‘U.S. Army PVT Charles E. Ellis and U.S. Army PVT Ira V. Ellis Memorial Bridge’.”

Whereas, Charles Edward Ellis, born January 15, 1922, and Ira Virgil Ellis, born June 29, 1925, were natives of Wayne County, West Virginia and two of the three sons of Curtis and Esther Ellis, that fought in World War II; and

Whereas, Charles E. Ellis and Ira V. Ellis were both killed in action while serving in the United States Army during World War II. Charles Ellis was killed in Italy on December 30, 1943, and Ira Ellis was killed while making the final push in the war effort in Germany on March 23, 1945; and

Whereas, These young men served their country and their state with honor, valor, and courage and died to ensure a safer world for future generations; and

Whereas, The sacrifice that the Ellis family made in honor of the United States of America and the State of West Virginia should be commemorated in an enduring memorial; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-052-21.27 (50A001), carrying United States Route 52 over Hurricane Creek in Wayne County, beginning at latitude 38.192421, longitude - 82.599808 and ending at latitude 38.191797, longitude - 82.600180, the “U.S. Army PVT Charles E. Ellis and U.S. Army PVT Ira V. Ellis Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U.S. Army PVT Charles E. Ellis and U.S. Army PVT Ira V. Ellis Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to Herbert Wellman and the Fort Gay Veteran's Park Committee.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Hamrick, Trecoast, Cadle, Westfall, Phillips, Waxman, Ihle, J. Nelson, Kessinger, Arvon and Storch:

H. B. 4407 - "A Bill to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended, relating to crimes against the peace and dangerous weapons; and authorizing the clerk, head doorkeeper or sergeant of arms, who are elected officers of the West Virginia Senate and House of Delegates, to bring a firearm into the State Capitol Complex and into the chambers of the Legislature, if the officers hold a valid concealed weapons permit"; to the Committee on Veterans' Affairs and Homeland Security then the Judiciary.

By Delegates Westfall, McCuskey and Hamrick:

H. B. 4408 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12B-11b, relating to providing civil immunity to company insurance adjusters employed by an insurer from personal liability for claims of unfair trade practices; and providing that the immunity does not exempt company adjusters from requirements or responsibilities as a licensed adjuster"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Campbell, Perdue, Perry, Summers, Ellington, Fleischauer, Bates, Hartman, Rowan, Wagner and Rohrbach:

H. B. 4409 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-15e, relating to in-service training programs in the use of the Heimlich

maneuver and response to choking emergencies required for all school personnel in prekindergarten, kindergarten and elementary schools; and encouraging parents to attend”; to the Committee on Health and Human Resources then Education.

By Delegates Upson, Blair and Householder:

H. B. 4410 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-7-17, relating to establishing an arborists program for inmates; training; inspection of trees along state roads and highways”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates R. Smith, J. Nelson, D. Evans, Rohrbach, Anderson, Hamrick, Ihle, Wagner and Stansbury:

H. B. 4411 - “A Bill to amend and reenact §20-2-5a of the Code of West Virginia, 1931, as amended, relating to wildlife resources; illegally taking native brook trout; and setting a replacement penalty of \$100 for each native brook trout illegally taken”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Perdue, Shaffer, Perry, Pushkin, Guthrie, Campbell, Longstreth, Hicks, Fleischauer, Lynch and Bates:

H. B. 4412 - “A Bill to amend and reenact §16-1-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-1-3 of said code, all relating to requiring the Commissioner of the Bureau for Public Health to conduct a public health impact statement assessing the health impact of any new, or modification to, rule proposed by the Secretary of the Department of Environmental Protection; and requiring the Secretary of the Department of Environmental Protection to incorporate findings of the impact statement into the proposed rule”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Caputo, Longstreth, Manchin, Perry, Boggs, Byrd, Lynch, Perdue, Romine, Rowan and A. Evans:

H. B. 4413 - “A Bill to amend and reenact §61-8-28 of the Code of West Virginia, 1931, as amended, relating to the use of drone

surveillance of private citizens; and providing criminal penalties”; to the Committee on the Judiciary.

By Delegate Faircloth:

H. B. 4414 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-4-3, relating to the Agency Accountability Act; requiring disclosure of accounts by members of the Board of Public Works to the Legislature; penalties for failure to disclose; return of money to the General Fund”; to the Committee on Finance.

By Delegates J. Nelson, Moffatt, R. Smith, Phillips, Wagner, Ihle, McGeehan, Folk, Faircloth, Marcum and Lane:

H. B. 4415 - “A Bill to amend and reenact §4-2A-2, §4-2A-4 and §4-2A-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2 of said code; and to amend and reenact §18-2-3 of said code, all relating to reducing the compensation of all elected state officials and members of the state Board of Education by twenty-five percent; and providing that the savings be used to offset the shortfall of the Public Employees Insurance Agency”; to the Committee on Finance.

By Delegates Cooper, Ambler, D. Evans and O’Neal:

H. B. 4416 - “A Bill to amend and reenact §24A-7-7 of the Code of West Virginia, 1931, as amended, relating to expanding the authority of motor carrier inspectors; and requiring compliance by commercial vehicle drivers”; to the Committee on the Judiciary.

By Delegates Shott, Hanshaw, Rowe, Marcum, Shaffer, Manchin, Summers, Kessinger, Ireland and Skinner:

H. B. 4417 - “A Bill to amend and reenact §46A-2-130 of the Code of West Virginia, 1931, as amended, relating to limitations on garnishment generally; potentially increasing wages protected from garnishment”; to the Committee on the Judiciary.

By Delegate Duke:

H. B. 4418 - “A Bill to amend and reenact §10-1-20 of the Code of West Virginia, 1931, as amended, relating to requiring funding by the West Virginia Library Commission to local libraries be based on the population served by each respective library; and requiring that population adjustments be made every two years”; to the Committee on Political Subdivisions then Finance.

By Delegates Skinner, Eldridge, Manchin, Campbell, Perry and Bates:

H. B. 4419 - “A Bill to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting any veteran’s primary residence from real property tax”; to the Committee on Veterans’ Affairs and Homeland Security then Finance.

By Delegates Skinner, Eldridge, Perdue, Bates and Manchin:

H. B. 4420 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-9A-6, relating to electronic cigarettes and vapor products; requiring the listing of the ingredients contained in the products; and prohibiting the sale of unlabeled vapor products”; to the Committee on Health and Human Resources then the Judiciary.

By Delegate Skinner:

H. B. 4421 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §11-21-8i and §11-21-12j; and to amend said code by adding thereto a new section, designated §11-24-25, all relating to providing tax breaks for employers assisting employees paying student loans; providing tax credits from personal and corporate income taxes; and providing modification reducing federal adjusted gross income for certain student loan payments”; to the Committee on Education then Finance.

By Delegate Skinner:

H. B. 4422 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1,

§46A-6N-2, §46A-6N-3 and §46A-6N-4, all relating to creating the Internet Service Provider Accountability Act; defining terms; making legislative findings; designating a contract between an Internet service provider and a subscriber to be an adhesion contract; and providing remedies”; to the Committee on the Judiciary.

By Delegate Skinner:

H. B. 4423 - “A Bill to amend and reenact §30-21-7, §30-21-7b and §30-21-7d of the Code of West Virginia, 1931, as amended; to amend and reenact §30-30-8, §30-30-10, §30-30-12 and §30-30-14 of said code; and to amend and reenact §30-31-8 and §30-31-9 of said code, all relating to professions and occupations; requiring various professionals who provide mental health-related services, including psychologists, licensed school psychologists, marriage and family therapists, professional clinical counselors and clinical social workers who begin graduate study on or after January 1, 2017, to complete a minimum number of fifteen contact hours of course work in suicide assessment, treatment and management before that person may be issued a license; and requiring a person licensed in these professions or an applicant for licensure who begins graduated study prior to January 1, 2017, to take a six hour continuing education course in suicide assessment, treatment and management in order to renew that person’s license”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Weld, Eldridge, Ferro, Kessinger and Storch:

H. B. 4424 - “A Bill to amend and reenact §25-1-17 and §25-1-18 of the Code of West Virginia, 1931, all relating to law enforcement not needing to obtain court orders prior to receiving recordings of inmate phone calls, and inmate mail under certain circumstances”; to the Committee on the Judiciary.

By Delegate Walters:

H. B. 4425 - “A Bill to amend and reenact §16-5V-2 of the Code of West Virginia, 1931, as amended, relating to the definition of “accrued benefit” as it applies to the West Virginia Emergency

Medical Services Retirement System; increasing the retirement benefit multiplier for members with more than twenty-five years of credited service”; to the Committee on Pensions and Retirement then Finance.

By Delegates Ireland, Anderson, Zatezalo, D. Evans, Canterbury, R. Smith and Statler:

H. B. 4426 - “A Bill to amend and reenact §22C-9-1, §22C-9-2, §22C-9-3, §22C-9-4 and §22C-9-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22C-9-7a, all relating to oil and gas conservation; providing for the unitization of interests in drilling units in connection with horizontal oil or gas wells generally; establishing prerequisites to filing of an application for a horizontal well unit order; setting forth application requirements; establishing the standard of review; providing for horizontal well unit orders and parameters thereof; requiring notice and timeliness; providing for hearings; permitting adjoining landowners to intervene in a horizontal well unit application proceeding in certain circumstances; addressing oil and gas produced from horizontal wells, vertical wells and unconventional reservoirs; requiring royalties be paid on all commercial marketable hydrocarbons produced from a horizontal unit well; providing for declaration of public policy and legislative findings; specifying applicability of article; limiting the liability of nonconsenting owners in certain circumstances; increasing the number of members of the Oil and Gas Conservation Commission; granting additional authority to the Oil and Gas Conservation Commission; providing for the award of unitization consideration in certain circumstances; providing alternative and deemed elections to nonconsenting owners in certain circumstances; providing for dispute resolution; providing for treatment of interests of unknown and unlocatable interest owners, including moneys payable thereto; providing for judicial review of commission orders; permitting the modification of horizontal well unit orders under certain circumstances; providing for the expiration of horizontal well unit orders under certain circumstances; requiring the filing of a summary of the prevailing economic terms of certain leases and the prevailing

consideration paid for modification of certain leases prior to hearings; establishing procedures where certain information shall be deemed confidential; exempting certain information from disclosure; addressing additional drilling activity; providing that horizontal well unit orders do not grant surface rights; authorizing contemporaneous permit and unit applications; providing for reunification of interests of unknown and unlocatable interest owners with surface owners in certain circumstances and providing procedures therefor; providing for conflict resolution; providing for severability; adding new definitions; modifying existing definitions; providing a funding mechanism for the Oil and Gas Reclamation Fund; and establishing the Horizontal Well Unitization and Landowner Protection Act of 2016”; to the Committee on Energy.

House Calendar

Third Reading

S. B. 32, Relating to withdrawal of candidates for office and filling vacancies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 32**), and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Flanigan, Reynolds and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 32) passed.

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

S. B. 32 – “A Bill to amend and reenact §3-5-11, §3-5-18 and §3-5-19 of the Code of West Virginia, 1931, as amended, all relating

to withdrawal of candidates for office and filling vacancies; requiring the Secretary of State to create a notarized statement of withdrawal form; setting certain deadlines for filing of notarized statement of withdrawal form in order to withdraw as a candidate and to have one's name removed from ballot; setting deadline for when the Secretary of State shall certify names of general election candidates to counties; requiring the certification of names of candidates that are the nominee of the party following the filling of a vacancy; prohibiting certification of names of candidates who timely filed a notarized statement of withdrawal; clarifying the process for determining if candidate is disqualified; designating the proper filing officer; removing State Election Commission from the process of voluntary withdrawal of candidates; authorizing executive committee to replace candidate who files a timely notarized statement of withdrawal and whose name would have otherwise appeared on the general election ballot; and setting and adjusting certain deadlines." Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 33**), and there were--yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Flanigan, Reynolds and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 32) takes effect from its passage.

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

Com. Sub. for H. B. 4244, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 34**), and there were--yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: P. White.

Absent and Not Voting: Ellington, Flanigan, Reynolds and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4244) passed.

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

Com. Sub. for H. B. 4245, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement; on third reading, coming up in regular order, was read a third time.

Delegates Ambler, Atkinson, Border, Espinosa, A. Evans, Folk, Hartman, Householder, Kurcaba, Marcum, McCuskey, Miller, Moffatt, Overington, Pethtel, Rowan, Rohrbach, Shott, Skinner, Sponaugle, P. White and Zatezalo requested to be excused from voting on the passage of Com. Sub. for H. B. 4245 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 35**), and there were--yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Ellington, Flanigan, Reynolds and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4245) passed.

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

Second Reading

Com. Sub. for S. B. 342, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 357, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 360, Supplemental appropriation to Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2366, Relating generally to the solicitation of minors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2511, Health Care Sharing Ministries Freedom to Share Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4145, Relating to carry or use of a handgun or deadly weapon; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending, and the rule was suspended to permit the consideration of the amendments on that reading.

Com. Sub. for H. B. 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4393, Relating to enhanced penalties for use of a firearm during commission of a felony; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

Com. Sub. for H. B. 4186, Relating to additional duties of the Public Service Commission; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Ellington, Flanigan, Reynolds and Walters.

Miscellaneous Business

Delegate Byrd noted that he was absent on yesterday when the votes were taken on Roll Nos. 30 and 31, and that had he been present, he would have voted “Nay” thereon.

At 12:01 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, February 8, 2016.

MONDAY, FEBRUARY 8, 2016

TWENTY-SEVENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, February 5, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2514, Creating a Bureau of Actuarial Services within the Office of the Legislative Auditor,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2514) was referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2028, Relating generally to purchasing,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2028) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4324, Authorizing information sharing by WorkForce West Virginia,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4324) was referred to the Committee on the Judiciary.

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

Your Committee on Finance has had under consideration:

H. B. 4161, Relating to levies on classifications of property by the Board of Public Works,

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

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

Your Committee on Finance has had under consideration:

H. B. 4158, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – WorkForce Investment Act,

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

Com. Sub. for H. B. 4158 - “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act, fund 8749, fiscal year 2016, organization 0323, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

H. B. 4148, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act,

And reports the same back, with a title amendment, with the recommendation that it do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4362, Establishing a felony offense of strangulation,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4012, West Virginia Religious Freedom Restoration Act,

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

Com. Sub. for H. B. 4012 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4 and §5-11C-5, all relating to establishing the West Virginia Religious Freedom Restoration Act to ensure that, in all cases where state action is alleged to substantially burden the exercise of religion, that a compelling interest test is mandated, and, strict scrutiny is applied; including a short title; providing definitions; and addressing applicability, construction, remedies, and severability”,

With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2101, Eliminating obsolete government entities.

On motions of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

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

“That §29-12C-1 and §29-12C-2 of the Code of West Virginia, 1931, as amended, be repealed.

§2. Repeal of article relating to the Patient Injury Compensation Plan Study Board.

§29-12C-1 and §29-12C-2 of the Code of West Virginia, 1931, as amended, are hereby repealed.”

And,

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

Com. Sub. for H. B. 2101 – “A Bill to amend the Code of West Virginia, 1931, as amended, by repealing §29-12C-1 and §29-12C-2, relating to eliminating obsolete government entities; and repealing sections relating to the Patient Injury Compensation Plan Study Board.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 36**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2101) passed.

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

A message from the Senate, by

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

S. B. 1, Establishing WV Workplace Freedom Act.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 29 - “A Bill to amend and reenact §55-2-21 of the Code of West Virginia, 1931, as amended, relating generally to tolling statute of limitations in certain cases; limiting circumstances within which statute of limitations is tolled for institution of third-party complaints associated with pending civil actions; providing alternative periods when statute of limitations on third-party complaints is tolled; defining ‘third-party complaint’; and clarifying that this section does not limit doctrine of equitable tolling or discovery rule”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 159 - “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications and amendments presented to and recommended by the Legislative Rule-Making Review Committee; directing various agencies to amend and promulgate certain legislative rules; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensing; authorizing the Board of Examiners in Counseling to

promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education requirements; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapists licensing; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family license renewal and continuing professional education requirements; authorizing the Board of Accountancy to promulgate legislative rule relating to board rules and rules of professional conduct; authorizing the Department of Agriculture to promulgate a legislative rule relating to the inspection of nontraditional domesticated animals; authorizing the Department of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas; authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Department of Agriculture to promulgate a legislative rule relating to captive cervid farming; directing the Department of Agriculture to amend and promulgate a legislative rule relating to industrial hemp; authorizing the State Conservation Committee to promulgate a legislative rule relating to the West Virginia Conservation Agency Financial Assistance Program; authorizing the Board of Dentistry to promulgate a legislative rule relating to continuing education requirements; authorizing the Board of Dentistry to promulgate a legislative rule relating to expanded duties of dental hygienists and dental assistants; authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance; authorizing the State Election Commission to promulgate a legislative rule relating to the West Virginia Supreme Court of Appeals public campaign financing program; authorizing the State Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice of professional engineers; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law enforcement training and certification standards; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate

a legislative rule relating to the board; authorizing the Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure of wholesale drug distributors, third-party logistics providers and manufacturers; authorizing the Property Valuation and Procedures Commission to promulgate a legislative rule relating to tax map sales; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Secretary of State to promulgate a legislative rule relating to registration forms and receipts; authorizing the Secretary of State to promulgate a legislative rule relating to the elimination of precinct registration books; authorizing the Secretary of State to promulgate a legislative rule relating to absentee voting by military voters who are members of reserve units called to active duty; authorizing the Secretary of State to promulgate a legislative rule relating to the Freedom of Information Act database; authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech pathology and audiology; and authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to speech-language pathology and audiology assistants”;

which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 265 - “A Bill to amend and reenact §10-1-22 of the Code of West Virginia, 1931, as amended, relating to confidentiality of certain library records; and clarifying that unpaid library volunteers may have necessary access to user records”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 270 - “A Bill to repeal §19-25-7 of the Code of West Virginia, 1931, as amended, relating to insurance policies and such policies impact on liability of landowners or insurers of landowners who open their property for use by others for military, law-enforcement or homeland-defense training or recreational or wildlife propagation purposes”; which was referred to the Committee on Banking and Insurance then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 330 - “A Bill to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to automobile liability insurers’ duty to provide a policyholder ten days’ notice of an insurer’s intent to cancel an automobile liability insurance policy if the reason for cancellation is nonpayment of a premium”; which was referred to the Committee on Banking and Insurance then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 385 - “A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended, relating to predicating actions for damages upon principles of comparative fault; and expanding deadline by which defendant must give notice that nonparty was wholly or

partially at fault”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 387 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-7, relating to shared animal ownership agreements to consume raw milk; permitting a responsible party to acquire a percentage ownership interest to consume raw milk; setting forth required provisions for shared animal ownership agreements; requiring responsible party to acquire percentage ownership interest in milk-producing animal; requiring payment for percentage ownership for care and boarding of milk-producing animal; providing for receipt of a share of raw milk pursuant to an agreement; requiring written document acknowledging the inherent dangers of consuming raw milk; providing immunity to herd seller for inherent dangers of consuming raw milk; providing no waiver of immunity to herd seller for dangers caused by negligence of herd seller; prohibiting responsible party from distributing, selling or reselling raw milk received pursuant to shared ownership agreement; requiring herd seller to file shared animal ownership agreement with Commissioner of Agriculture; requiring certain additional information be provided by herd seller to Commissioner of Agriculture; requiring herd seller meet animal health requirements established by state veterinarian; requiring parties and physicians to report illnesses related to consumption of raw milk; requiring parties to shared animal ownership agreement and physicians to report illnesses directly related to consuming raw milk; requiring Commissioner of Agriculture contact other parties consuming raw milk from same herd seller upon receipt of report of illness; providing administrative penalties; permitting a person against whom a penalty is imposed to administratively contest that penalty; and providing rule-making authority”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 415 - “A Bill to amend and reenact §8-13-22a of the Code of West Virginia, 1931, as amended, relating to lengthening the maximum term of negotiable certificates of deposit that municipal funds are permitted to hold”; which was referred to Banking and Insurance then Finance.

A message from the Senate, by

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

S. B. 32, Relating to withdrawal of candidates for office and filling vacancies.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 68 – “A Bill to repeal §16-29B-19, §16-29B-19a, §16-29B-20, §16-29B-21 and §16-29B-21a of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-29B-10 of said code, relating generally to powers and duties of the Health Care Authority; eliminating authority of the Health Care Authority to conduct rate review and set rates for hospitals; and eliminating antiquated studies to be conducted by the Health Care Authority”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 326 - “A Bill to repeal §49-4-901 and §49-4-902 of the Code of West Virginia, 1931, as amended; and to

amend said code by adding thereto a new section, designated §61-8D-10, all relating to repealing the criminal offense of contributing to the delinquency or neglect of a child; creating the criminal offense of contributing to the delinquency of a minor; establishing elements of offense; setting penalties; allowing for additional terms and conditions to be imposed upon conviction; and authorizing restitution”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 361 - “A Bill to amend and reenact §61-2-10a of the Code of West Virginia, 1931, as amended, relating to limiting applicability of sentence suspension with a condition of public service to misdemeanor assault and battery offenses against the elderly; eliminating language affording the possibility of public service for malicious wounding, unlawful wounding and violence to an elderly person during commission of a felony; prohibiting persons convicted of misdemeanor assault or battery where the victim is elderly from performing public service involving the elderly; and removing provision relating to the section’s applicability to persons convicted of certain felonies”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Overington, Ambler, Anderson, Arvon, Atkinson, Azinger, Bates, Blair, Border, Butler, Cadle, Canterbury, Cooper, Deem, Ellington, Espinosa, A. Evans, D. Evans, Faircloth, Fast, Flanagan, Folk, Foster, Frich, Gearheart, Hamilton, Hamrick, Hanshaw, Hill, Householder, Howell, Ihle, Kelly, Kessinger, Kurcaba, Lane, Marcum, McCuskey, McGeehan, Miller, Moffatt, Moye, E. Nelson, J. Nelson, O’Neal, Perry, Phillips, Rohrbach, Romine, Rowan, Shott, P. Smith, R. Smith, Sobonya, Stansbury, Statler, Storch, Summers, Trecost, Upson, Wagner, Walters, Waxman, Weld, Westfall, B. White

and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on the Judiciary.

H. C. R. 36 - “Applying for an Article V Amendments Convention to Propose a Constitutional Amendment permitting a calling of a convention of the states limited to proposing an amendment to the Constitution of the United States requiring that in the absence of a national emergency the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year together with any related and appropriate fiscal restraints.”

Whereas, Article V of the Constitution of the United States provides authority for a Convention to be called by the Congress of the United States for the purpose of proposing amendments to the Constitution upon application of two thirds of the Legislatures of the several states (“amendments convention”); and

Whereas, This application is to be considered as covering the same subject matter as the presently outstanding balanced budget applications from other states, including, but not limited to, previously adopted applications from Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, North Dakota, New Hampshire, New Mexico, Nevada, North Carolina, Ohio, Pennsylvania, South Dakota, Texas and Utah, and this application shall be aggregated with same for the purpose of attaining the two thirds of states necessary to require the calling of a convention, but shall not be aggregated with any applications on any other subject; and

Whereas, This application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the Legislatures of at least two thirds of the several states have made applications on the same subject and supersedes all previous applications by this Legislature on the same subject; therefore, be it

Resolved by the Legislature of West Virginia:

That as provided in Article V of the Constitution of the United States the Legislature of the State of West Virginia herewith respectfully applies for an Amendments Convention to Propose a Constitutional Amendment limited to proposing an amendment to the Constitution of the United States requiring that in the absence of a national emergency the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year together with any related and appropriate fiscal restraints; and, be it

Further Resolved, That the amendments convention contemplated by this application shall be entirely focused upon and exclusively limited to the subject matter of proposing for ratification an amendment to the Constitution providing that in the absence of a national emergency the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year together with any related and appropriate fiscal restraints; and, be it

Further Resolved, That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two thirds of the Legislatures of the several states have made application for an equivalently limited amendments convention; and, be it

Further Resolved, That the Clerk of the House of Delegates forward certified copies of this resolution to the President and Secretary of the United States Senate, to the Speaker and Secretary of the United States House of Representatives, the members of the West Virginia Congressional Delegation, and to the presiding officers of each house of the several State Legislatures, requesting their cooperation in applying for the amendments convention limited to the subject matter contemplated by this application.

Delegates Westfall, Upson, Cadle, Ireland, Flanigan, Householder, Cooper, Foster, Lane, Howell and Weld offered the following

resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 37 – “Requesting the Division of Highways to name bridge number 18-2-2.72 (18A004) (38.88137, -81.86401), locally known as Millwood Bridge, carrying WV 2 over Little Mill Creek in Jackson County, as the ‘U.S. Army SGT Arthur George Roush Memorial Bridge’.”

Whereas, Sergeant Arthur George Roush was born in Millwood, West Virginia on June 13, 1932, and was the eighth of eleven children born to Calvin Elmer Roush, Jr. and Goldie Flesher Roush; and

Whereas, Sergeant Roush was a good student in school and took part in church and school activities and, along with his brothers Donald and Pete, was active in 4-H; and

Whereas, Sergeant Roush was adept at wood working projects, making an end table for his mother as well as several bird houses and little dancing men; and

Whereas, Sergeant Roush went to work on a river boat early in life where he made good money and later bought a new big green Oldsmobile that he was so very proud of; and

Whereas, Sergeant Roush met the girl of his dreams, Becky Jo Barnett, and was looking forward to spending the rest of his life with her; and

Whereas, Sergeant Roush was very fond of children and spent a great deal of time with his nieces and nephews but his life was cut short when he died in Korea on August 14, 1954, and he never got a chance to be a father to his own son, Rodney, who was eight months old when Sergeant Roush died; and

Whereas, While Sergeant Roush’s family was devastated by him dying so far away from home, his wife Becky Jo Roush raised their son

to be a wonderful man who visits her every day in Broadmore Senior Living in Hurricane; and

Whereas, It is fitting and proper, to honor the life of Sergeant Arthur George Roush for his dedicated service to his community, state and country and gave the ultimate sacrifice by naming this bridge in his memory; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name bridge number 18-2-2.72 (18A004) (38.88137, -81.86401), locally known as Millwood Bridge, carrying WV 2 over Little Mill Creek in Jackson County, as the “U.S. Army SGT Arthur George Roush Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army SGT Arthur George Roush Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the family of U.S. Army Sergeant Arthur George Roush.

Delegates Rodighiero, Phillips and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules.

H. C. R. 38 – “Requesting the Division of Highways to name a portion of County Route 5/11, White Creek Road, in Lincoln County, near Harts, beginning at a point, latitude 37.922, longitude -82.089, at the intersection of Smokehouse Fork Hart Creek Road, and ending at a point, latitude 37.912, longitude -82.106, at the intersection of White Oak Road, the ‘Lando Adkins, Sr. Memorial Road’.”

Whereas, Mr. Adkins was born in Harts in 1950 and passed away on July 2, 2012; and

Whereas, Mr. Adkins was a life-long resident of the White Oak area and was a deacon and lifetime member of the White Oak Church; and

Whereas, It is fitting and proper that Mr. Adkins have a road named after him; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name a portion of County Route 5/11, White Creek Road, in Lincoln County, near Harts, beginning at a point, latitude 37.922, longitude -82.089, at the intersection of Smokehouse Fork Hart Creek Road, and ending at a point, latitude 37.912, longitude -82.106, at the intersection of White Oak Road, the “Lando Adkins, Sr. Memorial Road”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the “Lando Adkins, Sr. Memorial Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways and the family of Lando Adkins, Sr.

Delegates Phillips, Marcum, Rodighiero, Moffatt and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 39 – “Requesting the Division of Highways to name Bridge Number 23-119/18-0.01 (23A141) (37.76693, 81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over

Island Creek in Logan County, the 'US Army PFC Cornelius Vance Memorial Bridge'."

Whereas, Cornelius Vance was born January 29, 1924, at Breeden, Wayne County, West Virginia and later lived at Chauncey, Logan County, West Virginia; and

Whereas, Cornelius Vance served his country in World War II as an Army Private First Class, a member of the 5th Army, 15th Army Group, 85th Custer Division, 337th Infantry (Wolverines), Company B; and

Whereas, PFC Cornelius Vance fought in Rome-Arno, North Apennines and Po Valley Battles in Italy; and

Whereas, PFC Cornelius Vance was awarded the Purple Heart; Three Bronze Stars; Good Conduct Medal; European, African and Middle Eastern Campaign Medals; World War II Victory Ribbon and an Honorable Service Lapel Button for his service during the war; and

Whereas, PFC Cornelius Vance was trained as an automatic rifleman and served in the Army's 85th Division as a scout and combat infantryman, taking part in the Anzio Beach landing; and assisting the British 8th Army and the U. S. Army 10th Mountain Division with driving the German forces out of the Apennine Mountains; and

Whereas, PFC Cornelius Vance was wounded from gunshot and was transferred to a hospital in Naples, Italy; and

Whereas, Following recovery from his wound, PFC Cornelius Vance was assigned to guard prisoner of war German General Anton Dostler, and escort him to surrender and be tried by a military tribunal, at which he was later sentenced to die by firing squad. General Dostler had previously ordered the execution of 15 American soldiers who were captured while attempting to set explosives in a tunnel. To complete his duty to deliver the general for official surrender and trial, at one point in the journey, PFC Cornelius Vance had to draw his

weapon and threaten a crowd of Italians to keep them from killing the general, and at another point, had to protect the general from American soldiers who attempted to remove the general from the vehicle; and

Whereas, After being discharged from the Army December 6th, 1945, PFC Cornelius Vance, along with his brothers Preston and Randolph, returned home from the war to Logan County; and

Whereas, Cornelius Vance married Bertie Lou DeHart of Pine Creek, in the Omar area of Logan County, made their home at Chauncey, and raised seven children: Gloria Jean; Carlene; Donnie; Ronnie; Randal and twins, Pamela and Carmela; and

Whereas, Cornelius Vance worked twenty-eight years as a coal miner, and following a disabling injury as a miner, became a cook and housekeeper at home to help raise his children, and enjoyed hunting, gardening, canning and being a Sunday School teacher at the Walnut Grove Free Will Baptist Church; and

Whereas, Cornelius Vance also helped remodel his church building, assisted the Beth Haven Christian School founded by his brother, the Rev. Preston Vance, and regularly volunteered to drive disabled and elderly neighbors to help them with shopping, banking, medical and other personal errands; and

Whereas, It is appropriate to honor this veteran who served well his country, his family and his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 23-119/18-0.01 (23A141) (37.76693, 81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the “US Army PFC Cornelius Vance Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge

containing bold and prominent letters proclaiming the bridge the “US Army PFC Cornelius Vance Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates is directed to forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegate Duke offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 40 – “Requesting the Division of Highways to name Bridge Number 02-13-0.81 (02A172) (39.46979, -77.97913), locally known as New North Tennessee Avenue Bridge, carrying County Route 13 over Tuscarora Creek in Berkeley County, be named the ‘Max G. Parkinson Memorial Bridge’.”

Whereas, Max G. Parkinson was born in Martinsburg, Berkeley County, West Virginia, on November 30, 1934. He was the son of the late William Henry Parkinson and Flora Belle White Strine; and

Whereas, Max G. Parkinson served the City of Martinsburg as a City Councilman for Ward 3 for nearly 25 years, and as the Treasurer for 11 years. During this time, he served on a number of committees for the City of Martinsburg, including the Budget and Finance, City Property, Code Enforcement, Personnel, Public Works, Train Station and Utility Committees; and

Whereas, Max. G. Parkinson was a member of St. Joseph Catholic Church and a member of the Knights of Columbus, Elks Club and Moose Lodge; and

Whereas, Max G. Parkinson was a Realtor and Broker, and was an owner of Baker Parkinson Real Estate. He served on the Eastern Panhandle Board of Realtors; and

Whereas, Max G. Parkinson loved working outdoors to beautify his community by planting trees and shrubs and was responsible for the

beautification project at the North Tennessee Avenue entrance to Briarwood; and

Whereas, Max G. Parkinson is survived by his wife of 61 years, Catherine Mickelinc Parkinson; one son, Michael Parkinson and wife, Debbie of Martinsburg; one grandchild, Marissa Parkinson; one brother Ray Strine and wife, Betty; and two sisters, Shirley Alexander and husband, Lynn, Faye Brown and husband, Bill; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 02-13-0.81 (02A172) (39.46979, -77.97913), locally known as New North Tennessee Avenue Bridge, carrying County Route 13 over Tuscarora Creek in Berkeley County, the “Max G. Parkinson Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming it the “Max G. Parkinson Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the family of the late Max G. Parkinson.

Delegates Miley, Hamrick, Trecost and Waxman offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 41 - Requesting the Division of Highways to name the twin bridges on Interstate 79, over County Route 24 in Harrison County, Bridge Number 17-79-121.32 NB-SB (17A316 and 17A317), latitude 39.30697, longitude -80.27468, locally known as the Meadowbrook Road Overpass, the ‘U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge’.”

Whereas, U.S. Army Air Corps Captain Kenneth R. Winters, Sr. was born on June 3, 1922, and graduated from Washington Irving High School with honors; and

Whereas, With war looming on the horizon and while on the wait list for Virginia Military Institute, Captain Winters had to make some crucial decisions, and joined the Civil Air Patrol at the Benedum Airport; and

Whereas, Upon graduation from the Civil Air Patrol Captain Winters enlisted in the U.S. Army Air Corps, becoming an instructor and test pilot; and

Whereas, After requesting overseas duty in the European theater, Captain Winters began flying B-17 bombers, and moved through the ranks to become lead bomber, and earning the rank of Captain in the United States' fight with Germany; and

Whereas, Captain Winters became a member of the famed "Lucky Bastard Club", completing twenty-five or more missions, before being shot down. He completed his duty as a reservist upon returning to the United States; and

Whereas, Upon returning to civilian life, Captain Winters worked for his father, Cecil Winters, became a successful businessman in the beverage industry and owned the Royal Crown and Dr. Pepper bottling plants in Clarksburg for forty-five years; and

Whereas, Captain Winters was very active in the community, residing on Club View Drive for over forty-six years, serving in the Shriners and as a member of Rotary, and he could remember Interstate 79 as it was being built as his home was right off Exit 121; and

Whereas, Sadly, Captain Winters passed away on September 9, 2014. After spending the last ten months of his life in a local nursing home, he was able to spend the last night of his life at home. He is survived by his wife, Kathryn, and two of his sons, James D. Winters and Craig Winters, all of Harrison County; and

Whereas, Captain Winters was a long-time pillar of the community, and it is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name the twin bridges on Interstate 79, over County Route 24 in Harrison County, Bridge Number 17-79-121.32 NB-SB (17A316 and 17A317), latitude 39.30697, longitude -80.27468, locally known as the Meadowbrook Road Overpass, the “U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the twin bridges, both northbound and southbound, as the “U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the family of the late U.S. Army Corps Captain Kenneth R. Winters, Sr.

Petitions

Delegate Pethtel presented a petition signed by residents of Wetzel County requesting the Governor and Legislature increase the amount of state funds allocated to PEIA; which was referred to the Committee on Finance.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegate Duke:

H. B. 4427 - “A Bill to amend and reenact §7-4-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding

thereto two new sections, designated §30-29A-12 and §30-29A-13, all relating to requiring law-enforcement agencies to provide identification to qualified law-enforcement officers in order to allow them to carry firearms for self-defense under the federal Law-Enforcement Officers Safety Act; providing, upon completion of required training and annual background check, prosecuting attorneys and assistant prosecuting attorneys are vested with statutory authority necessary for the option to carry firearms for self-defense pursuant to the applicable federal act; and requiring law-enforcement agencies to provide qualified retired law-enforcement officers the opportunity to receive annual firearms qualification as required under the federal act”; to the Committee on the Judiciary.

By Delegates Householder, Faircloth, Rodighiero, Campbell, Perry and B. White:

H. B. 4428 - “A Bill to amend and reenact §30-8-9 of the Code of West Virginia, 1931, as amended, relating to clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified as a Schedule II substance”; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

By Delegates Howell, Rowan, A. Evans, Espinosa, Duke, Lane, Shott, Arvon, Stansbury, Blair and Cowles:

H. B. 4429 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-14-3, relating to requiring an institution of higher education to allow an event involving the sale of firearms and ammunition to take place on the institution’s campus if such events were held at the location when the site was previously owned by the National Guard Armory”; to the Committee on Education then the Judiciary.

By Delegates Longstreth, Caputo, Manchin and Ferro:

H. B. 4430 - “A Bill to amend and reenact §7-18-1 of the Code of West Virginia, 1931, as amended, relating to eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for

thirty or more consecutive days”; to the Committee on Political Subdivisions then Finance.

By Delegates Fast, Kessinger and Perry:

H. B. 4431 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1B-11, relating to relocation or closure of state higher education institutions; establishing legislative findings; requiring an economic and educational accessibility impact study and plan be provided by a state institution of higher education to the Higher Education Policy Commission prior to closure or transfer of the physical presence in an existing location; requiring the commission to review, provide feedback and suggested changes to the institution desiring to close or transfer a physical presence; requiring the commission to make a recommendation to the Legislative Oversight Commission on education accountability (LOCEA); requiring the LOCEA to consider and take action within six months of submission; authorizing amendment of the recommended plan; authorizing transfer or closure pursuant to an approved LOCEA plan”; to the Committee on Education then the Judiciary.

By Delegates Cowles, Ihle, O’Neal, Weld, Fleischauer, McCuskey and Pushkin:

H. B. 4432 - “A Bill to amend and reenact §6-6-1 and §6-6-7 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §6-6-10, all relating to removal of officers; defining terms; revising procedures for removal of certain officers and providing for the payment of costs”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Weld, Zatezalo, Storch and McGeehan:

H. B. 4433 - “A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees receiving pensions from defined-benefit pension plans that have been terminated with a consequent reduced benefit and

extending the effective period of the allowed adjustment”; to the Committee on Finance.

By Delegates Faircloth, Ihle, Stansbury, Hill, Kurcaba and Statler:

H. B. 4434 - “A Bill to amend and reenact §11A-3-12, §11A-3-14, §11A-3-18, §11A-3-19, §11A-3-20 and §11A-3-21 of the Code of West Virginia, 1931, as amended, all relating to limitations on tax certificates; and changing the time period that a lien resulting from a tax certificate of sale issued by a sheriff as a result of delinquent property taxes may remain as delinquent property, from eighteen months to six months”; to the Committee on Roads and Transportation then Finance.

By Delegates R. Smith, Ireland, McCuskey and Marcum:

H. B. 4435 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-11, relating to additional duties of the Public Service Commission; authorizing commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects deemed just and reasonable and in the public interest; making findings; and establishing application and hearing process”; to the Committee on Energy then Finance.

By Delegates Hicks, Perdue, Marcum, Reynolds, Shaffer, Deem, McGeehan, Folk, Moffatt and J. Nelson:

H. B. 4436 - “A Bill to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to permitting probation officers to carry deadly weapons on school buses and property”; to the Committee on Education then the Judiciary.

By Delegates Hicks, Marcum, Reynolds, Rodighiero, Shaffer, Faircloth, Frich, Moffatt, J. Nelson and Perdue:

H. B. 4437 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, relating to creating tax credits for small businesses created in this state

and operating entirely within West Virginia”; to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

By Delegates Summers, Ellington, Rohrbach, Waxman, Stansbury, Blair, Hamrick and Fast:

H. B. 4438 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a; and to amend and reenact §27-5-3 of said code, all relating to the involuntary examination of individuals experiencing a psychiatric emergency or mental illness; authorizing physicians to execute a certificate directing that individuals found to be experiencing a psychiatric emergency be held involuntarily for examination and treatment; defining psychiatric emergency; directing a second physician to attest to the certificate; authorizing law enforcement to take individuals into custody and to transport; directing notice to be provided to mental hygiene commissioners; authorizing mental hygiene commissioners to conduct hearings under certain circumstances; and authorizing individuals certificated to be experiencing a psychiatric emergency to be admitted to mental health facilities for involuntary examination and treatment”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates J. Nelson, Householder, Phillips, R. Smith, Ihle, McGeehan, Folk, Faircloth, Butler, Marcum and Perdue:

H. B. 4439 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-11j, relating to providing a tax credit for persons receiving a concealed weapons permit”; to the Committee on the Judiciary then Finance.

By Delegates J. Nelson, Phillips, R. Smith, Eldridge, Moffatt, Kessinger, Arvon, O’Neal, Moore, B. White and Marcum:

H. B. 4440 - “A Bill to amend and reenact §11-8-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-3-23 of said code, all relating to certain post-mining uses of lands subject to

surface mining permits; providing that formerly mined land now leased for agricultural uses will be taxed as farms; and authorizing the secretary of environmental protection to release bonds and deposits of surface mining permittees when the permitted land is donated to economic development agencies”; to the Committee on Energy then Finance.

By Delegates Arvon, Kessinger, Stansbury, A. Evans, Bates, Kurcaba and Hamilton:

H. B. 4441 - “A Bill to repeal §47-19-2, §47-19-4, §47-19-5, §47-19-6 and §47-19-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §47-19-1; §47-19-3 and §47-19-7 of said code; and to amend said code by adding thereto a new section, designated §47-19-9, all relating to drug paraphernalia; prohibiting possession, production or marketing-for-sale things designed or marketed for use with controlled substances; and providing criminal penalties”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Hill, Caputo, Manchin, Hamilton, Atkinson and Ihle:

H. B. 4442 - “A Bill to amend and reenact §60-4-3b of the Code of West Virginia, relating to exempting farm wineries from taxation for sales of wine to retail outlets”; to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

By Delegates Sobonya, Rohrbach, J. Nelson, Miller, Border, Phillips, Hicks, Perry, Hornbuckle, Morgan and Perdue:

H. B. 4443 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to the Marshall University Forensic Science Center; requiring the State Police to partner with the Marshall University Forensic Science Center; and classifying it as a criminal justice agency so that it can participate in the National Data Exchange”; to the Committee on the Judiciary.

By Delegates Guthrie, Perry, Kessinger, Pushkin, Byrd, McCuskey, Stansbury, Rowe and B. White:

H. B. 4444 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-39-1, §8-39-2, §8-39-3, §8-39-4, §8-39-5, §8-39-6, §8-39-7, §8-39-8, §8-39-9 and §8-39-10, all relating to the West Virginia Community Homesteading Act; establishing a statewide community homesteading pilot project; requiring the Executive Director of the West Virginia Development Office to administer and oversee the statewide homesteading project; requiring the director to select five municipalities containing distressed communities to establish local homesteading projects as part of the statewide pilot project; authorizing the director to award grant moneys from the Development Office Promotion Fund to assist individuals and organizations to purchase homestead properties using local bank financing; requiring individuals and organizations to forfeit grant moneys if certain conditions are violated; authorizing municipalities to acquire, maintain and convey abandoned property as part of a homesteading project to promote economic development; authorizing a municipality to create a local agency or designate a local agency to administer a homesteading project; establishing requirements for a municipal homesteading project; establishing qualifications for individuals and organizations wishing to purchase homestead property; setting conditions for purchase of homestead property by individual and organizations, authorizing municipalities to accept federal and state grants and donations to fund a local homesteading project, and terminating the statewide homesteading project in the year 2026"; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Hanshaw, Espinosa, Perry, Moye, Ambler, Cooper, D. Evans, Westfall and Ellington:

H. B. 4445 - "A Bill to repeal §18-2A-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-2A-1, §18-2A-2, §18-2A-3, §18-2A-4, §18-2A-5, §18-2A-6, §18-2A-7 and §18-2A-8 of said code, all relating to the selection and purchase of instructional educational resources; defining instructional resources;

requiring publishers to file statement of instructional resources with State Board of Education; prohibiting publishers from violating article and providing monetary penalty for violating article; permitting supplemental instructional resources to be used in public schools; requiring State Board of Education to establish a policy setting criteria required for instructional resources; allowing county boards of education to adopt instructional resources for use in schools, requiring county boards of education to adopt a policy regarding instructional resource adoption; prohibiting board of education employees from acting as sales agents for publishers of instructional resources and providing penalty for violation”; to the Committee on Education.

By Delegates Ellington, Householder, Arvon, Atkinson, Bates, Cooper, Flanigan, Sobonya, Stansbury, Summers and Waxman:

H. B. 4446 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-1b, relating to increasing teacher salaries”; to the Committee on Education then Finance.

By Delegates Espinosa, D. Evans, Perry, Anderson, Ferro and Duke:

H. B. 4447 - “A Bill to amend and reenact §18-5A-3a of the Code of West Virginia, 1931, as amended, relating to granting a local school improvement council waiver for the purpose of increasing the compulsory school attendance age in Marshall County”; to the Committee on Education.

By Delegates Walters, McCuskey, Frich and Westfall:

H. B. 4448 - “A Bill to amend and reenact §61-3C-14a of the Code of West Virginia, 1931, as amended, relating to providing that conduct allowed under the West Virginia Consumer Credit and Protection Act, is likewise not a violation of the West Virginia Computer Crime and Abuse Act”; to the Committee on Banking and Insurance then the Judiciary.

House Calendar

Third Reading

Com. Sub. for S. B. 342, Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 37**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 342) passed.

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

On this question, the yeas and nays were taken (**Roll No. 38**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 342) takes effect from its passage.

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

S. B. 357, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 39**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 357) passed.

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

On this question, the yeas and nays were taken (**Roll No. 40**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 357) takes effect from its passage.

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

S. B. 360, Supplemental appropriation to Division of Human Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 41**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 360) passed.

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

On this question, the yeas and nays were taken (**Roll No. 42**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 360) takes effect from its passage.

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

Com. Sub. for H. B. 2366, Relating generally to the solicitation of minors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 43**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2366) passed.

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

Com. Sub. for H. B. 2511, Health Care Sharing Ministries Freedom to Share Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 44**), and there were--yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, Fleischauer, Guthrie and Pushkin.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2511) passed.

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

Com. Sub. for H. B. 4145, Relating to carry or use of a handgun or deadly weapon; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

There being two strike and insert amendments in possession of the Clerk, the Speaker explained to the members that both sponsors would be allowed to explain their amendments but the adoption of one would preclude the consideration of the other.

Delegate Skinner was then recognized and explained the merits of his proposed strike and insert amendment, which was as follows:

On page two, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof, the following

“CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-3. Carrying a deadly weapon without license or other authorization penalties.

(a) Any person ~~under twenty-one years of age, or who is prohibited from possessing firearms under section seven of this article~~ who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, ~~shall be is~~ guilty of a misdemeanor and, upon conviction thereof, shall be fined

not less than \$100 nor more than \$1,000 and may be imprisoned in ~~the county~~ jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in ~~the penitentiary~~ a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.

(b) ~~It shall be the duty of~~The prosecuting attorney in all cases ~~to~~ shall ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it ~~shall be~~ is a second or subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and ~~shall~~ may not be permitted to use discretion in introducing evidence to prove the same on the trial.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in subsection (h) of this section, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, ~~and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code.~~ Concealed weapons permits may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and

Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older: *Provided*, That any individual who is less than twenty-one years of age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty-one years of age: *Provided, however*, That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty-one years of age, then the individual issued the license is no longer eligible and must return his or her license to the issuing sheriff;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subsection (7) of this section in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery either under ~~the provisions of~~ section twenty-eight, article two of this chapter or ~~the provisions of~~ subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of section seven of this article or federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U.S.C. §922(g) or (n).

~~(c) Sixty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.~~

(d) (c) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live

firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: Provided, That the completed course included the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States Military, Reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States Military, Reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature, and NRA or state instructor identification number, if applicable.

(e) (d) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under ~~the provisions of~~ section two, article five, chapter sixty-one of this code.

(f) (e) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty-five days after the application is filed if all required background checks authorized by this section are completed.

~~(g) (f) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the superintendent of the West Virginia State Police within thirty days of receipt. The license is valid for five years throughout the state, unless sooner revoked.~~

(h) (g) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section All duplicate license cards issued on or after July 1, 2017, shall be uniform in size, appearance and information across all fifty-five counties and must feature a photograph of the licensee.

(i) (h) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) (i) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The

petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

~~(k)~~ (j) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

~~(j)~~ (k) Whenever any person after applying for and receiving a concealed handgun license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed deadly weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

~~(m)~~ (l) The sheriff shall, immediately after the license is granted as aforesaid, furnish the superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(m) (m) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(n) (n) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(o) (o) Notwithstanding ~~the provisions of~~ subsection (a) of this section, with respect to application by a former law-enforcement officer honorably retired from agencies governed by article fourteen, chapter seven of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this code; and article seven, chapter twenty of this code, an honorably retired officer is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this ~~shall be~~ section are applicable to these applicants.

(p) (p) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit, is confidential: *Provided:* That ~~such~~ this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(q) (q) A person who is granted a license and pays fees identified in this section after the effective date of this section is entitled to a tax credit equal to the amount actually paid not to exceed \$100.

(r) (r) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed

weapon permit issued in accordance with the provisions of this section authorizes the holder of the permit to carry a concealed pistol or revolver on the lands or waters of this state.

~~§61-7-4a. Provisional license to carry deadly weapons, how obtained:~~

~~(a) Any person who is between eighteen and twenty-one years of age and who desires to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for a provisional license, and pay to the sheriff, at the time of application, a fee of \$25, of which \$5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons permits may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:~~

~~(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. § 922(g)(5)(B);~~

~~(2) That, on the date the application is made, the applicant is a bona fide resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;~~

~~(3) That the applicant is eighteen years of age or older;~~

~~(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:~~

~~(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or~~

~~(B) Two or more convictions for driving while under the influence or driving while impaired;~~

~~(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;~~

~~(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subsection (7) of this section within five years immediately preceding the application;~~

~~(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. § 921(a)(33), or a misdemeanor offense of assault or battery under either section twenty-eight, article two of this chapter or subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;~~

~~(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;~~

~~(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the~~

applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

~~(10) That the applicant is not prohibited under section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing or transporting a firearm;~~

~~(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon;~~

~~(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application:~~

~~(b) For provisional license applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n).~~

~~(c) Twenty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons~~

licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

~~(d) All persons applying for a provisional license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course included the actual live firing of ammunition by the applicant:~~

~~(1) Any official National Rifle Association handgun safety or training course;~~

~~(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization; community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;~~

~~(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;~~

~~(4) Any proof of current service in the United States Armed Forces, Armed Forces Reserves, or National Guard.~~

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section. Certificates, affidavits or other documents submitted to show completion of a course or class shall include instructor information and proof of instructor certification, including, if applicable, the instructor's NRA instructor certification number.

~~(e) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under section two, article five, chapter sixty-one of this code.~~

~~(f) The sheriff shall issue a provisional license unless the sheriff determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty- five days after the application is filed if all required background checks authorized by this section are completed.~~

~~(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$15 which the sheriff shall forward to the superintendent of the West Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee turns twenty-one years of age, unless sooner revoked.~~

~~(h) Each provisional license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued shall be uniform in size, appearance and information across all fifty-five counties and must feature a photograph of the licensee. The provisional license shall be readily distinguishable from a license issued pursuant to section four of this article and shall state: "NOT NICS EXEMPT. This license confers the same rights and privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license issued pursuant to §61-7-4. Except this license does not satisfy the requirements of 18 U.S.C. § 922(t)(3). A NICS check must be performed prior to purchase of a firearm from a federally licensed firearm dealer."~~

~~(i) The Superintendent of the West Virginia State Police, in coordination with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for provisional licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.~~

~~(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.~~

~~(k) If a provisional license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.~~

~~(l) Whenever any person after applying for and receiving a provisional concealed handgun license moves from the address named in the application to another county within the state, the license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new county has determined that the person is no longer eligible for a provisional concealed deadly weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to~~

exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses:

(m) The sheriff shall, immediately after the provisional license is granted, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses:

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee:

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article:

(p) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit, is confidential: *Provided*. That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense:

(q) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a provisional concealed weapon permit issued in accordance with the provisions of

~~this section authorizes the holder of the permit to carry a concealed pistol or revolver on the lands or waters of this state.~~

§61-7-6. Exceptions as to prohibitions against carrying concealed handguns

(a) The ~~license~~ provisions set forth in section three of this article do not apply to:

(1) Any person between the ages of 18-20:

(A) Carrying a deadly weapon upon his or her own premises;

(B) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

(C) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

(2) Any person who is a member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

(3) Any law-enforcement officer or law-enforcement official or chief executive as defined in section one, article twenty-nine, chapter thirty of this code;

(4) Any employee of the West Virginia Division of Corrections duly appointed pursuant to ~~the provisions of~~ section eleven-c, article one, chapter twenty-five of this code while the employee is on duty;

(5) Any member of the ~~Armed Forces of the United States or the militia of this state while the member is on duty~~ Armed Forces, Reserve or National Guard;

(6) Any resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in section six-a of this article;

(7) Any federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and

(8) Any parole officer appointed pursuant to section fourteen, article twelve, chapter sixty-two of this code in the performance of their duties.

(b) ~~On and after July 1, 2013,~~ The following judicial officers and prosecutors and staff ~~shall be exempted~~ are exempt from paying any application fees or licensure fees required under this article. However, ~~on and after that same date,~~ they shall ~~be required to~~ make application and satisfy all licensure and handgun safety and training requirements to obtain a license as set forth in section four of this article: ~~before carrying a concealed handgun in this state~~

(1) Any justice of the Supreme Court of Appeals of West Virginia;

(2) Any circuit judge;

(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;

(4) Any family court judge;

(5) Any magistrate;

(6) Any prosecuting attorney;

(7) Any assistant prosecuting attorney; or

(8) Any duly appointed investigator employed by a prosecuting attorney.

(c) Any prosecuting attorney, assistant prosecuting attorney, or any duly appointed investigator employed by a prosecuting attorney who elects to carry a concealed firearm, may do so pursuant to the federal Law Enforcement Officers Safety Act, 18 U.S.C. §926B, upon completion of training and certification pursuant to section four of this article, and annual firearms training and certification established by the sheriff's department of his or her county, similar to that which is provided to members of the sheriff's department eligible for training and certification under 18 U.S.C §926B , and which shall reasonably accommodate any physical disability of the trainee. Any prosecuting attorney, assistant prosecuting attorney, or any duly appointed investigator employed by a prosecuting attorney who elects to undergo training and certification pursuant to this subsection shall provide, at his or her own expense, a suitable firearm and any ammunition actually expended in training and certification pursuant to this subsection. Upon completion of training and certification pursuant to this subsection, each such prosecuting attorney, assistant prosecuting attorney, or duly appointed investigator employed by a prosecuting attorney shall be issued a photographic identification and certification card, suitable to be carried in a wallet, valid for one year, which shall contain the name, title, official address, full-face color photograph of said prosecuting attorney or assistant prosecuting attorney, the sheriff's signature, the expiration date, the word 'qualified law-enforcement officer under 18 U.S.C. §926B' in conspicuous type and shall indicate completion of periodic training consistent with this subsection and the requirements of 18 U.S.C. §926B. Prosecuting attorneys, assistant prosecuting attorneys, or duly appointed investigators employed by a prosecuting attorney who have successfully completed such training and certification shall have all the rights and authorities necessary in order to comply with 18 U.S.C. §926B. This subsection is supplemental and additional to existing rights to bear arms, and nothing in this subsection shall impair or diminish such rights.

~~(d) Any person twenty-one years of age or older may carry a concealed deadly weapon, without permit, in this state provided that the following conditions are met:~~

~~(1) The person is a United States citizen or legal resident thereof; and~~

~~(2) The person is not prohibited under the provisions of section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing or transporting a firearm.~~

~~(e) Any person who displays a valid photo identification or concealed weapon permit may not be unreasonably detained for purposes of verifying whether that person is a prohibited person.~~

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that subsections (b), (g) and (h) of this section are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section twenty-two, article three of the Constitution of the State of West Virginia.

(b)(1) It is unlawful for a person to possess a firearm or other deadly weapon on a school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public ~~or private~~ primary or secondary education building, structure, facility or grounds including a vocational education building, structure, facility or grounds where secondary vocational education programs are conducted or at a

school-sponsored function or in or on a private primary or secondary education building, structure, facility where such is not allowed by the written policies of the private educational institution.

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county or municipal law- enforcement agency;

(B) A retired law-enforcement officer who:

(i) Is employed by a state, county or municipal law-enforcement agency;

(ii) Is covered for liability purposes by his or her employer;

(iii) Is authorized by a county board of education and the school principal to serve as security for a school;

(iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c); and

(v) Meets all of the requirements for handling and using a firearm established by his or her employer, and has qualified with his or her firearm to those requirements;

(C) A person specifically authorized by the board of Education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(D) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(E) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

(F) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity; or

(G) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of subsection (b) of this section shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the ~~Division of Public Safety~~ State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the

suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

(e)(1) If a person eighteen years of age or older is convicted of violating subsection (b) of this section, and if the person does not act to appeal the conviction within the time periods described in subdivision (2) of this subsection, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in subdivision (1) of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within twenty days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in subdivision (1) of this subsection, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may

grant an administrative hearing which substantially complies with the requirements of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian or custodian of a person less than eighteen years of age who knows that the person is in violation of subsection (b) of this section or has reasonable cause to believe that the person's violation of subsection (b) is imminent, to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.”

Delegate Shott was then recognized to explain his strike and insert amendment, which was as follows:

On page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §20-2-6a of the Code of West Virginia, 1931, as amended, be repealed; that §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §61-7-4a and §61-7-15a, all to read as follows:

CHAPTER 20. CRIMES AND THEIR PUNISHMENT.

~~§20-2-6a. Carrying a concealed handgun while afield.~~

~~(a) Notwithstanding any provision of this code to the contrary, a person licensed to carry a concealed weapon pursuant to the provisions~~

~~of section four, article seven, chapter sixty-one of this code who is not prohibited at the time from possessing a firearm pursuant to the provisions of section seven, article seven, chapter sixty-one of this code or by any applicable federal law may carry a handgun in a concealed manner for self defense purposes while afield hunting, hiking, camping or in or on a motor vehicle.~~

~~(b) The provisions of this section shall not exempt any person from obtaining any hunting or fishing license or stamp required by the Division of Natural Resources.~~

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-3. Carrying a deadly weapon without license or other authorization by persons under twenty-one years of age or persons that are prohibited from possessing firearms under section seven of this article; penalties.

(a) Any person under twenty-one years of age, or who is prohibited from possessing firearms under section seven of this article who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in ~~the county~~ jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in ~~the penitentiary~~ a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.

(b) ~~It shall be the duty of~~ The prosecuting attorney in all cases ~~to~~ shall ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it ~~shall be~~ is a second or subsequent offense, it shall be so stated in the indictment

returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and ~~shall~~ may not be permitted to use discretion in introducing evidence to prove the same on the trial.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in subsection (h) of this section, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons permits may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older: *Provided*, That any individual who is less than twenty-one years of age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her

concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty-one years of age: *Provided, however,* That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty-one years of age, then the individual issued the license is no longer eligible and must return his or her license to the issuing sheriff;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subsection (7) of this section in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery either under ~~the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or (c), section nine, article two of this chapter~~ in which

the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of section seven of this article or federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal

Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U.S.C. §922(g) or (n).

(c) Sixty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: Provided, That the completed course included the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public

institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States Military, Reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States Military, Reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature, and NRA or state instructor identification number, if applicable.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under ~~the provisions of~~ section two, article five, chapter sixty-one of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty-five days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the

sheriff shall forward to the superintendent of the West Virginia State Police within thirty days of receipt. The license is valid for five years throughout the state, unless sooner revoked.

(h) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section All duplicate license cards issued on or after July 1, 2017, shall be uniform in size, appearance and information across all fifty-five counties and must feature a photograph of the licensee.

(i) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold

the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed handgun license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed deadly weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding ~~the provisions of~~ subsection (a) of this section, with respect to application by a former law-enforcement officer honorably retired from agencies governed by article fourteen, chapter seven of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this code; and article seven, chapter twenty of this code, an honorably retired officer is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this ~~shall be~~ section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit, is confidential: *Provided:* That ~~such~~ this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(r) A person who is granted a license and pays fees under this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid not to exceed \$100.

~~(r)~~ (s) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon permit issued in accordance with the provisions of this section authorizes the holder of the permit to carry a concealed pistol or revolver on the lands or waters of this state.

§61-7-4a. Provisional license to carry deadly weapons; how obtained.

(a) Any person who is between eighteen and twenty-one years of age and who desires to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for a

provisional license, and pay to the sheriff, at the time of application, a fee of \$25, of which \$5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons permits may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. § 922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is eighteen years of age or older;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights

have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subsection (7) of this section within five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. § 921(a)(33), or a misdemeanor offense of assault or battery under either section twenty-eight, article two of this chapter or subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon;

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For provisional license applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n).

(c) Twenty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a provisional license must complete a training course in handling and firing a handgun, which includes the

actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course included the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any proof of current service in the United States Armed Forces, Armed Forces Reserves, or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section. Certificates, affidavits or other documents submitted to show completion of a course or class shall include instructor information and proof of instructor certification, including, if applicable, the instructor's NRA instructor certification number.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under section two, article five, chapter sixty-one of this code.

(f) The sheriff shall issue a provisional license unless the sheriff determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty- five days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$15 which the sheriff shall forward to the superintendent of the West Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee turns twenty-one years of age, unless sooner revoked.

(h) Each provisional license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued shall be uniform in size, appearance and information across all fifty-five counties and must feature a photograph of the licensee. The provisional license shall be readily distinguishable from a license issued pursuant to section four of this article and shall state: 'NOT NICS EXEMPT. This license confers the same rights and privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license issued pursuant to §61-7-4. Except this license does not satisfy the requirements of 18 U.S.C. § 922(t)(3). A NICS check must be performed prior to purchase of a firearm from a federally licensed firearm dealer.'

(i) The Superintendent of the West Virginia State Police, in coordination with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for provisional licenses and license cards showing that the license has been granted and shall

do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a provisional license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a provisional concealed handgun license moves from the address named in the application to another county within the state, the license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new county has determined that the person is no longer eligible for a provisional concealed deadly weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the provisional license is granted, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit, is confidential: *Provided*. That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(q) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a provisional concealed weapon permit issued in accordance with the provisions of this section authorizes the holder of the permit to carry a concealed pistol or revolver on the lands or waters of this state.

§61-7-6. Exceptions as to prohibitions against carrying concealed handguns for persons between the ages of 18-20; exemptions from licensing fees.

(a) The ~~licensure~~ provisions ~~set forth~~ in section three of this article do not apply to:

(1) Any person between the ages of 18-20:

(A) Carrying a deadly weapon upon his or her own premises;

(B) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

(C) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

(2) Any person who is a member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

(3) Any law-enforcement officer or law-enforcement official or chief executive as defined in section one, article twenty-nine, chapter thirty of this code;

(4) Any employee of the West Virginia Division of Corrections duly appointed pursuant to ~~the provisions of~~ section eleven-c, article one, chapter twenty-five of this code while the employee is on duty;

(5) Any member of the ~~Armed Forces of the United States or the militia of this state while the member is on duty~~ Armed Forces, Reserve or National Guard;

(6) Any resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in section six-a of this article;

(7) Any federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and

(8) Any parole officer appointed pursuant to section fourteen, article twelve, chapter sixty-two of this code in the performance of their duties.

(b) ~~On and after July 1, 2013;~~ The following judicial officers and prosecutors and staff ~~shall be exempted~~ are exempt from paying any application fees or licensure fees required under this article. However, ~~on and after that same date,~~ they shall ~~be required to~~ make application and satisfy all licensure and handgun safety and training requirements to obtain a license as set forth in section four of this article: ~~before carrying a concealed handgun in this state~~

(1) Any justice of the Supreme Court of Appeals of West Virginia;

(2) Any circuit judge;

(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;

(4) Any family court judge;

(5) Any magistrate;

(6) Any prosecuting attorney;

(7) Any assistant prosecuting attorney; or

(8) Any duly appointed investigator employed by a prosecuting attorney.

(c) Any prosecuting attorney, assistant prosecuting attorney, or any duly appointed investigator employed by a prosecuting attorney who elects to carry a concealed firearm, may do so pursuant to the federal Law Enforcement Officers Safety Act, 18 U.S.C. §926B, upon completion of training and certification pursuant to section four of this article, and annual firearms training and certification established by the sheriff's department of his or her county, similar to that which is provided to members of the sheriff's department eligible for training and certification under 18 U.S.C §926B , and which shall reasonably accommodate any physical disability of the trainee. Any prosecuting attorney, assistant prosecuting attorney, or any duly appointed investigator employed by a prosecuting attorney who elects to undergo training and certification pursuant to this subsection shall provide, at his or her own expense, a suitable firearm and any ammunition actually expended in training and certification pursuant to this subsection. Upon completion of training and certification pursuant to this subsection, each such prosecuting attorney, assistant prosecuting attorney, or duly appointed investigator employed by a prosecuting attorney shall be issued a photographic identification and certification card, suitable to be carried in a wallet, valid for one year, which shall contain the name, title, official address, full-face color photograph of said prosecuting attorney or assistant prosecuting attorney, the sheriff's signature, the expiration date, the word 'qualified law-enforcement officer under 18 U.S.C. §926B' in conspicuous type and shall indicate completion of periodic training consistent with this subsection and the requirements of 18 U.S.C. §926B. Prosecuting attorneys, assistant prosecuting attorneys, or duly appointed investigators employed by a prosecuting attorney who have successfully completed such training and certification shall have all the rights and authorities necessary in order to comply with 18 U.S.C. §926B. This subsection is

supplemental and additional to existing rights to bear arms, and nothing in this subsection shall impair or diminish such rights.

(d) Any person twenty-one years of age or older may carry a concealed deadly weapon, without permit, in this state provided that the following conditions are met:

(1) The person is a United States citizen or legal resident thereof; and

(2) The person is not prohibited under the provisions of section seven of this article or federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing or transporting a firearm.

(e) Any person who displays a valid photo identification or concealed weapon permit may not be unreasonably detained for purposes of verifying whether that person is a prohibited person.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that subsections (b), (g) and (h) of this section are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section twenty-two, article three of the Constitution of the State of West Virginia.

(b)(1) It is unlawful for a person to possess a firearm or other deadly weapon on a school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public or private primary

or secondary education building, structure, facility or grounds including a vocational education building, structure, facility or grounds where secondary vocational education programs are conducted or at a school-sponsored function or in or on a private primary or secondary education building, structure, facility where such is not allowed by the written policies of the private educational institution.

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county or municipal law-enforcement agency;

(B) A retired law-enforcement officer who:

(i) Is employed by a state, county or municipal law-enforcement agency;

(ii) Is covered for liability purposes by his or her employer;

(iii) Is authorized by a county board of education and the school principal to serve as security for a school;

(iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c); and

(v) Meets all of the requirements for handling and using a firearm established by his or her employer, and has qualified with his or her firearm to those requirements;

(C) A person specifically authorized by the board of Education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(D) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(E) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

(F) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity; or

(G) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of subsection (b) of this section shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the ~~Division of Public Safety~~ State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application

for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

(e)(1) If a person eighteen years of age or older is convicted of violating subsection (b) of this section, and if the person does not act to appeal the conviction within the time periods described in subdivision (2) of this subsection, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in subdivision (1) of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within twenty days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in subdivision (1) of this subsection, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the

revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian or custodian of a person less than eighteen years of age who knows that the person is in violation of subsection (b) of this section or has reasonable cause to believe that the person's violation of subsection (b) is imminent, to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

§61-7-15a. Enhanced penalty for use of firearm during commission of felony.

(a) Except to the extent that a greater minimum sentence is otherwise provided by any other provision of law, any person who uses or displays a firearm during the planning or commission of any felony shall, in addition to the punishment provided for such felony, be sentenced to an additional term of imprisonment in a state correctional facility of five years, which sentence may not be reduced or suspended.

(b) Except to the extent that a greater minimum sentence is otherwise provided by any other provision of law, any convicted felon who uses or displays a firearm during the planning or commission of

any felony shall, in addition to the punishment provided for such felony, be sentenced to an additional term of imprisonment in a state correctional facility of ten years, to run consecutively, not concurrently, which sentence may not be reduced or suspended.

(c) Unless otherwise provided in this code, the provisions of this article do not apply to a person who in good faith employs the use of a firearm, in self-defense or the defense of others, against another person who is perpetuating violence or the threat of violence.”

On motion of Delegate Eldridge, the strike and insert amendment offered by Delegate Shott was amended on page nineteen, section eleven-a, line seventeen, following the semi-colon, by inserting the following:

“(B) Any probation officer appointed pursuant to section five, article twelve, chapter sixty-two of this code in the performance of his or her duties” followed by a semi-colon.

And,

By re-lettering subsequent paragraphs of subsection (b) accordingly.

Delegate Byrd moved to amend the strike and insert amendment on page eighteen, section six, subsection (d), line seventy-one, after the word “thereof”, by inserting “and resident of this state”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 45**), and there were--yeas 26, nays 73, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Anderson, Atkinson, Bates, Blackwell, Byrd, Caputo, Cooper, D. Evans, Fluharty, Guthrie, Hartman, Hicks,

Hornbuckle, Longstreth, Lynch, Manchin, Miley, Morgan, Perdue, Pushkin, Reynolds, Rowe, Shaffer, Skinner and Trecost.

Absent and Not Voting: Moore.

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

Delegate Skinner moved to amend the amendment on page one, by striking out the enacting section and inserting in lieu thereof the following:

“§61-7-3. Carrying a deadly weapon without license or other authorization by persons under twenty-one years of age; penalties.

(a) Any person under twenty-one years of age, or who is prohibited from possessing firearms under section seven of this article who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, ~~shall be is~~ guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in the county jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in ~~the penitentiary~~ a state correctional facility not less than ~~one~~ two nor more than five years and fined not less than \$1,000 nor more than \$5,000.

(b) ~~It shall be the duty of The prosecuting attorney in all cases to ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it shall be a second or subsequent offense, it shall be so stated in the indictment returned; and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and shall not be permitted to use discretion in introducing evidence to prove the same on the trial.~~²²

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

The yeas and nays having been ordered, they were taken (**Roll No. 46**), and there were--yeas 9, nays 90, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Caputo, Fleischauer, Guthrie, Longstreth, Manchin, Miley, Morgan, Shaffer and Skinner.

Absent and Not Voting: Moore.

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

Delegate Skinner moved to amend the amendment on page one, by striking out the enacting section and inserting in lieu thereof the following:

“That §20-2-6a of the Code of West Virginia, 1931, as amended, be repealed; that §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §61-7-3a and §61-7-4a, all to read as follows” followed by a colon.

And,

On page two of the amendment, following section three, by inserting a new section, designated three-a, to read as follows:

“§61-7-3a. Carrying a deadly weapon without training course; penalties.

Any person who carries a concealed deadly weapon, without completing a training course in handling and firing a handgun, as set forth in subsection (d), section four of this article, shall be guilty of a felony if any use likely to pose a risk to the public or any harm occurs from such carrying, and, upon conviction thereof, shall be imprisoned

in a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 47**), and there were--yeas 3, nays 96, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Lynch, Manchin and Skinner.

Absent and Not Voting: Moore.

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

Speaker Pro Tempore Anderson in the Chair

Delegate Skinner moved to amend the amendment on page one, by striking out the enacting section and inserting in lieu thereof the following:

“That §20-2-6a of the Code of West Virginia, 1931, as amended, be repealed; that §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §61-7-3a and §61-7-4a, all to read as follows” followed by a colon.

And,

On page two of the amendment, following section three, by inserting a new section, designated three-a, to read as follows:

“§61-7-3a. Carrying a deadly weapon without training course; penalties.

(a) Any person who carries a concealed deadly weapon, without completing a training course in handling and firing a handgun, as set

forth in subsection (d), section four of this article, shall maintain an insurance policy in effect continuously throughout such carrying, such policy to be delivered or issued for the delivery in this state by an insurance company authorized to issue policies in this state and such policy to protect against harm occurring from such carrying.

(b) Any such person who does not maintain such an insurance policy shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.”

Mr. Speaker, Mr. Armstead, in the Chair

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

The yeas and nays having been ordered, they were taken (**Roll No. 48**), and there were--yeas 2, nays 97, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Guthrie and Skinner.

Absent and Not Voting: Moore.

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

Delegate Marcum requested to be excused from voting on the passage of Com. Sub. for H. B. 4145 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Marcum would be as member of a class of persons potentially affected by the passage of the bill and refused to excuse the Gentleman from voting.

Delegate Manchin arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the amendment was consistent with the fundamental purpose of the bill and therefore ruled the amendment germane.

Delegate Manchin then arose to a point of inquiry, citing House Rule 44, which relates to division of a question.

To the inquiry, the Speaker cited Jefferson's Manual regarding amending and dividing a question.

The amendment recommended by Delegate Shott, as amended, was then adopted.

Having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 49**), and there were--yeas 68, nays 31, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Atkinson, Bates, Blackwell, Byrd, Caputo, Cooper, Cowles, D. Evans, Ferro, Fleischauer, Guthrie, Hamilton, Hornbuckle, Ireland, Longstreth, Lynch, Manchin, McCuskey, Miley, Morgan, E. Nelson, Perdue, Pethtel, Pushkin, Reynolds, Rowe, Skinner, Trecoast and Westfall.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4145) passed.

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

Com. Sub. for H. B. 4145 - "A Bill to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code; and to amend said code by adding thereto two new sections, designated §61-7-4a and

§61-7-15a, all relating to carry or use of a handgun or deadly weapon; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization applies only to persons under twenty-one years of age and prohibited persons; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; permitting persons eighteen years and older to obtain a concealed carry permit; requiring actual live firing of ammunition in training; requiring an applicant for a concealed carry permit to provide a copy of instructor's certification; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs' Bureau of Professional Standards, prepare uniform applications for licenses and license cards; entitling a person who is granted a license and pays fees under Chapter 61, Article 7 after the effective date of §61-7-4 to a tax credit equal to the amount actually paid not to exceed \$100; creating a provisional license to carry concealed deadly weapons for persons between eighteen and twenty-one years of age; establishing provisional license application requirements and procedures; exempting members of the United States Armed Forces, Reserve or National Guard from permit requirements; permitting prosecuting attorneys, assistant prosecuting attorneys or investigators employed by a prosecuting attorney to elect to carry a concealed firearm pursuant to the federal Law Enforcement Officers Safety Act; eliminating the requirement for persons twenty-one years of age and older to possess a permit to carry a concealed deadly weapon provided that certain conditions are met, including being a United States citizen or legal resident, being twenty-one years of age or older and not prohibited from possessing firearms; providing that a person who displays a valid photo identification or concealed weapon permit may not be unreasonably detained for purposes of verifying whether that person is a prohibited person; requiring a school principal to report certain violations to the State Police; and permitting private schools written policies to govern whether a person may possess a

firearm or other deadly weapon in or on a private primary or secondary education building, structure or facility; providing enhanced penalties for use of a firearm during the planning or commission of a felony; and excepting enhanced penalties in certain circumstances when a firearm is used in defense of self or others.”

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

Com. Sub. for H. B. 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 50**), and there were--yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger and McGeehan.

Absent and Not Voting: Byrd and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4163) passed.

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

H. B. 4393, Relating to enhanced penalties for use of a firearm during commission of a felony; on third reading, coming up in regular order, was, on motion of Delegate Cowles, laid upon the table.

Second Reading

Com. Sub. for H. B. 4186, Relating to additional duties of the Public Service Commission; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Howell, the bill was amended on page four, section three, line seventeen, after the words “as provided for in”, by inserting the words “section two-b” followed by a comma.

The bill was then ordered to engrossment and third reading.

First Reading

Com. Sub. for H. B. 2444, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Moore.

Remarks by Members

Delegate Shott asked and obtained unanimous consent that the remarks of Delegate Lane regarding Com. Sub. for H. B. 4145 be printed in the Appendix to the Journal.

Delegate Phillips asked and obtained unanimous consent that the remarks of Delegate Perdue regarding Com. Sub. for H. B. 4145 be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Upson filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 4298.

Delegate Frich filed forms with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 4414 and H. B. 4434.

Delegate J. Nelson filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. C. R. 36.

At 3:48 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, February 9, 2016.

TUESDAY, FEBRUARY 9, 2016

TWENTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, February 8, 2016, being the first order of business, when the further reading thereof was dispensed with and

Committee Reports

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 8th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 1), Establishing WV Workplace Freedom Act,

And,

(H. B. 4005), Repealing prevailing hourly rate of wages requirements.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4147, Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority,

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

At the request of Delegate Cowles, and by unanimous consent, second reference of the bill (H.B. 4147) to the Committee on Finance was dispensed with.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2202, Relating to more equitable disbursement of funds to county boards,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2202) was referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 278 - "A Bill to amend and reenact §33-20F-2 and §33-20F-4 of the Code of West Virginia, 1931, as amended, all relating to clarifying that a physicians' mutual insurance company is not a state actor or a quasi-state actor, allowing it to operate as any other commercial insurance company licensed in West Virginia; and

clarifying and revising findings and purpose”; which was referred to the Committee on Banking and Insurance then the Judiciary.

A message from the Senate, by

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

Com. Sub. for H. B. 4007, Relating generally to appointment of attorneys to assist the Attorney General.

On motions of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendment:

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

“ARTICLE 3. ATTORNEY GENERAL.

§5-3-3. Assistants to Attorney General.

(a) The Attorney General may appoint such deputy or assistant attorneys general as may be necessary to properly perform the duties of his or her office. The total compensation of all such deputies or assistants shall be within the limits of the amounts appropriated by the Legislature for personal services. All deputy or assistant attorneys general so appointed shall serve at the will and pleasure of the Attorney General and shall perform such duties as ~~he~~ the Attorney General may require of them.

(b) The Attorney General may appoint such special assistant attorneys general as may be necessary to properly perform the duties of his or her office: Provided, That if the appointment relates to a contingency fee legal arrangement or contract as defined in W. Va. Code §5-3-3a(a)(1), then the appointment must be in accordance with the procedures and compensation set forth in W. Va. Code §5-3-3a. All special assistant attorneys general appointed shall serve at the will and

pleasure of the Attorney General and shall perform such duties as the Attorney General may require of them.

(c) All laws or parts of laws inconsistent with the provisions hereof are hereby amended to be in harmony with the provisions of this section.

§5-3-3a. Competitive bidding required for private attorneys, special assistant attorneys general.

(a) The following terms, wherever used or referred to in this section, have the following meanings:

(1) ‘Contingency fee legal arrangement or contract’ means any legal fee arrangement that provides for a private attorney or special assistant Attorney General to be paid a percentage of any

(2) ‘Deputy or assistant Attorney General’ means an attorney employed by the state as a staff attorney in the Attorney General’s office.

(3) ‘Private attorney’ means any attorney who is neither an assistant Attorney General on the Attorney General’s staff nor an employee of another state agency.

(4) ‘Special assistant Attorney General’ means an attorney that has been retained or appointed by the Attorney General to assist in the legal representation of the state.

(5) ‘State’ means the State of West Virginia, including state officers, departments, boards, commissions, divisions, bureaus, councils and units of organization, however designated, of the executive branch of state government and any of its agents.

(b) The state may not enter into any contingency fee legal arrangement or contract with a private attorney unless the Attorney General, or his or her designee, makes a written determination prior to

(1) Whether sufficient and appropriate legal and financial resources exist within the Attorney General's office to handle the matter;

(2) The time and labor required; the novelty, complexity and difficulty of the questions involved; and the skill requisite to perform the attorney services properly;

(3) The geographic area where the attorney services are to be provided, as well as any potential costs associated with providing legal services in that geographic area; and

(4) The amount of experience desired for the particular kind of legal services to be provided and the need for a private attorney's experience with similar issues or cases.

(c) If the Attorney General, or his or her designee, makes the written determination described in subsection (b) of this section, the Attorney General shall request proposals from private attorneys to

(1) An emergency situation exists that requires time-sensitive legal services that cannot be adequately provided by the Office of Attorney General and for which insufficient time exists to complete the customary competitive bidding process;

(2) An appointment, or the continuation of an appointment, is necessary to avoid disruption in pending legal matters by allowing previously appointed outside counsel to continue providing legal representation; or

(3) The legal services are to be provided on a pro bono basis and, therefore, will not benefit from a competitive bidding process.

(d) Any requests for proposal shall be posted to the website of the Office of the Attorney General. The time period under which the proposal is open should be clearly stated.

(e) When soliciting proposals from private attorneys to represent the state on the basis of a fee arrangement as set forth in subsection (h) of this section, the Attorney General, or his or her designee,

(1) Whether the private attorneys possess the requisite skills and expertise needed to handle the legal matters in question;

(2) Whether the private attorneys possess requisite staffing and support to handle the scope of the litigation or matter;

(3) Whether the private attorneys or any members of the private attorneys' law firm have been subject to discipline by the West Virginia State Bar, or other entities, for unethical conduct;

(4) Whether the private attorneys have been peer rated and, if so, what peer ratings they have received, along with any other recognitions or awards for legal services;

(5) The estimated fees, costs and expenses of the private attorneys to perform the legal services requested;

(6) The willingness of the private attorneys to enter into alternative billing arrangements;

(7) Whether the private attorneys are in compliance with all applicable laws of the State of West Virginia;

(8) Any potential disqualifying conflicts of interest between the private attorneys and the state;

(9) Any relevant input from the state entity client, if applicable, regarding the needed legal services; and

(10) Any such other relevant factors as may be identified by the Attorney General or his or her designee.

(f) If, after soliciting proposals for legal services, the Attorney General, or his or her designee, determines that the proposals received are insufficient based on an application of the factors set fort

(g) The state shall not enter into a contingency fee legal arrangement or contract as defined herein for private attorney services unless the following requirements are met throughout the contract period and any extensions thereof:

(1) The Attorney General, or the deputy or assistant Attorney General involved in the case, shall retain control over the course and conduct of the case;

(2) The Attorney General, or the deputy or assistant Attorney General with supervisory authority, is personally involved in overseeing the litigation;

(3) The Attorney General, or the deputy or assistant Attorney General involved in the case, retains veto power over any decisions made by any appointed private attorneys; and

(4) Decisions regarding settlement of the case are reserved exclusively to the discretion of the state or other client entity. An appropriate representative of the Attorney General's office shall attend settlement conferences whenever possible.

(h) The state may not enter into any fee arrangement that provides for the private attorney to receive an aggregate fee in excess of:

(1) Twenty-five percent of the first \$10 million recovered; plus

(2) Twenty percent of any portion of the recovery between \$10 million and \$15 million; plus (3) Fifteen percent of any portion of the recovery between \$15 million and \$20 million; plus

(4) Ten percent of any portion of the recovery between \$20 million and \$25 million; plus

(5) Five percent of any portion of the recovery exceeding \$25 million.

In no event shall the aggregate fee for any legal matter exceed \$50 million for any matters arising from a single event or occurrence,

exclusive of reasonable costs and expenses, and irrespective of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery. Any legal fees shall not be based on penalties or fines awarded or any amounts attributable to penalties or fines.

To the extent that any private attorneys are to be paid through a court-approved award of attorney's fees, their appointment to represent the state is contingent upon the acceptance of the fee limitations set forth herein. To the extent that any award of attorney fees is subject to judicial discretion, the private attorneys appointed pursuant to this section may not accept an award of attorney fees greater than the fee limitations outlined in this subsection.

(i) The Attorney General shall develop a standard addendum to every contract for private attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the Attorney General's office, including, without limitation, the requirements listed in subsection (h) of this section.

(j) Subject to the provisions of subsection (l) of this section, the Attorney General's written determination to enter into any legal arrangement or contract with a private attorney shall be posted on the Attorney General's website for public inspection within ten business days after the selection of a private attorney and shall remain posted on the website for the duration of the contract for legal services, including any extensions or amendments thereto. Any and all written determinations made pursuant to subsection (b) or (c) of this section shall also be posted on the Attorney General's website for public inspection within ten business days after the issuance of the written determination. Any payment of fees as set forth in subsection (h) of this section shall be posted on the Attorney General's website within thirty calendar days after the payment of such fees to the private attorney and shall remain posted on the website for at least three hundred sixty-five calendar days thereafter.

(k) Any private attorney under contract to provide services to the state shall, from the inception of the contract until at least four years

after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such legal services. In conjunction with the Attorney General's office, the private attorney shall make all such records that are not covered by the attorney-client privilege or otherwise confidential in nature available for inspection and copying upon request in accordance with the West Virginia Freedom of Information Act, sections one through seven, inclusive, article one, chapter twenty-nine-b of this code. In addition, the private attorney shall maintain detailed contemporaneous time records for the attorneys, other professionals and paraprofessionals working on the matter for a period of at least four years and shall promptly provide these records to the Attorney General upon request.

(l) The Attorney General retains the right to temporarily waive the disclosure requirements set forth in subsection (j) of this section upon making a written determination that:

(1) A waiver is necessary to protect attorney-client or privileged information; or

(2) Immediate disclosure of the existence of an arrangement or contract with a private attorney, or any other sensitive information, could compromise the initiation, handling or conclusion of any investigation or case matter handled by the office of Attorney General.

Once any risks to the attorney-client privilege or confidential work product are no longer present, the office of Attorney General shall make any and all suspended disclosures as soon as possible and all subsequent disclosures in accordance with the time frame and manner set forth by subsection (j) of this section.

(m) Once a private attorney is appointed pursuant to this section, he or she may thereafter be designated as a special assistant Attorney General, and, upon such appointment, shall provide representation subject to the terms contained in subsection (g) of this section.

(n) If the Attorney General's office chooses to not be involved in a legal matter as a result of a conflict of interest, and thus cannot implement in good faith the provisions of this section as a result of the conflict, then the process set forth herein shall be implemented by the client state entity needing representation, with the assistance of the Department of Administration if necessary.

(o) Nothing in this section expands the authority of any state agency or state agent to enter into contracts nor shall it be deemed to change any existing law that authorizes a state agency or state agent to employ its own counsel or enter into contracts for legal services.

§5-3-4. Annual report to Governor, President of the Senate and Speaker of the House.

(a) The Attorney General shall annually, on or before November 1, deliver to the Governor, President of the Senate and Speaker of the House a report of detailing:

(1) The state and condition of the several causes, in which the state is a party, pending in courts mentioned in section two of this article.

(2) The use of any fee arrangements as provided in subsection (h), section three-a of this article with private attorneys in the preceding year. At a minimum, the report shall:

(A) Identify all new fee arrangements entered into during the year and all previously executed fee arrangements that remain current during any part of the year and for each contract describe:

(i) The name of the private attorney with whom the state has contracted, including the name of the attorney's law firm;

(ii) The nature and status of the legal matter;

(iii) The name of the parties to the legal matter;

(iv) The amount of the recovery; and

(v) The amount of any legal fees paid.

(B) Include copies of any written determinations made pursuant to section three-a of this article during the year.

(b) The Attorney General's annual report shall be posted on the Attorney General's website within thirty days of submitting the report to the Governor, President of the Senate and Speaker of the House and shall remain posted on the website for at least two years thereafter.

(c) Nothing in this section shall be considered to require the Attorney General to report or disclose any information protected by the attorney-client or other privilege."

Delegate Reynolds requested to be excused from voting on the passage of Com. Sub. for H. B. 4007 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Reynolds would be indirect and as a member of a class of persons possibly to be affected by passage of the bill and refused to excuse the Gentleman from voting.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 51**), and there were—yeas 64, nays 33, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Pushkin, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaule, Trecost and P. White.

Absent and Not Voting: Blackwell, Hanshaw and J. Nelson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4007) passed.

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

Resolutions Introduced

Delegates Sponaugle, A. Evans, Campbell and Hartman offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 42 – “Requesting the Division of Highways to name bridge number 36-33-44.10 (36A103) (latitude 38.63100, longitude -79.24376), locally known as the Brandywine Bridge, carrying U.S. Route 33 over the South Fork South Branch of the Potomac River in Pendleton County, the ‘WVSP Tpr. Phillip S. Kesner Memorial Bridge’.”

Whereas, Phillip S. Kesner was born in Pendleton County, WV, on September 29, 1956, the son of Orlando and Mary Kesner; and

Whereas, Phillip S. Kesner graduated from Franklin High School in 1974 and attended West Virginia Institute of Technology upon a football scholarship awarded to him due to his athletic prowess and leadership; and

Whereas, Phillip S. Kesner then was accepted into the West Virginia State Police Academy and graduated on May 17, 1977; and

Whereas, following his graduation, Trooper Kesner was stationed at the Moundsville Detachment of the West Virginia State Police in Marshall County, West Virginia; and

Whereas, In 1979, Tpr. Kesner learned of a breakout at the State Penitentiary in Moundsville and, though he was not on duty at the time

and was driving with his wife in their own vehicle, Tpr. Kesner responded to the scene of the breakout while it was in progress; and

Whereas, Tpr. Kesner encountered the escaping inmates outside of the prison and they attempted to overpower him and steal his vehicle, but Tpr. Kesner fought off the armed inmates who tried to drag him and his wife from the vehicle; and Whereas, Despite being shot in the chest at close range, Tpr. Kesner continued to fight the escape of the prison inmates and engaged them in a gun battle; and

Whereas; Tpr. Phillip S. Kesner was fatally injured and made the ultimate sacrifice in service to the state and the people of West Virginia on November 7, 1979, at the age of just twenty-three; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 36-33-44.10 (36A103) (latitude 38.63100, longitude -79.24376), locally known as the Brandywine Bridge, carrying U.S. Route 33 over the South Fork South Branch of the Potomac River in Pendleton County, the “WVSP Tpr. Phillip S. Kesner Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “WVSP Tpr. Phillip S. Kesner Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates, forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the surviving members of his family.

Delegates Hartman, Sponaugle, Perry, Campbell, Longstreth and P. White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 43 – “Requesting the Division of Highways to name the Keren’s Bridge on Corridor H (U.S. Route 48) located in Kerens, Randolph County, Bridge Number 42-48-41.0 NB-SB (42A211 and 42A212) at latitude 39.01366, longitude -79.81116, originally called the Kerens Bridge Lazy Run, the ‘PVT Preston D. Vanscoy Memorial Bridge’.”

Whereas, Private Preston D. Vanscoy was born at Kerens in Randolph County, West Virginia on April 26, 1912; and

Whereas, Prior to entering the military service to serve in WWII he was employed by Monongahela Power Company; and

Whereas, He trained at Camp Walters, Texas and Fort George B. Meade in Maryland before entering the war; and

Whereas, After receiving his military training, he was sent overseas to France to enter combat against the German military; and

Whereas, Private Vanscoy was engaged in ferocious combat against the German military in Normandy, Northern France and the Rhineland and Ardennes-Alsace in Central Europe as a member of the United States Army, 134th Infantry Regiment, 35th Infantry Division; and

Whereas, Private Vanscoy was killed in action in France on September 30, 1944, and for his courage exhibited in combat, he was posthumously awarded the Purple Heart; therefore, be it

Resolved by the Legislature of West Virginia:

That the Commissioner of the Division of highways is hereby requested to name the Keren’s Bridge on Corridor H (U.S. Route 48) located in Kerens, Randolph County, Bridge Number 42-4841.0 NB-SB (42A211 and 42A212) at latitude 39.01366, longitude -79.81116, originally called the Kerens Bridge Lazy Run, the “PVT Preston D. Vanscoy Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming the bridge the “PVT Preston D. Vanscoy Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Perdue, Rohrbach and Hicks offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 44 – “Requesting the Division of Highways to name Bridge Number 50-52-30.52 (50A087), carrying United States Route 52 over Mill Creek, in Wayne County, West Virginia, the ‘US Navy Medic 3rd Roy Elmer “Doody” Moon Bridge’.”

Whereas, Roy Elmer “Doody” Moon was born on July 2, 1945, in Cove Gap, Wayne County, West Virginia; and

Whereas, Roy Elmer “Doody” Moon was a navy medic (Medical Assistant) with 2nd Battalion 3rd Marines, 1st Marine Division in Vietnam. He received for his service the Vietnam Service Medal (One Bronze Star) (Fleet Marine Force Combat Operations Insignia), Navy Unit Commendation Medal and Vietnam Campaign Medal; and

Whereas, Marines and Naval men with which he served have stated about US Navy Medic 3rd Roy Elmer “Doody” Moon that he was everything from “the bravest man I know” to “he never thought of his own safety; the injured came first.” All who attended a unit reunion had praise for “Doody” Moon. Some said they would not be alive today if it had not been for “Doody” Moon. The platoon leader stated that he worried that the new medic would not be as capable to do the job of their former medic, but he stated that “Doody” Moon more than filled the shoes left by the former medic; and

Whereas, US Navy Medic 3rd Roy Elmer “Doody” Moon is a person who served his fellow man without considering his own safety. He is an outstanding citizen and a well-respected member of our community today; and

Whereas, The Fort Gay Veterans Park Committee respectfully requests that accomplishments and contributions of Roy Elmer “Doody” Moon to his community, state and country not go unnoticed and that he be recognized by naming a bridge for him; therefore, be it

Resolved by the Legislature of West Virginia:

That Bridge Number 50-52-30.52 (50A087), carrying United States Route 52 over Mill Creek, Wayne County, West Virginia, be named the “US Navy Medic 3rd Roy Elmer ‘Doody’ Moon Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “US Navy Medic 3rd Roy Elmer ‘Doody’ Moon Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to Roy Elmer “Doody” Moon.

Delegates Eldridge, Phillips, Rodighiero, Moffatt, Morgan, Hornbuckle and Miller offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 45 - “Requesting the Division of Highways to name, Bridge Number 22-37-4.35 (22A059), latitude 38.10346, longitude -82.17775, on Route 37 in Lincoln County, locally known as East Fork Bridge, as the ‘U.S. Army PFC Cornelious Wiley Memorial Bridge’.”

Whereas, Cornelious Wiley was born May 24, 1921, in Ranger, Lincoln County, West Virginia; and

Whereas, Cornelious Wiley served in the Army 80th Division, 905th Field Artillery Battalion; and

Whereas, Cornelious Wiley died serving his country on September 1, 1944; and

Whereas, It is fitting to honor Cornelious Wiley's life and service by naming the bridge at the mouth of Barberry Road after him; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 22-37-4.35 (22A059), latitude 38.10346, longitude -82.17775, on Route 73 in Lincoln County, locally known as East Fork Bridge, as the "U.S. Army PFC Cornelious Wiley Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge, proclaiming the bridge the "U.S. Army PFC Cornelious Wiley Memorial Bridge", and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation; and Cornelious Wiley's surviving relatives.

Delegates Rohrbach, Perdue, Hicks and Reynolds offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 46 – "Requesting the Division of Highways to name Bridge Number 50-52-37.47 (50A049), (latitude 38.006184, longitude -82.506839), locally known as the Lost Creek Beam Span, carrying U.S. Route 52 over Lost Creek in Wayne County, the 'U.S. Army PFC Ernest D. Marcum Bridge'."

Whereas, Ernest D. “Doby” Marcum was born in Crum, WV, on September 12, 1947, the son of Oscar and Gladys Perry Marcum; and

Whereas, Ernest D. “Doby” Marcum entered service to his country with the United States Army during the Vietnam Conflict in 1967; and

Whereas, Ernest D. “Doby” Marcum served as an Armor Intelligence Specialist with the 9th Infantry Division, attaining the rank of Private First Class; and

Whereas, PFC Ernest D. Marcum paid the ultimate price on December 31, 1967, when he was killed by shrapnel from a grenade and he was posthumously awarded the Purple Heart thereof; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-52-37.47 (50A049), (latitude 38.006184, longitude -82.506839), locally known as the Lost Creek Beam Span, carrying U.S. Route 52 over Lost Creek in Wayne County, the “U.S. Army PFC Ernest D. Marcum Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army PFC Ernest D. Marcum Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates, forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the Wayne County Veterans’ Association.

Delegates Rohrbach, Perdue, Reynolds and Hicks offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 47 – “Requesting the Division of Highways to name Bridge Number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the ‘U.S. Army SFC Jesse Muncy Memorial Bridge’.”

Whereas, Sergeant First Class Muncy was born in Mingo County on September 15, 1921, the son of Jeff and Sally (Sallie) Muncy. Growing up in Kermit with his sisters Lucy (later Marcum), Dicie (Hodge), and Mary (Waller) and his brother Birdie, he attended local schools through the elementary grades; and

Whereas, Following his July 17, 1941 enlistment, Sergeant First Class Muncy married Loda Lowe, with whom he had three children, Clyde, Sally (“Dot”) and Peggy Carol; and

Whereas, Serving with the Company G, 13th Infantry Regiment, 8th Infantry, Sergeant First Class Muncy received a Silver Star for gallantry in action on April 9, 1945, when in the vicinity of Olpe, Germany, his company encountered two German tanks during an attack, and Sergeant First Class Muncy, along with four other men, knocked out the tanks; and

Whereas, On October 15, 1945, Sergeant First Class Muncy received that Silver Star, the citation reads, “By direction of the President, under the provisions of AR 600-45, 22 September 1943, as amended, the Silver Star is awarded to: Staff Sergeant Jesse Muncy, 35210666, Infantry, Company G, 13th Infantry Regiment, for gallantry in action on 9 April 1945 in the vicinity of Olpe, Germany. When his company encountered two German tanks during an attack, Sergeant Muncy, with four other men, proceeded into enemy lines in an attempt to knock out the tanks. Under direct enemy small arms, machine gun and tank fire, Sergeant Muncy, after directing his men to give him covering fire, maneuvered to within fifty yards of an enemy tank and, firing three rounds from his bazooka, knocked out the tank, captured seven enemy soldiers and wounded five others. Moving alone to

another position, Sergeant Muncy placed fire upon a German convoy, capturing 23 enemy soldiers. Sergeant Muncy's outstanding courage and devotion to duty were in keeping with the highest traditions of the military service. Entered the military service from West Virginia"; and

Whereas, Sergeant First Class Muncy also received the Good Conduct Medal, the American Defense Service Medal, and the European-African-Middle Eastern Theater Service Medal, as well as a Bronze Star for heroic and meritorious service; and

Whereas, After his honorable discharge on October 18, 1945, Sergeant First Class Muncy returned to southern West Virginia and the coal mines and settled into a seemingly normal life. But life in the mines had its ups and downs, and when fighting erupted in Korea, Sergeant First Class Muncy willingly reenlisted. As a decorated war soldier and experienced infantryman, he became a participant in what is now known as "Bloody Ridge" in North Korea during August and September 1951; and

Whereas, Sergeant First Class Muncy was involved in fierce fighting – undoubtedly as harrowing as anything he had seen in World War II – had been going on for months, as reported in the following account: "After securing Hill 773 on the last day of August, the 9th Infantry struck anew at the two remaining peaks on 'Bloody Ridge', Hills 983 and 900." The hilly terrain made any forward movement difficult, to say the least, and the intense fighting had scorched the earth. But the 9th Infantry persevered: "Dirty, unshaven, and miserable they backed down, tried again, circled, climbed, slid, suffered, ran, rolled, crouched and grabbed upward only to meet again the murderous fire, the blast of mortar and whine of bullets and jagged fragments. Minutes seemed like hours, hours like days, and days like one long, terrible, dusty, blood-swirled nightmare shivering at night, sweat clogged at day"; and

Whereas, It was in this hard-fought battle that Sergeant First Class Muncy lost his life on September 1, 1951. Sergeant First Class Muncy

received a second Silver Star for his service in Korea, as well as the Purple Heart. His remains were interred in a family cemetery near Kermit on December 18, 1951. His funeral notice in the Williamson Daily News, December 17, 1951, described him as a “professional soldier”; and

Whereas, On August 10, 1951, less than a month before his death Sergeant First Class Muncy wrote a letter to his wife and children reiterating his love for them but inserting his uneasy concern for what his unit was about to face: “I will drop you a few lines tonight to let you know I am well and I miss you and the babies a lot. Honey, I am moving up tonight and we are all pretty quiet. Nobody has got anything to say, but you can tell [what] they’re thinking. Some of them are worried some, and I am for one, but they don’t know it, and honey, I am thinking of you and the babies and if I will get to see you anymore... Well, honey, if this should be the last letter, take good care of the babies and keep them together and tell them that I love them...” So tell all the family hello and answer real soon, and tell Mom hello for me. So I will close with all my love... P.S. Take good care of my pup. Love, Dad”; and

Whereas, Sergeant First Class Muncy’s widow Loda Muncy never remarried, preferring to raise her “babies” in the home where they planned to spend the rest of their lives. In a 2013 interview, Sally (“Dot”) explained that she and Peggy Carol worked for many years at an Ohio packing plant, and Peggy still lives in that state, while Dot has returned in her retirement to the old home place on Jennie’s Creek in Wayne County. Clyde, not yet retired, still works at a machine shop in Kenova. The family is determined that the legacy of Sergeant First Class Muncy and Loda Muncy not be forgotten, and they recall with pride that anyone who claims to have met Sergeant First Class Muncy during his years in the service has offered thanks for his selfless sacrifice; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army Sergeant First Class Muncy, a native son

who gave the ultimate sacrifice for his state and his country, by naming Bridge Number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U.S. Army SFC Jesse Muncy Memorial Bridge”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name the Bridge Number 5052-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U.S. Army SFC Jesse Muncy Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army SFC Jesse Muncy Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the family members of U.S. Army Sergeant First Class Jesse Muncy.

Delegates Hicks, Rohrbach, Perdue and Reynolds offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 48 – “Requesting the Division of Highways to name the bridge that traverses the left fork of Wilson Creek on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, Bridge Number 50A026, latitude 39.33852, longitude -82.38409, as the ‘Charles Edward Smith Memorial Bridge’.”

Whereas, Charles Edward Smith was born on October 24, 1921; and

Whereas, Charles Edward Smith who served in the United States Army during World War II, received the Purple Heart, Good Conduct

Medal and Eastern Service Ribbon as the result of the courage he displayed in battle, serving in the Ardennes in Northern France and being wounded in combat on December 30, 1944, in Belgium; and

Whereas, Charles Edward Smith passed away on April 6, 2013; and

Whereas, It is fitting and proper to memorialize the courageous and honorable actions taken on behalf of his country by Charles Edward Smith; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name the bridge that traverses the left fork of Wilson Creek on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, designated as Bridge Number 50A026, latitude 39.33852, longitude -82.38409, as the “Charles Edward Smith Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to make and place signs identifying the bridge as the “Charles Edward Smith Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the Wayne County Veterans’ Association.

Delegates Campbell, Hartman, Sponaugle, Reynolds and Byrd offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 49 - “Requesting the Division of Highways to name Bridge Number 42-219/34-0.12 (42A161) (38.91833, -79.84572), locally known as the 11th Street Bridge, carrying CR 219/34 over Tygart Valley River in Randolph County, the ‘U.S. Navy BT2 Mark Edward Hutchison Memorial Bridge’.”

Whereas, Boiler Technician Hutchison was born on March 30, 1963, in Elkins to Edward S. Hutchison and Helen Ruth (Purkey) Hutchison; and

Whereas, Boiler Technician Hutchison was the youngest of the five Hutchison children. He grew up in the Elkins area where he attended school as well as the Vo-Tech Center until graduation from Elkins High School in 1981. He was involved in many local organizations and activities including the Boy Scouts, the Izaak Walton League, and the Woodford United Methodist Church; and

Whereas, Boiler Technician Hutchison enlisted in the U.S. Navy on April 12, 1983, and served honorably as a BT2 Class Boiler Technician, and was deployed to the Middle East during Operation Desert Shield in August 1990; and

Whereas, Boiler Technician Hutchison was killed in a tragic boiler room accident aboard the USS Iwo Jima on October 30, 1990, and was hailed for his bravery and heroism by shipmates and the author Timothy Cummings who wrote an investigative report for Chief Engineer Magazine for his efforts to save the ship and protect his fellow shipmates when the horrific accident occurred; and

Whereas, Boiler Technician Hutchison's body was returned to his birthplace for final military rites and burial in the Mountain State Memorial Gardens on November 5, 1990; and

Whereas, Boiler Technician Hutchison's father, Edward S. Hutchison, is a 92 year-old WW II Navy Veteran who served from 1943 to 1945. He served in several theaters of war during this time including his participation as an operator of LCVP landing craft and the landing of troops on the beaches of Normandy on D-Day, June 6, 1944. Mr. Hutchison also served as an Elkins City Councilman for several years during the 1970s; and

Whereas, It is fitting that an appropriate memorial recognizing U.S. Navy Boiler Technician Mark Edward Hutchison and the sacrifice he made be established in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name Bridge Number 42219/34-0.12 (42A161) (38.91833, -79.84572), locally known as the 11th Street Bridge, carrying CR 219/34 over Tygart Valley River in Randolph County, the “U.S. Navy BT2 Mark Edward Hutchison Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Navy BT2 Mark Edward Hutchison Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways and the family of U.S. Navy Boiler Technician Mark Edward Hutchison.

Petitions

Delegates Campbell and Hartman presented a petition signed by residents of Randolph County requesting the Governor and Legislature increase the amount of state funds allocated to PEIA; which was referred to the Committee on Finance.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Waxman, Kurcaba, Folk, Hamrick, Foster, McCuskey, Summers, Ihle, Trecoast, Hanshaw and Kessinger:

H. B. 4449 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §4A-1-1, §4A-2-1, §4A-3-1, §4A-3-2, §4A-3-3, §4A-3-4, §4A-4-1, §4A-4-2, §4A-4-3, §4A-4-4, §4A-4-5, §4A-4-6, §4A-4-7, §4A-4-8, §4A-4-9, §4A-5-1, §4A-5-2, §4A-5-3, §4A6-1, §4A-6-2, §4A-6-3, §4A-6-4, §4A-6-5, §4A-6-6, §4A-6-7, §4A-6-8, §4A-6-9, §4A-7-1, §4A-7-2,

§4A-7-3, §4A-7-4, §4A-7-5, §4A-7-6, §4A-7-7, §4A-7-8, §4A-7-9, §4A-7-10, §4A-7-11, §4A-8-1, §4A-8-2, §4A-8-3, §4A-9-1, §4A-9-2, §4A-10-1, §4A-10-2, §4A-10-3, §4A-10-4, §4A-10-5, §4A-10-6 and §4A-10-7, all relating to creating the Compact for a Balanced Budget; providing a declaration of policy, purpose and intent; defining terms; providing for Compact membership and withdrawal; providing for a Compact Commission and Compact Administrator; providing for a resolution applying for a Constitutional Convention; providing for the appointment of delegates, their instructions and limitations; providing for convention rules; providing a prohibition on ultra vires convention; providing for a resolution prospectively ratifying a balanced budget amendment; providing for the construction, enforcement, venue and severability; and providing effective dates for a termination date”; to the Committee on the Judiciary.

By Delegates Skinner, Manchin, Marcum, Hicks, Shaffer, Rowe and Sponagle:

H. B. 4450 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8, §30-41-9, §30-41-10, §30-41-11, §30-41-12, §30-41-13, §30-41-14 and §30-41-15, all relating to the ‘West Virginia Court Reporter Act of 2016’; providing a short title; defining certain terms; providing licensure and reporting firm requirements; providing court reporters are not required to be involved in all legal proceedings; providing for the creation of the ‘West Virginia Board of Court Reporting’; designating membership requirements and setting terms of service for board members; establishing duties for the board; providing a procedure to handle complaints against court reporters and reporting firms; providing for fines for certain violations and noncompliance with the article; providing for reciprocal agreements with governmental or other entities; providing guidelines for determining when state licensure laws apply over another state’s licensure laws in case of conflict; requiring and providing for fees for licensure or registration; addressing license and registration renewal; requiring continuing legal

education for licensees; requiring licensees to provide changes of address; providing guidelines for grandfathering licensure of court reporters; providing for the disposition and disbursement of moneys collected by the board; requiring the board to annually establish a budget; and authorizing the board to contract for services under certain circumstances”; to the Committee on Government Organization then the Judiciary.

By Delegates Upson, Moore and Ihle:

H. B. 4451 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-13A-26, relating to public service districts; providing that after the 2020 census, public service districts are to be combined into one district for each county; that the current system is to remain in effect until 2022 when there will be only one public service district in a county; and that the members of the one public district board are to be elected, one from each magisterial district in the county”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Sponaugle, Hartman, Campbell, Shaffer and A. Evans:

H. B. 4452 - “A Bill to amend and reenact §17A-3-4 of the Code of West Virginia, 1931, as amended, relating to exempting Class X vehicles from the tax provisions of this section”; to the Committee on Roads and Transportation then Finance.

By Delegates Sobonya, Miller, Rohrbach, Perdue, Morgan, Arvon, Hill, Espinosa, Hornbuckle and Ihle:

H. B. 4453 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to the Marshall University Forensic Science Center; requiring the State Police to partner with the DNA and Digital Forensics sections of Marshall University Forensic Science Center, which sections are designated a Disaster Recovery Laboratory”; to the Committee on the Judiciary.

By Delegates Upson, Espinosa, Border, Shott, Householder, O’Neal, Blair, McGeehan, Ihle, Kurcaba and Statler:

H. B. 4454 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-10-1, §9-10-2, §9-10-3, §9-10-4, §9-10-5, §9-10-6, §9-10-7, §9-10-8, §9-10-9, §9-10-10, §9-10-11 and §9-10-12, all relating to welfare fraud prevention”; to the Committee on the Judiciary.

By Delegates Upson, Blair, Householder, Lane, Ihle, Statler and Kurcaba:

H. B. 4455 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-12-11, relating to sex offender registrants; prohibiting Halloween related contact with children; and providing a misdemeanor criminal penalty”; to the Committee on the Judiciary.

By Delegates Skinner and Manchin:

H. B. 4456 - “A Bill to amend and reenact §7-4-1 and §7-4-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §7-4-7, all relating to establishing the prosecuting attorney Modernization Act; eliminating gendered language referring to prosecuting attorneys; clarifying the duties of the prosecuting attorney; and codifying qualifications for the position of prosecuting attorney”; to the Committee on the Judiciary.

By Delegates Skinner, Manchin, Perry, Rowe, Pushkin, Campbell, Fluharty, Hornbuckle and Fleischauer:

H. B. 4457 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j, relating to creating the West Virginia Student Education Incentive Act; and providing taxpayers repaying their own student loans a modification reducing federal adjusted gross income in the amount of the principal and interest paid, for personal income tax purposes”; to the Committee on Finance.

By Delegates Skinner and Manchin:

H. B. 4458 - “A Bill to amend and reenact §61-8-19a of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties for participating in an animal fighting venture”; to the Committee on the Judiciary.

By Delegates Hicks, Rodighiero, Rohrbach, Perdue, J. Nelson, Rowe, Azinger, Deem, Reynolds, Eldridge and Westfall:

H. B. 4459 - “A Bill to amend and reenact §48-11-105 and §48-11-106 of the Code of West Virginia, 1931, as amended; all relating to requiring in the event the amount of child support to be paid is modified by a later child support order, the amount to be paid is effective on the date the petition for the modification was filed, not the date the subsequent order was entered”; to the Committee on the Judiciary.

By Delegates Howell, Arvon, Ihle, J. Nelson, Moffatt, Faircloth, Hill, Cadle, Lynch, Hamrick and Blair:

H. B. 4460 - “A Bill to amend and reenact §30-19-4 of the Code of West Virginia, 1931, as amended, relating to the Board of Registration of Foresters; changing qualifications for membership on the board; providing for continued service of qualifying board members; and providing for the disqualification of certain members who become licensees”; to the Committee on Government Organization.

By Delegates Arvon, Duke, Espinosa, Howell, Hill, Blackwell and Border:

H. B. 4461 - “A Bill to amend and reenact §18-9D-15 of the Code of West Virginia, 1931, as amended, relating to School Building Authority School Major Improvement Fund eligibility; removing requirement for certain annual amounts to be expended by county board for facility maintenance; and requiring county board to provide facility maintenance expenditure data for review to assist authority in project determinations”; to the Committee on Education then Finance.

By Delegate Caputo:

H. B. 4462 - “A Bill to amend and reenact §17C-14-15 of the Code of West Virginia, 1931, as amended, relating to increasing driver’s license penalties for using wireless communication devices while operating a vehicle”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Rohrbach, Sobonya, Waxman, Stansbury, Ellington, Summers, Kurcaba, Arvon, Perdue and Miller:

H. B. 4463 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-13a; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to the practice of medicine, permitting the practice of telemedicine; establishing requirements; making exceptions; defining terms; and authorizing rulemaking”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Westfall, Hartman, Walters and Morgan:

H. B. 4464 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating generally to guaranteed asset protection waivers; providing short title, scope and legislative intent of section; defining certain terms; specifying requirements for offering guaranteed asset protection waivers; requiring contractual liability or other insurance policies; providing for disclosures and cancellation; exempting commercial transactions; providing for enforcement of section and severability; excluding waivers from consumers sales and service tax; specifying effective date of section and providing for section to apply to guaranteed asset protection waivers issued on and after specified date”; to the Committee on Banking and Insurance then Finance.

By Delegates Duke, Espinosa, Westfall, Ambler, Rowan, Cooper, Kelly and Rohrbach:

H. B. 4465 - “A Bill to amend and reenact §18A-4-5 of the Code of West Virginia, 1931, as amended, relating to salary equity among school systems; removing definition of salary equity; making legislative findings; and requiring state board recommendation upon

determination equity not being met”; to the Committee on Education then Finance.

By Delegates Espinosa, Statler, Duke, Westfall, Rowan, Ambler, Romine, Rohrbach, Kelly, Cooper and Kurcaba:

H. B. 4466 - “A Bill to amend and reenact §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7 and §189A-10 of the Code of West Virginia, 1931, as amended, all relating to public school support; basing the allowable number of state aid professional educators be on a ratio basis, rather than the number employed subject to a limit; providing a certain salary level be used when the number of professional positions exceed the number employed in a county; basing minimum professional instructional personnel required to be on a ratio basis of funded professional educators; providing for prorating professional instructional personnel among participating counties in a joint school or in joint programs and services; deleting obsolete language and mandated periodic legislative review; basing the allowable number of service personnel be on a ratio basis, rather than number employed subject to a limit; providing a certain salary level be used when the number of service positions exceed the number employed in a county; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance to calculation of teachers retirement fund allowance; updating employer retirement contribution rate percentage used for calculating retirement allowance to reflect both plans; allowing a limited portion of funds for bus purchases to be used for certain facility, equipment and other current expense priorities if requested and approved; reducing percent of growth in local share amount for improving instructional programs; removing authorization for use of instructional improvement funds for implementation and maintenance of regional computer information system; increasing percent of growth in local share amount for improving instructional technology; increasing base dollar amount to be distributed to each county; authorizing the use of instructional technology improvement funds for employment of technology system specialist subject to a limit

and authorization by state superintendent; and specifying when certain debt service funds payments are to be made into school building capital improvement fund”; to the Committee on Education then Finance.

By Delegates Espinosa, Statler, Duke, Westfall, Rowan, Rohrbach and Ambler:

H. B. 4467 - “A Bill to amend and reenact §18-2-7c of the Code of West Virginia, 1931, as amended, relating to including financial aid planning and completion of the Free Application for Federal Student Aid in secondary school instruction in personal finance; including building student familiarity with variety of additional free resources to plan, apply and pay for education and training beyond high school; and making finding and declaration”; to the Committee on Education.

By Delegates Howell, Arvon, R. Smith, Blair, Hill, Moffatt, Hamrick, Faircloth, Hartman, Lynch and P. White:

H. B. 4468 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §1-5-6, relating to requiring every state agency to submit a report to the Legislature containing a detailed inventory of all property owned by the agency and associated costs”; to the Committee on Government Organization.

By Delegates Marcum, Perry, P. White, Walters, Zatezalo, Byrd, Phillips, Ireland, Ferro, Boggs and Moye:

H. B. 4469 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-14a, relating to providing a free lunch to all employees in a school building”; to the Committee on Education then Finance.

By Delegates Rohrbach, Summers, Ellington, Waxman, Stansbury, Campbell, Longstreth, Arvon, Perdue and Miller:

H. B. 4470 - “A Bill to amend and reenact §16-22-3 of the Code of West Virginia, 1931, relating to the expansion of newborn testing to include Adrenoleukodystrophy”; to the Committee on Health and Human Resources.

By Delegates Rohrbach, Stansbury, Ellington, Waxman, Kurcaba, Arvon, Perdue and Miller:

H. B. 4471 - “A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2-11 of said code, all relating to local health departments; clarifying the powers and duties of the Commissioner of Public Health as it relates to administration of local boards of health; clarifying provisions related to the submission of a program plan by local boards of health; authorizing local health departments to bill health insurance plans for services; and providing rule-making authority”; to the Committee on Political Subdivisions then Health and Human Resources.

By Delegates McGeehan, Folk, Ihle, J. Nelson and Faircloth:

H. B. 4472 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2-11a, relating to the rule-making authority of local boards of health; establishing a procedure by which a local governing body may review and vote upon the adoption, amendment or revocation of existing local board of health rules and requiring that the governing body adopt all proposed local board of health rules by a majority vote before any new rule may be enforced”; to the Committee on Government Organization.

House Calendar

Third Reading

Com. Sub. for H. B. 4186, Relating to additional duties of the Public Service Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 52**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Shaffer.

Absent and Not Voting: Blackwell, Hanshaw and J. Nelson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4186) passed.

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

Com. Sub. for H. B. 4186 – “A Bill to amend and reenact §29A-1-3 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §24A-22b, all relating to the Public Service Commission; establishing a complaint review process; setting forth burden of proof on carrier; developing a process for aggrieved parties to recover charges; establishing factors for commission to consider whether charges are fair, just, and reasonable; providing commission authority to establish civil penalties for violations; prohibiting indemnification in certain instances; requiring carriers to list rates on invoices; authorizing commission to suspend or revoke operating authority; providing limited rule-making authority to the commission; providing for sunseting the rule unless reauthorized; and providing for a legislative audit.”

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

On this question, the yeas and nays were taken (**Roll No. 53**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell, Hanshaw and J. Nelson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4186) takes effect from its passage.

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

Second Reading

Com. Sub. for H. B. 2444, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. B. 4012, West Virginia Religious Freedom Restoration Act,

H. B. 4148, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act, **Com. Sub. for H. B. 4158**, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act,

H. B. 4161, Relating to levies on classifications of property by the Board of Public Works,

And,

H. B. 4362, Establishing a felony offense of strangulation.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blackwell, Hanshaw and J. Nelson.

Miscellaneous Business

Delegate Byrd noted to the Clerk that he was absent on yesterday when the vote was taken on Roll No. 50, and that had he been present, he would have voted “Yea” thereon.

Delegate Ireland filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. C. R. 36.

At 12:14 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, February 10, 2016.

WEDNESDAY, FEBRUARY 10, 2016

TWENTY-NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, February 9, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 32), Relating to withdrawal of candidates for office and filling vacancies,

And,

(Com. Sub. for H. B. 2101), Eliminating obsolete government entities.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. C. R. 12, Cheat Mountain Salamander as the state symbol of conservation,

And reports the same back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 12 - "Requesting the Division of Natural Resources to designate the Cheat Mountain Salamander the state symbol of conservation,"

With the recommendation that the committee substitute be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for H. C. R. 12) was referred to the Committee on Rules.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4351, Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4351) was referred to the Committee on Education.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4330, Relating to making unlawful to take a fish, water animal or other aquatic organism from state waters to stock a commercial pond or lake,

And,

H. B. 4389, Relating to crossbow hunting,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4330 and H. B. 4389) were each referred to the Committee on the Judiciary.

Delegate Overington, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

H. B. 4396, Updating the West Virginia Workforce Investment Act to the West Virginia Workforce Innovation and Opportunity Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4396) was referred to the Committee on Government Organization.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 2, U.S. Army PV2 William Frederick Kump Memorial Bridge,

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

Com. Sub. for H. C. R. 2 - "Requesting the Division of Highways to name the bridge on County Route 4/1, Gibbons Run Road, over North River in Hampshire County, bridge number 14-4/1-2.29, (14A011), latitude 39.33852, longitude -78.50974, as the 'U.S. Army PVT William Frederick Kump Memorial Bridge',"

H. C. R. 5, U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge,

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

Com. Sub. for H. C. R. 5 - "Requesting the Division of Highways to name bridge number 13-64179.36 EB and WB (13A165, 13A166) (37.79163, -80.29291), locally known as Mountain Avenue Bridge, carrying Interstate 64 over Tuckahoe Run and CR 50 in Greenbrier County, the 'U.S. Army PVT Eskridge A. Waggoner Memorial Bridge',"

H. C. R. 7, U.S. Army PFC Cecil Ray Ball Memorial Bridge,

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

Com. Sub. for H. C. R. 7 - "Requesting the Division of Highways to name the bridges on Interstate 64 over Kilgore Creek Road, specifically designated as bridge number(s) 06-64-28.67 EBWB (06A157 & 06A202), latitude 38.43028, longitude -81.10442 in Cabell County, the 'U.S. Army PFC Cecil Ray Ball Memorial Bridge',"

And,

H. C. R. 18, U.S. Air Force Staff Sergeant William Henry “Bill” Whitman Memorial Highway, And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 18 - “Requesting the Division of Highways to name a section of road on State Route 10 running through Man, Logan County from the intersection of State Route 10 and State Route 80 to the intersection of State Route 10 and County Route 16, the ‘USAF Staff Sergeant William Henry ‘Bill’ Whitman Memorial Highway’,”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 2, Com. Sub. for H. C. R. 5, Com. Sub. for H. C. R. 7 and Com. Sub. for H. C. R. 18) were each referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 10, U.S. Marine Corps GySgt Lionel Collins Memorial Road,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 10 - “Requesting the Division of Highways to name a portion of Route 119/91 from Mud Fork Road to

County Route 73 in Logan County, the ‘U.S. Marine Corps GySgt Lionel Collins Memorial Road’,”

H. C. R. 14, Second Friday in July as West Virginia Collector Car Appreciation Day, And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 14 - “Designating the second Friday in July as West Virginia Collector Car Appreciation Day,”

H. C. R. 15, U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 15 - “Requesting the Division of Highways to name bridge numbers 2079-15.46, northbound and southbound (20A510 and 20A511), latitude 38.50136, longitude 81.41475, locally known as I-79 Wills Creek Overpass 2674 Bridges Northbound and Southbound, carrying Interstate 79 over County Route 53 and Wills Creek in Kanawha County, as the ‘U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge’,”

H. C. R. 17, SGT Larry Joseph Whitt Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 17 - “Requesting the Division of Highways name Greenville Road Bridge, located in Logan County near the town of Man which traverses Rock House Creek, the ‘SGT Larry Joseph Whitt Bridge’,”

And,

H. C. R. 19, H. Laban White Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 19 - "Requesting the Division of Highways to name the bridge on U. S. Route 19 at mile marker 15.55 over the West Fork River in Clarksburg, Harrison County, the 'H. Laban White Memorial Bridge',"

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 10, Com. Sub. for H. C. R. 14, Com. Sub. for H. C. R. 15, Com. Sub. for H. C. R. 17 and Com. Sub. for H. C. R. 19) were each referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4239, Relating to construction of a modern highway from Pikeville, Kentucky to Beckley, West Virginia,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4239) was referred to the Committee on Finance.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4377) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4352, Relating to the selling of certain state owned health care facilities by the Secretary of the Department of Health and Human Resources,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4352) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

S. B. 123, Treatment for sexually transmitted diseases,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 261, Bringing state code relating to daylight saving time in conformity with federal code,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 268, Abolishing Council of Finance and Administration,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 268) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4218, Expanding the definition of “underground facility” in the One-Call System Act,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4218 - “A Bill to amend and reenact §24C-1-2 of the Code of West Virginia, 1931, as amended, relating to the One-call system; revising the definition of ‘underground facility’,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

H. B. 2615, West Virginia Small Business Capital Act,

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

Com. Sub. for H. B. 2615 - “A Bill to amend and reenact §32-3-301 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §32-5-501, §32-5-502, §32-5-503, §32-5-504 and §32-5-505, all relating to creation of a new exemption to the securities registration rule with the commissioner for intrastate securities offerings under the West Virginia Small Business Capital Act,”

H. B. 4188, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas,

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

Com. Sub. for H. B. 4188 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas, welcome centers, and roads; providing for sponsorship agreements; providing for agreement requirements; providing for disposition of funds received from agreements; providing for the promulgation of emergency or legislative rules; and providing for a report of the status of the program,”

And,

H. B. 4228, Relating to transportation network companies,

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

Com. Sub. for H. B. 4228 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-296, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-2915, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to transportation network companies generally; providing definitions; establishing that transportation network companies and transportation network company drivers are not certain common carriers, contract carriers or motor carriers and do not provide taxicab or for-hire vehicle service; requirements to obtain permit from the Division of Motor Vehicles; requiring an agent for service of process; collection and disbursement of fees for permit; providing for fare collection, electronic receipts and identification of vehicles and drivers; requiring automobile liability insurance; requiring disclosures relating to insurance; allowing automobile insurers to exclude certain coverages; establishing status of drivers and relationship between

drivers and transportation network companies; requiring transportation network companies to implement a policy of zero tolerance for the use of alcohol or drugs by drivers; providing requirements and conditions for being a driver; requiring vehicle inspections; prohibiting street hails; requiring transportation network companies to adopt policy relating to the prohibition of cash payments; requiring transportation network companies to adopt policy relating to nondiscrimination; requiring compliance with law; prohibiting additional charges in certain circumstances; requiring retention of customer records; providing exclusivity of provisions governing regulation of business activities of companies and drivers; prohibiting local governmental entities or special districts from imposing requirements of licensure, fee, tax, entry registration or operation; prescribing certain tax limitations and exemptions; and specifying certain other provisions of law that are not affected by provisions of article,”

With the recommendation that the committee substitutes each do pass.

Select Committee Reports

Delegate Ellington, Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4441, Prohibiting the sale of paraphernalia designed or marketed for use with controlled substances,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4441) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4347, Providing pregnant women priority to substance abuse treatment,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4347) was referred to the Committee on Health and Human Resources.

Delegate Ellington, Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4146, Providing insurance cover abuse-deterrent opioid analgesic drugs,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4146 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code

by adding thereto a new section, designated §33-25A-8m, all relating to abuse-deterrent opioid analgesic drugs; providing insurance cover abuse-deterrent opioid analgesic drugs; providing direct health care services cover abuse-deterrent opioid analgesic drugs; providing certain contracts cover abuse-deterrent opioid analgesic drugs; defining terms; providing an effective date; providing for cost sharing; providing for cost tier location; and allowing cost containment measures,” With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 6 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-3-6, relating to drug screening for applicants of benefits from the Temporary Assistance for Needy Families Program; requiring drug testing of applicants for whom there is reasonable suspicion of substance abuse; creating pilot program; setting forth an effective date; defining terms; providing basis for reasonable suspicion of drug use; requiring participation in substance abuse treatment, counseling and job skills program with adverse drug test; precluding assistance for refusal to take drug test; establishing administrative review of decisions to deny benefits; providing mechanism for dependent children to receive benefits if parent is deemed ineligible; setting forth prohibition from benefits for adverse drug test; requiring investigation by Child Protective Services upon adverse drug test; setting forth procedure for reapplication for benefits; authorizing rulemaking by Department of Health and Human Resources; requiring results of drug screen or drug test remain confidential; providing for criminal penalties; requiring annual report to the Legislature; setting out elements of annual report; requiring federal approval of program;

requiring secretary to modify program to meet any federal objections; and allowing for exceptions”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 39 - “A Bill to amend and reenact §17F-1-1 and §17F-1-9 of the Code of West Virginia, 1931, as amended, all relating to regulation of all-terrain vehicles; clarifying circumstances in which all-terrain vehicles may operate and travel; and defining motorcycles as allterrain vehicles”; which was referred to the Committee on Roads and Transportation then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 43 - “A Bill to amend and reenact §20-2-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3B-1 of said code, all relating to posted land; and allowing boundaries be posted with certain clearly visible paint markings”; which was referred to the Committee on Agriculture and Natural Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 309 - “A Bill to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to child-care center licensing requirements; and exempting county parks and recreation commissions, boards and municipalities from licensure”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 345 - “A Bill to repeal §5A-4-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5A-10-3a, all relating to parking on state-owned or leased property; creating parking fees fund; authorizing Real Estate Division to collect parking fees; providing rule-making authority; and continuing Parking Garage Fund”; which was referred to the Committee on Government Organization then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 346 - “A Bill to amend and reenact §5A-6-2 of the Code of West Virginia, 1931, as amended, relating to information technology projects under Office of Technology; and raising minimum dollar value for information technology project to qualify as major information technology project”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 349 - “A Bill to amend and reenact §11-21-9 and §11-21-71a of the Code of West Virginia, 1931, as amended, all relating to updating meaning of ‘federal adjusted gross income’ and certain other terms used in West Virginia Personal Income Tax Act; changing due dates for partnership returns; and specifying effective dates”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 426 - “A Bill to amend and reenact §5B-2A-3 and §5B-2A-4 of the Code of West Virginia, 1931, as amended, all relating to continuing Office of Coalfield Community Development within Department of Commerce; allowing Secretary of the Department of Commerce to appoint a chief; and defining a term”; which was referred to the Committee on Small Business, Entrepreneurship and Economic Development and then to Government Organization.

Resolutions Introduced

Delegates Eldridge, Marcum, Rodighiero and Phillips offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 50 - “Requesting the Division of Highways to name the portion of West Virginia Route 10 in Logan County, from latitude 37.952 and longitude -82.013, near the Chafin Bridge, to latitude 37.942 and longitude -82.016, near Godby Bottom Road, the ‘Thomas Owen Perry Sr. Highway’.”

Whereas, Thomas Owen Perry Sr. was a Quartermaster of VFW Post 6153, a member of American Legion Post 103, Commander of DAV Post 103, a veteran of the Vietnam War and a 32nd Degree Mason; and

Whereas, It is fitting that Thomas Owen Perry Sr. be memorialized in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name the portion of West Virginia Route 10 in Logan County, from latitude 37.952 and longitude -82.013, near the Chafin Bridge, to

latitude 37.942 and longitude -82.016, near Godby Bottom Road, the “Thomas Owen Perry Sr. Highway”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the designated highway containing bold and prominent letters proclaiming the designated portion of West Virginia Route 10 the “Thomas Owen Perry Sr. Highway”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways, and the family of the late Thomas Owen Perry Sr.

On motions for leave, Joint Resolutions were introduced, read by their titles and severally referred as follows:

By Delegates J. Nelson, Householder, Phillips, R. Smith, Ihle, McGeehan, Folk, Faircloth and Marcum:

H. J. R. 40 - “Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article VI thereof; and amending section four, article VII thereof, all relating to limiting the terms of the office of Senators, Delegates and Governor; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on the Judiciary.

And,

By Delegates Rohrbach, Statler, B. White, Stansbury, Kurcaba, Arvon and Perdue:

H. J. R. 41 - “Proposing an amendment to the Constitution of the State of West Virginia, relating to allowing the Legislature to authorize the issuance and sale of state bonds not exceeding the aggregate amount of one billion dollars to be used for infrastructure improvement and industrial development; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of

such proposed amendment”; to the Committee on Finance then the Judiciary.

Mr. Speaker, Mr. Armstead, offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 8 - “Authorizing the Committee on Rules to arrange a Special Calendar and providing for making public the vote on certain questions in connection with the preparation thereof.”

Resolved by the House of Delegates:

That beginning on Friday, February 12, 2016, and for the remainder of this regular session of the Legislature, the Committee on Rules is hereby authorized to arrange a Special Calendar as provided by House Rule 70. Daily after the eighth order of business shall have been passed, the Special Calendar shall be called, and until this calendar is disposed of each day, no item of business on the regular House Calendar shall be considered or take precedence over any item of business on the Special Calendar, except by a suspension of this Rule.

All bills or resolutions or other matters of business reported from Committee, and having no additional committee reference, shall automatically be placed by the Clerk on the Special Calendar, and no bill, resolution, or other matter of business shall be removed from the Special Calendar and placed on the regular House Calendar except by a majority vote of the Committee on Rules, a quorum being present. Once removed from the Special Calendar, any resolution, bill or other matter of business may only be again placed on the Special Calendar by a majority vote of the Committee on Rules, a quorum being present, or by a suspension of this Rule. In making up the Calendar, the Committee on Rules may hear any Delegate or other person in behalf of any resolution or bill he may desire placed upon such calendar and the committee shall give due consideration to the merits of bills and resolutions pending in the House of Delegates, and take cognizance of measures which affect the public interest generally; and, be it

Further Resolved, That the committee shall cause to be kept a record of all roll call votes on all questions pertaining to preparation of the Special Calendar and removing the same therefrom. This record of votes shall show those voting in the affirmative or those voting in the negative, whichever shall be the smaller number, and those absent and not voting. These vote records shall be prepared and following the adjournment of each meeting made available to House members and to the public.

Petitions

Delegates A. Evans and Rowan presented a petition signed by 243 citizens urging the preservation of the Nancy Hanks Antique Cabin and Historic Memorial; which was referred to the Committee on Finance.

Delegate Howell presented a petition signed by citizens urging the preservation of the Nancy Hanks Antique Cabin and Historic Memorial; which was referred to the Committee on Finance.

Motions

Delegate Sponaugle moved, under the provisions of House Rule 82, to discharge **H. B. 4037**, Prohibiting the state from requiring persons with oil or gas rights connected to deep oil or gas wells to involuntarily integrate their interests, from the Committee on Energy.

Delegate Cowles moved that the previous motion be tabled.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 54**), and there were—yeas 56, nays 41, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Boggs, Butler, Byrd, Campbell, Caputo, Deem, Eldridge, D. Evans, Faircloth, Ferro, Fleischauer, Fluharty, Folk, Frich,

Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Blackwell, J. Nelson and Shaffer.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Westfall, Hamrick, Frich, B. White and Hartman:

H. B. 4473 - “A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating to clarifying that when the presumption of abandonment arises with respect to a life insurance policy or annuity payable upon proof of death; clarifying that the obligation to pay does not arise until after a claim is made with the insurer and due proof of death is received by the insurer; clarifying that the proceeds of a life or endowment insurance policy or annuity are presumed abandoned three years after the date of an insured’s death; and providing for retroactivity”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates McGeehan, Weld, Zatezalo and Storch:

H. B. 4474 - “A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to continuing personal income tax adjustment to gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee”; to the Committee on Pensions and Retirement then Finance.

By Delegate Deem:

H. B. 4475 - “A Bill to amend and reenact §16-2D-4 of the Code of West Virginia, 1931, as amended, relating to removing the certificate of need exemption for an ambulatory health care facility located in the same zip code as certain hospitals”; to the Committee on Health and Human Resources.

By Delegates Foster, Overington, R. Smith, McGeehan, Folk, Waxman, Faircloth, Blair and McCuskey:

H. B. 4476 - “A Bill to repeal §21-11-1, §21-11-2, §21-11-3, §21-11-4, §21-11-5, §21-11-6, §21-11-7, §21-11-8, §21-11-9, §21-11-10, §21-11-10a, §21-11-11, §21-11-12, §21-11-13, §21-11-14, §21-11-15, §21-11-16, §21-11-17, §21-11-18 and §21-11-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8, §30-41-9, §30-41-10, §30-41-11, §30-41-12, §30-41-13, §30-41-14, §30-41-15, §30-41-16, §30-41-17, §30-41-18, §30-41-19 and §30-41-20, all relating to transferring the West Virginia Contractor Act from administration and regulation by the Division of Labor to regulation under the provisions of professions and occupations in chapter thirty of this code; providing a short title and declaration of policy with definitions; continuing the West Virginia Contractor Licensing Board, composition, terms, qualifications and appointment; administrative duties of board and legislative rules; necessity for contractor license and exemptions; procedure for licensing; providing for expiration date, fees and renewal of license; providing for revocation for unlawful use, assignment or transfer of license; prerequisites to obtaining building permit and mandatory written contracts; requiring informational list for basic universal design features; providing injunction and criminal penalties for violation of article; specific administrative duties of board and record keeping by the board; authorizing to grant reciprocity and to provide training to students who desire to obtain a West Virginia contractor license; and misdemeanor criminal penalties for violations of article”; to the Committee on Industry and Labor then Government Organization.

By Delegates Reynolds, McGeehan, Shaffer and Folk:

H. B. 4477 - “A Bill to amend and reenact §3-1-8 of the Code of West Virginia, 1931, as amended, relating to recognition of a group as a political party; expanding the definition of political party to include an affiliation of voters who polled at least one percent of the vote for certain federal and state offices in the preceding election or has a certain number of registered voters”; to the Committee on the Judiciary.

By Delegate McGeehan:

H. B. 4478 - “A Bill to amend and reenact §17C-4-1 of the Code of West Virginia, 1931, as amended, relating to crashes involving death or personal injuries; creating crime of knowingly leaving scene of a crash resulting in serious bodily injury; establishing presumption of knowledge based upon crash conditions; and providing criminal penalties”; to the Committee on the Judiciary.

By Delegates Perdue, Rodighiero, Hicks, Phillips, J. Nelson, Marcum, Westfall, Moye, Morgan and Wagner:

H. B. 4479 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-14D-11a, relating to adding an annual annuity adjustment of one percent for eligible retirants or surviving spouses”; to the Committee on Pensions and Retirement then Finance.

By Delegates Walters, Perdue, J. Nelson, Rohrbach, Stansbury, Phillips, Bates, Ellington, Hanshaw, Frich and Campbell:

H. B. 4480 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-51-1, §16-51-2 and §16-51-3, all relating to enacting the Addiction Treatment Act of 2016; and placing limitations on prescribing products containing buprenorphine, whether with or without naloxone”; to the Select Committee on Prevention and Treatment of Substance Abuse then Health and Human Resources.

By Delegates Folk, Faircloth, McGeehan, Householder, Blair and Duke:

H. B. 4481 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3pp, relating to requiring a county to obtain express authorization from the Legislature in the form of a concurrent resolution before submitting an application for an MS4 permit to the United States Environmental Protection Agency and providing that a county may not be required to comply with terms of an MS-4 permit unless the state or federal government pays for the cost of compliance”; to the Committee on the Judiciary.

By Delegates Westfall, Wagner, Cooper, Ambler, D. Evans, Perry and Moyer:

H. B. 4482 - “A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to restricting that excused absences for personal illness, when involving “family members” of a student, as is currently prescribed in current code, are restricted to parents’ or guardians’ illnesses; providing the parent or guardian must provide a statement from a medical, osteopathic or chiropractic physician, or physician’s assistant, confirming the existence of the illness or injury that is the purported basis for a student’s excused absence; providing an application for home schooling may be denied by the county superintendent of schools if the student for whom the request is made has three or more unexcused absences during the school year at the time the application is made; and providing parents denied an application for home schooling may reapply during the next grading period following the denial”; to the Committee on Education.

By Delegates Ihle, Storch, Butler, Gearheart, McGeehan, Sobonya, Householder, Overington, McCuskey, Cadle and Summers:

H. B. 4483 - “A Bill to amend and reenact §8-13-23 of the Code of West Virginia, 1931, as amended, relating to enacting the City Financial Transparency Act; requiring municipal financial statements

to include all municipal expenditures; and allowing the municipality's financial statement to be posted on the municipality's website in lieu of publishing it as a Class I legal advertisement"; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Ihle, Storch, Butler, Gearheart, McGeehan, Sobonya, Householder, Overington, McCuskey, Cadle and Summers:

H. B. 4484 — "A Bill to amend and reenact §7-5-16 of the Code of West Virginia, 1931, as amended, relating to enacting the County Financial Transparency Act; requiring county financial statements to include all county expenditures; and allowing the county's financial statement to be posted on the county's website in lieu of publishing it as a Class I legal advertisement"; to the Committee on Political Subdivisions then the Judiciary.

By Delegate Rowan:

H. B. 4485 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-20-11, relating to providing for the "Deaf Children's Bill of Rights Act"; directing the public schools of this state to take certain initiatives in support of superior educational prospects and opportunities for deaf children; requiring appropriate screening and assessment of deaf children; requiring early intervention in detecting and addressing deaf children's needs; requiring schools to inform parents and guardians of policies related to placement considerations and providing them opportunities to participate in programs designed to assist their children; requiring schools to strive to provide deaf adult role models for deaf children; requiring schools to provide opportunities for deaf children to meet and associate with their school peers; requiring schools to provide qualified individuals to assist deaf children to develop communication skills; requiring schools to include individualized plans to assist each deaf child; requiring schools to provide the best suited placement for deaf children; requiring schools to provide free and appropriate education across a full spectrum of

educational programs for deaf children; requiring the State Board of Education to work with county boards of education to ensure appropriate technical assistance is provided to deaf students; providing schools, where possible, have deaf adults directly involved in determining appropriate program content designed to educate deaf children; requiring all governing school authorities to comply with the requirements of the new section as well as with all applicable state and federal laws; and providing this section does create any new causes of action”; to the Committee on Education then Finance.

By Delegate Miley

[By Request of the Executive]:

H. B. 4486 - “A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-9i of said code, all relating to the termination of the behavioral health severance and business privilege tax; specifying the effective date of the termination; establishing the method of payment of outstanding refund claims; generating a replacement revenue stream by changing the durable medical goods sales tax exemption to home users only; specifying the effective date of this amendment; providing the method to claim this exemption; and providing definitions for clarification”; to the Committee on Health and Human Resources then Finance.

House Calendar

Third Reading

Com. Sub. for H. B. 2444, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 55**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell and J. Nelson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2444) passed.

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

Second Reading

Com. Sub. for H. B. 4012, West Virginia Religious Freedom Restoration Act; on second reading, coming up in regular order, was read a second time.

Delegates Skinner and Pushkin moved to amend the bill on page two, section four, line eighteen, following the period, by inserting a new subsection (d), to read as follows:

“(d) Nothing in this article prohibits any government entity from prohibiting any person providing services to the general public, to refuse to offer or provide services, facilities, use of public accommodations, goods, employment, or housing to any member or members of the general public on the basis of race, color, religion, ancestry, age, national origin, disability, sex, sexual orientation, gender identity, or United States military service.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the amendment was not consistent with the fundamental purpose of the bill and therefore ruled the amendment not germane.

Delegate Skinner arose to challenge the ruling of the Chair, which was sustained by more than the requisite number of members.

Speaker Pro Tempore Anderson in the Chair

During the debate, Delegate Fleischauer was addressing the House when Delegate Lane arose to a point of order, regarding the content of the Gentlelady's remarks, to which point the Speaker Pro Tempore asked the Gentlelady from the 51st to confine her remarks to the question before the House.

The question before the House being, "Shall the decision of the Chair be and remain the decision of the House?"

On this question, the yeas and nays were taken (**Roll No. 56**), and there were—yeas 74, nays 24, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Perdue, Perry, Pushkin, Reynolds, Rodighiero, Rowe, Skinner and Sponaugle.

Absent and Not Voting: Blackwell and J. Nelson.

So, a majority of the members present and voting having voted in the affirmative, the decision of the Chair was sustained.

Mr. Speaker, Mr. Armstead, in the Chair

Delegates Sponaugle and Pushkin moved to amend the bill on page two, section four, line fifteen, by striking out the words "and local".

Delegate Byrd moved to indefinitely postpone consideration of the bill, citing House Rule 57.

The Speaker ruled the motion out of order stating that the motion to indefinitely postpone consideration of the bill was not permissible at the present time but would be timely on third reading.

Delegate Byrd then moved to postpone indefinitely consideration of the amendment offered by Delegates Sponaugle and Pushkin.

Delegate Byrd then asked and obtained unanimous consent to withdraw his motion.

Delegate Campbell was addressing the House when Delegate Shott arose to a point of order, regarding the content of the Gentlady's remarks, to which point the Speaker stated point well taken and asked the Gentlady from the 43rd to confine her remarks to the merits of the amendment.

Delegate Fleischauer was addressing the House when Delegate Espinosa arose to a point of order, regarding the content of the Gentlady's remarks, to which point the Speaker stated point well taken and asked the Gentlady from the 51st to confine her remarks to the merits of the amendment.

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

The yeas and nays having been ordered, they were taken (**Roll No. 57**), and there were—yeas 22, nays 75, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Manchin, Miley, Moore, Morgan, Perdue, Pethtel, Pushkin, Reynolds, Rowe, Skinner and Sponaugle.

Absent and Not Voting: Blackwell, Kelly and J. Nelson.

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

Delegate Pushkin moved to amend the bill on page two, section four, line eighteen, following the period, by inserting a new subsection (d), to read as follows:

“(d) Notwithstanding any provision of this article to the contrary, a local law may be enacted by any political subdivision of this state to require that any person providing any public service or accommodation that refuses to provide that service or accommodation to any member of the public based on him or her exercising his or her religious beliefs, that requires that person post a sign of sufficient size and location visible to the public at the location where the service or accommodation is being provided, to notify members of the public that he or she will be refused service or accommodation based on the religious beliefs of the person providing that service or accommodation: Provided, That any penalty established for failure to pose such sign shall not exceed \$200.00 for each violation.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the amendment was not consistent with the fundamental purpose of the bill and therefore ruled the amendment not germane.

On motion of Delegate Shott the bill was amended on page two, section four, line nine, immediately following the word “obtain”, by striking out the remainder of the sentence and inserting in lieu thereof “relief against the state or its political subdivisions: Provided, That such relief is limited to injunctive or declaratory relief and reimbursement of costs and reasonable attorney fees.”

There being no further amendments, the bill was then ordered to engrossment and third reading.

H. B. 4148, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4158, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia –

Workforce Investment Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4161, Relating to levies on classifications of property by the Board of Public Works; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4362, Establishing a felony offense of strangulation; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section nine-d, line six, following the words “another person”, by inserting the words “without consent”.

The bill was then ordered to engrossment and third reading.

First Reading

H. B. 4147, Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blackwell and J. Nelson.

Remarks of Members

Delegate Marcum asked and obtained unanimous consent that the remarks of Delegate Phillips regarding the recent United States Supreme Court of Appeal’s ruling regarding EPA regulations be printed in the Appendix to the Journal.

Delegate R. Smith asked and obtained unanimous consent that the remarks of Delegate Marcum regarding the decline of the coal industry and the recent ruling of the U. S. Supreme Court be printed in the Appendix to the Journal.

Delegate Manchin asked and obtained unanimous consent that all remarks regarding Com. Sub. for H. B. 4012 be printed in the Appendix to the Journal.

Delegate Rowe asked and obtained unanimous consent that the remarks of Delegate Deem regarding Diana Murphy, President of the USGA, be printed in the Appendix to the Journal.

Delegate Phillips asked and obtained unanimous consent that the remarks of Delegate R. Smith regarding coal be printed in the Appendix to the Journal.

Delegate McGeehan asked and obtained unanimous consent that the remarks of Delegate Sponaugle regarding his motion to discharge H. B. 4037 from committee be printed in the Appendix to the Journal.

Delegate Miller asked and obtained unanimous consent that the remarks of Delegate Sobonya regarding bipartisanship be printed in the Appendix to the Journal.

Delegate Frich asked and obtained unanimous consent that the remarks of Delegate Duke regarding the impact of the decline of coal on the entire state be printed in the Appendix to the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate McGeehan regarding forced pooling be printed in the Appendix to the Journal.

Delegate Shaffer was recognized and stated that he voted "Nay" on Roll No. 54, but that his vote did not register.

Miscellaneous Business

Delegate Kurcaba filed forms with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4352 and H. B. 4037.

Delegate Byrd filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4450.

Delegate Folk filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2222.

Delegate Frich filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2615 and H. B. 4347.

Delegate McCuskey filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4450.

Delegate E. Nelson filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2615.

Delegate Weld filed a form with the Clerk's Office per House Rule 94b to be added as the lead sponsor of H. B. 4450.

At 1:55 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 11, 2016.

THURSDAY, FEBRUARY 11, 2016

THIRTIETH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, February 10, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 10th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 342), Decreasing appropriations from State Fund, General Revenue, to DHHR, Division of Human Services and Bureau of Senior Services,

(S. B. 357), Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund,

And,

(S. B. 360), Supplemental appropriation to Division of Human Services.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 11th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4007), Relating generally to appointment of attorneys to assist the Attorney General.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2122, Making it illegal for anyone to photograph a corpse except for certain legitimate purposes,

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

Com. Sub. for H. B. 2122 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-12-16, relating to making it illegal for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a corpse or person being provided medical care or assistance; defining terms; creating a criminal offense for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a corpse or person being provided medical care or assistance; creating a criminal offense for first responders to knowingly disclose any photograph, film, videotape, record, or other reproduction of the image of a corpse or person being provided medical care or assistance; providing for exceptions to the criminal offenses; providing for criminal penalties; providing for enhanced penalties for subsequent offenses; and designated as 'Jonathon's Law'."

With the recommendation that the committee substitute do pass, and with the recommendation that second reference of the bill to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for H. B. 2122) to the Committee on Finance was abrogated.

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

Your Committee on the Judiciary has had under consideration:

S. B. 15, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolutions, which were read by their titles and referred to the Committee on Rules:

S. C. R. 3 - "Requesting Division of Highways name the bridge at the intersection of County Route 18, known as North Fork Road, and County Route 18/2, known as Ellis Fork Road, in Boone County, West Virginia, (latitude, longitude: 38.00947, -81.95537) be named the 'Julian, Earl and Edward Hill Brothers Memorial Bridge'."

Whereas, Julian, Earl and Edward Hill were brothers, three of ten children born to Edward W. Hill and Annie L. Stollings Hill who farmed for a living in Boone County; and

Whereas, Julian Alba Hill was born on August 4, 1920, at North Fork of Big Creek, Boone County and worked at many different jobs

until being drafted into the United States Army. Before joining the Army, Julian Hill married Audrey Chapman and they had two children. When he was sent to Fort Worth, Texas for basic training, Audrey rode the train from Charleston to Texas taking along their two small children so they could be together prior to his departure overseas during World War II. After basic training, Julian Hill was sent to Germany where he refueled airplanes and later was sent into combat with General Patton where he refueled tanks and other vehicles. He often spoke of the obstacles placed by Hitler to keep the United States Armed Forces from pushing their way through Germany towards Berlin. He returned from Germany on the USS Argentina in January 1946 and never talked of the fighting and what he had seen, but he suffered nightmares for many years after his return. After being discharged, Julian and Audrey Hill had a third child in 1949, and he became an over-the-road long haul truck driver, sometimes being gone for two full days at a time. Julian had a truck accident which forced an early retirement from truck driving. He was placed on disability by his company and Senator Robert C. Byrd was instrumental in seeing that he also received Social Security disability benefits. Julian and Audrey Hill divorced in 1959. Following a brief second marriage which also ended in divorce, he later married Betty Smith. Julian loved camping, gospel and country music. He and Betty spent many years camping in West Virginia, Virginia and South Carolina. Their marriage lasted for forty years until his death in December 2010, at the age of ninety, after a fall in a nursing home; and

Whereas, Earl Franklin Hill was born on April 22, 1923, at North Fork of Big Creek, Boone County and was inducted into the United States Army on January 12, 1943, and was honorably discharged on June 11, 1943, as Private First Class, Battery B, 225th AAA SL, Camp Davis, North Carolina under the Enlisted Mans importance to national security, health or interest and returned home early to care for his ill father and to farm for the nation's needs and because two brothers were then serving in the military. He married Naomi Ruth Stone on December 23, 1941, and they had six children, one of whom, Richard,

died at birth. The other children are Catherine Sue Hill, Sherry Grant Hill, Paul Wayne Hill, Earl F. Hill, II and Barbara Gail Hill. Naomi Hill passed away on November 26, 2006, and Earl Franklin Hill passed away on July 31, 2008, at the VA Hospital in Huntington; and

Whereas, Cebert Edward Hill was born on Ellis Fork off the North Fork of Big Creek in Boone County on October 25, 1917. He joined the United States Army Air Corp on September 8, 1942. Following his basic training in Tampa, Florida, Edward Hill attained the rank of Private First Class in the 410th Army Air Force Base Unit and served as a Radio Operator, Area 4600 Underground Placement on Catalina Island, California and a Supply Clerk on St. Nicholas Island, California and received the Good Conduct Medal. He received his honorable discharge on April 26, 1945. In addition to being a farmer for most of his life, he was also a mail carrier for four years from Banco to Danville and worked for Grocers Wholesale Company, later named The Creasey Company, from 1954 until his retirement in 1981. He married Oma Lee Barker and they had six children, Gary A. Hill, Larry A. Hill, Judy K. Murphy, Jeanne C. Wagner, Eddy R. Hill and Lisa J. Black; and

Whereas, It is fitting that an enduring memorial be established to commemorate these native sons who served their state and their country so ably during World War II; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge at the intersection of County Route 18, known as North Fork Road, and County Route 18/2, known as Ellis Fork Road, in Boone County, West Virginia, (latitude, longitude: 38.00947, -81.95537) the “Julian, Earl and Edward Hill Brothers Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Julian, Earl and Edward Hill Brothers Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the families of Julian Hill, Earl Hill and Edward Hill and Cebert Edward Hill.

S. C. R. 6 - “Requesting the Division of Highways to name bridge number 3-17-8.80, (3A087) (+38.05862, -81.82542) locally known as the Low Gap Bridge, crossing the Spruce Fork of the Little Coal River on Route 17 in Low Gap, Boone County, the ‘USMC PFC Marshall Lee King Memorial Bridge’.”

Whereas, PFC King was born on July 5, 1924, in Coalwood, McDowell County, and grew up in Low Gap, Boone County. He served in the U. S. Marine Corps and was killed in action on May 19, 1945, on the Ryukyu Islands of Okinawa. He was awarded the Purple Heart, the Asiatic-Pacific Campaign Medal and World War II Victory Medal; and

Whereas, It is fitting and proper that PFC King be remembered and acknowledged for his courageous action and dedicated service to his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 3-17-8.80, (3A087) (+38.05862, -81.82542) locally known as the Low Gap Bridge, crossing the Spruce Fork of the Little Coal River on Route 17 in Low Gap, Boone County, the “USMC PFC Marshall Lee King Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “USMC PFC Marshall Lee King Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the surviving family of PFC Marshall Lee King.

S. C. R. 8 - “Requesting the Division of Highways to name bridge number 50-52-37.47 (50A049), (latitude 38.006184, longitude -82.506839), locally known as the Lost Creek Beam Span, carrying U.S. Route 52 over Lost Creek in Wayne County, the ‘U.S. Army PFC Ernest D. Marcum Bridge’.”

Whereas, Ernest D. “Doby” Marcum was born in Crum, WV, on September 12, 1947, the son of Oscar and Gladys Perry Marcum; and

Whereas, Ernest D. “Doby” Marcum entered service to his country with the United States Army during the Vietnam Conflict in 1967; and

Whereas, Ernest D. “Doby” Marcum served as an Armor Intelligence Specialist with the 9th Infantry Division, attaining the rank of Private First Class; and

Whereas, PFC Ernest D. “Doby” Marcum paid the ultimate price on December 31, 1967, when he was killed by shrapnel from a grenade and he was posthumously awarded the Purple Heart; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-52-37.47 (50A049), (latitude 38.006184, longitude -82.506839), locally known as the Lost Creek Beam Span, carrying U.S. Route 52 over Lost Creek in Wayne County, the “U.S. Army PFC Ernest D. Marcum Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army PFC Ernest D. Marcum Bridge”; and, be it

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

Division of Highways and to the Wayne County Veterans? Association.

S. C. R. 9 - “Requesting Division of Highways name stretch of highway on U.S. Route 52, in Kimball, West Virginia, from mile marker 27.24 to mile marker 29.20, the ‘U.S. Army First Sergeant Jesse T. McPeake Memorial Road’.”

Whereas, Jesse T. McPeake was born on November 13, 1944, in Kimball, West Virginia, as one of nine children; and

Whereas, Jesse enlisted in the United States Army in 1966. He later became this state’s most decorated Vietnam Veteran, earning the Silver Star, five Bronze Stars, the Purple Heart, the Soldiers Medal, the National Defense Ribbon, the Good Conduct Metal with three loops, the Army Conduct Medal, the Vietnam Service Medal with nine Silver Stars, the Vietnam Compensative Medal and the Expert Badge with Automatic Rifle; and

Whereas, In 1976, Jesse resigned from the United States Army and opened McPeake’s Furniture Store in Kimball. In 1977, Jesse and Manuel Horeluk moved to Beckley, West Virginia, and established employment together at F&W Furniture. In 1978, Jesse and Manuel moved to Welch, West Virginia, where Jesse established employment with US Steel, where he worked for twenty-eight years until 2006; and

Whereas, Jesse was a key player in the rebuilding of the WWI African American Memorial Building, being an early member of the board where he remained until 2015; and

Whereas, In 2007, Jesse, along with Manuel Horeluk and his mother Mildred, opened the Visitors Center in the Kimball Light and Water Building; and

Whereas, Jesse taught the youth of McDowell County to respect this country and its values while assisting homeless veterans; and

Whereas, Jesse passed away on July 12, 2015, and he will be greatly missed by the people who reside in McDowell County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the stretch of highway on U.S. Route 52, in Kimball, West Virginia, from mile marker 27.24 to mile marker 29.20, the “U.S. Army First Sergeant, Jesse T. McPeake Memorial Road”; and, be it

Further Resolved; That the Division of Highways is hereby requested to have made and be placed signs identifying the stretch of highway as the “U.S. Army First Sergeant, Jesse T. McPeake Memorial Road”; and, be it

Further Resolved; That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of Highways and to Manuel Horeluck.

S. C. R. 11 - “Requesting Division of Highways name bridge number 4003, located in Boone County on Route 85, at mile marker 10.66 and crossing over to Bald Knob over the mouth of James Creek, the ‘U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge’.”

Whereas, Gerald Leslie Perry was born March 23, 1942, to “Nan” Perry and Charles Leslie Perry, both deceased, and resided at Bald Knob, Boone County, West Virginia; and

Whereas, Gerald Leslie Perry was nicknamed “Orangey” growing up in Boone County, due to his bright, orange-colored hair; and

Whereas, Gerald Leslie Perry joined the United States Marine Corps as a machine gunner and attained the rank of Sergeant; and

Whereas, Sergeant Gerald Leslie Perry served this country during the Vietnam War; and

Whereas, Sergeant Gerald Leslie Perry started his tour of duty in Vietnam in April, 1966; and

Whereas, Sergeant Gerald Leslie Perry, after only approximately four months into his tour of duty in Vietnam, paid the ultimate sacrifice for his country when he was killed by enemy gunfire in Quang Tin Province, South Vietnam; and

Whereas, It is believed that Sergeant Perry was the first soldier from Boone County to pay the ultimate sacrifice in service of his country in Vietnam; and

Whereas, Sergeant Gerald Leslie Perry has three surviving siblings, David Perry, Terry Perry and Nancy Perry Adkins; and

Whereas, It is fitting and appropriate that the bridge located on Route 85, at mile marker 10.66 where it crosses over to Bald Knob over the mouth of James Creek, designated as bridge number 4003 by the West Virginia Division of Highways, be named the “U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge” in honor of this fallen soldier who paid the ultimate sacrifice on behalf of his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 4003, located in Boone County on Route 85, at mile marker 10.66 where it crosses over to Bald Knob over the mouth of James Creek, the “U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to make and have placed signs identifying the “U. S. Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is requested to provide the surviving siblings of Sergeant Perry, named above, with certified copies of this resolution.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 12 - “Requesting the Division of Highways name State Route 152, beginning from the Cabell County line with Wayne County to where it intersects with U. S. Route 52 near Crum, West Virginia, the ‘Wayne County Veterans’ Memorial Highway’.”

Whereas, Since West Virginia attained statehood in 1863, many brave individuals from this state have served this country in the United States Armed Forces; and

Whereas, Wayne County, West Virginia has provided its fair share of thoughtful and courageous individuals, some of whom paid the ultimate sacrifice, in service of this country, beginning from the Civil War to the present; and

Whereas, It is fitting and appropriate to honor those who have served in the United States Military from Wayne County by naming the portion of State Route 152 that traverses Wayne County the “Wayne County Veterans’ Memorial Highway”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name State Route 152, beginning from the Cabell County line with Wayne County to where it intersects with U.S. Route 52 near Crum, West Virginia, the “Wayne County Veterans’ Memorial Highway”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to make and have placed signs identifying the “Wayne County Veterans’ Memorial Highway; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a certified copy of this Resolution to the Wayne County Veterans' Association.

S. C. R. 13 - "Requesting the Division of Highways name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate 77 over Garrison Avenue in Kanawha County, the 'Tom Williams Family Bridge'."

Whereas, The family of Tom Williams was raised on Garrison Avenue in Charleston, West Virginia; and

Whereas, A daughter in the family, Lena Gay Williams McClandish, served in the U. S. Navy, stationed at a Maryland hospital; and

Whereas, One son, Thomas Buck Williams, also served in the U. S. Navy as a "frogman" during the Korean War; and

Whereas, A second son, Gene Williams, served in the U. S. Army and was stationed at Fort Hood, Washington; and

Whereas, A third son, U. S. Marine Gunnery Sergeant Dennis Williams, while serving as a Platoon Sergeant with Company D, First Battalion, First Marines, First Marine Division, in connection with operations against the enemy in the Republic of Vietnam, courageously exposed himself to enemy fire to carry a wounded comrade across fifty meters of fire-swept terrain to a place of relative safety where medical aid was available; and

Whereas, Gunnery Sergeant Dennis Williams was awarded two Purple Hearts and retired after twenty-one years of service; and

Whereas, As a result of his courage, bold initiative and unfaltering devotion to duty at great personal risk, Gunnery Sergeant Dennis Williams is authorized to wear the Combat V; and

Whereas, It is fitting and proper to honor the Williams family's contribution to the nation and its military services, made by the sister and three brothers herein named; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-77-101.40 (20A434), locally known as I-77 Garrison Avenue Overpass 2567, carrying Interstate 77 over Garrison Avenue in Kanawha County, the "Tom Williams Family Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "Tom Williams Family Bridge"; and, be it

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

S. C. R. 14 - "Requesting the Division of Highways to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754), locally known as New Girl Scout Camp Bridge, carrying County 25/11 over Mud River in Cabell County, the 'U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge'."

Whereas, Billy Joe Vickers, the son of Herman C. Vickers and Opal Vickers of Milton, West Virginia, was born March 24, 1947, the third of four sons born to the couple; and

Whereas, Billy Joe Vickers graduated from Milton High School, married Linda Dillon, whom he had known since the seventh grade, and had a daughter, Pammy. Both Pammy Vickers Mahon and Linda Dillon Vickers live in Barboursville, West Virginia; and

Whereas, Billy Joe Vickers enlisted in the United States Marine Corps Reserve June 22, 1966, and was assigned later to active duty with Company A, 1st Battalion, 7th Marines, 1st Marine Division, southwest of DaNang, Viet Nam, arriving there February 10, 1968.

While on a combat patrol April 8, 1968, along the bank of the Song Yen River, near the vicinity of La Chau hamlet in Hieu Duc District of Quang Nam Province, Private First Class Billy Joe Vickers and two fellow Marines were killed as a result of detonation of an antipersonnel mine; and

Whereas, Private First Class Billy Joe Vickers' two older brother, Herman O'Dell Vickers and Jimmy Lou Vickers, also served in the military. Herman in the U.S. Navy and Jimmy in the U.S. Marine Corps; and

Whereas, Both older brothers currently live in Culloden, Cabell County, West Virginia; and

Whereas, Private First Class Billy Joe Vickers' younger brother, Danny Vickers, lives with his family at the home place where the four brothers all grew up; and

Whereas, The family home place is located at the end of the bridge hereby to be named for Private First Class Billy Joe Vickers; and

Whereas, The body of Private First Class Billy Joe Vickers was buried in Brown Cemetery, Ball's Gap, Cabell County, West Virginia; and

Whereas, It is proper that Private First Class Billy Joe Vickers' service to and sacrifice for his country be remembered by this fitting memorial; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754), locally known as New Girl Scout Camp Bridge, carrying County Route 25/11 over Mud River in Cabell County, the "U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge"; and be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “U.S. Marine Corps PFC Billy Jo Vickers Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate forward a certified copy of this resolution to the Commissioner of the Division of Highways.

S. C. R. 15 - “Requesting Division of Highways name bridge number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the ‘U.S. Army SFC Jesse Muncy Memorial Bridge’.”

Whereas, Sergeant First Class Muncy was born in Mingo County on September 15, 1921, the son of Jeff and Sally (Sallie) Muncy. Growing up in Kermit with his sisters Lucy (later Marcum), Dicie (Hodge) and Mary (Waller), and his brother Birdie, he attended local schools through the elementary grades; and

Whereas, Following his July 17, 1941, enlistment, Sergeant First Class Muncy married Loda Lowe, with whom he had three children, Clyde, Sally (“Dot”) and Peggy Carol; and

Whereas, Serving with the Company G, 13th Infantry Regiment, 8th Infantry, Sergeant First Class Muncy received a Silver Star for gallantry in action on April 9, 1945, when, in the vicinity of Olpe, Germany, his company encountered two German tanks during an attack and Sergeant First Class Muncy, along with four other men, knocked out the tanks; and

Whereas, On October 15, 1945, Sergeant First Class Muncy received the Silver Star. The citation reads, "By direction of the President, under the provisions of AR 600-45, 22 September 1943, as amended, the Silver Star is awarded to: Staff Sergeant Jesse Muncy, 35210666, Infantry, Company G, 13th Infantry Regiment, for gallantry

in action on 9 April 1945 in the vicinity of Olpe, Germany. When his company encountered two German tanks during an attack, Sergeant Muncy, with four other men, proceeded into enemy lines in an attempt to knock out the tanks. Under direct enemy small arms, machine gun and tank fire, Sergeant Muncy, after directing his men to give him covering fire, maneuvered to within fifty yards of an enemy tank and, firing three rounds from his bazooka, knocked out the tank, captured seven enemy soldiers and wounded five others. Moving alone to another position, Sergeant Muncy placed fire upon a German convoy, capturing 23 enemy soldiers. Sergeant Muncy's outstanding courage and devotion to duty were in keeping with the highest traditions of the military service. Entered the military service from West Virginia"; and

Whereas, Sergeant First Class Muncy also received the Good Conduct Medal, the American Defense Service Medal, and the European-African-Middle Eastern Theater Service Medal, as well as a Bronze Star for heroic and meritorious service; and

Whereas, After his honorable discharge on October 18, 1945, Sergeant First Class Muncy returned to southern West Virginia and the coal mines and settled into a seemingly normal life. But life in the mines had its ups and downs, and when fighting erupted in Korea, Sergeant First Class Muncy willingly reenlisted. As a decorated war soldier and experienced infantryman, he became a participant in what is now known as "Bloody Ridge" in North Korea during August and September 1951; and

Whereas, Sergeant First Class Muncy was involved in fierce fighting – undoubtedly as harrowing as anything he had seen in World War II – had been going on for months, as reported in the following account: "After securing Hill 773 on the last day of August, the 9th Infantry struck anew at the two remaining peaks on 'Bloody Ridge', Hills 983 and 900. The hilly terrain made any forward movement difficult, to say the least, and the intense fighting had scorched the earth. But the 9th Infantry persevered, dirty, unshaven, and miserable they backed down, tried again, circled, climbed, slid, suffered, ran,

rolled, crouched and grabbed upward only to meet again the murderous fire, the blast of mortar and whine of bullets and jagged fragments. Minutes seemed like hours, hours like days, and days like one long, terrible, dusty, blood-swirled nightmare shivering at night, sweat clogged at day”; and

Whereas, It was in this hard-fought battle that Sergeant First Class Muncy lost his life on September 1, 1951. Sergeant First Class Muncy received a second Silver Star for his service in Korea, as well as the Purple Heart. His remains were interred in a family cemetery near Kermit on December 18, 1951. His funeral notice in the Williamson Daily News, December 17, 1951, described him as a “professional soldier”; and

Whereas, On August 10, 1951, less than a month before his death, Sergeant First Class Muncy wrote a letter to his wife and children reiterating his love for them but inserting his uneasy concern for what his unit was about to face: “I will drop you a few lines tonight to let you know I am well and I miss you and the babies a lot. Honey, I am moving up tonight and we are all pretty quiet. Nobody has got anything to say, but you can tell [what] they're thinking. Some of them are worried some, and I am for one, but they don't know it, and honey I am thinking of you and the babies and if I will get to see you anymore... Well, honey, if this should be the last letter, take good care of the babies and keep them together and tell them that I love them....So tell all the family hello and answer real soon, and tell Mom hello for me. So I will close with all my love... P.S. Take good care of my pup. Love, Dad”; and

Whereas, Sergeant First Class Muncy’s widow, Loda Muncy, never remarried, preferring to raise her “babies” in the home where they planned to spend the rest of their lives. In a 2013 interview, Sally (“Dot”) explained that she and Peggy Carol worked for many years at an Ohio packing plant. Peggy still lives in that state while Dot has returned in her retirement to the old home place on Jennie’s Creek in Wayne County. Clyde, not yet retired, still works at a machine shop In

Kenova. The family is determined that the legacy of Sergeant First Class Muncy and Lode Muncy not be forgotten and they recall with pride that anyone who claims to have met Sergeant First Class Muncy during his years in the service has offered thanks for his selfless sacrifice; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army Sergeant First Class Muncy, a native son who gave the ultimate sacrifice for his state and his country, by naming bridge number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U.S. Army SFC Jesse Muncy Memorial Bridge”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 50-52-54.27 (50A115) (37.85563, -82.41411), locally known as Marrowbone Creek Bridge, carrying US 52 over Marrowbone Creek in Wayne County, as the “U.S. Army SFC Jesse Muncy Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army SFC Jesse Muncy Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family members of U.S. Army Sergeant First Class Jesse Muncy.

And,

Com. Sub. for S. C. R. 17 – “Requesting Division of Highways name bridge that intersects Millers Fork on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, bridge number 50-17-3.93 (50A026), latitude +38.26346, longitude -82.38322, originally known as the Millers Fork Bridge, the ‘U. S. Army Sergeant Charles Edward Smith Memorial Bridge’.”

Whereas, Charles Edward Smith was born on October 24, 1921; and

Whereas, Charles Edward Smith, who served in the United States Army during World War II, received the Purple Heart, Good Conduct Medal and Eastern Service Ribbon as the result of the courage he displayed in battle, serving in the Ardennes in Northern France and being wounded in combat on December 30, 1944, in Belgium; and

Whereas, Charles Edward Smith passed away on April 6, 2013; and

Whereas, It is fitting and proper to memorialize the courageous and honorable actions committed on behalf of this country by Charles Edward Smith; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name the bridge that that intersects Millers Fork on County Route 17 located 0.01 mile south of County Route 22 in Wayne County, bridge number 50-17-3.93 (50A026), latitude +38.26346, longitude -82.38322, originally known as the Millers Fork Bridge, the “U. S. Army Sergeant Charles Edward Smith Memorial Bridge”.

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army Sergeant Charles Edward Smith Memorial Bridge”; and be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the Wayne County Veterans’ Association.

Resolutions Introduced

Delegate Pethtel offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 51 – “Requesting the Division of Highways to name bridge number 52-64-2.07 (52A135) (39-63045, -80.47918), locally known as Smith Bridge, carrying County Route 64 over Long Drain in Wetzel County, the ‘U.S. Army PFC Danny Mire Stoneking Memorial Bridge’.”

Whereas, Danny Mire Stoneking was born in Wetzel County, West Virginia, August 13, 1948; and

Whereas, Danny Mire Stoneking attended schools in Wetzel County, growing up in an area known as Glovers Gap, near the community of Earnshaw, West Virginia with a brother, Michael Lee Stoneking, and two sisters, Glenda Joyce Stoneking Hicks and Cleta Lynn Stoneking Blair; and

Whereas, Danny Mire Stoneking enjoyed hunting and fishing in the area near his home; and

Whereas, Danny Mire Stoneking became a soldier in the United States Army, and was deployed to Vietnam; and

Whereas, PFC Danny Mire Stoneking served in A Company, First Battalion, 20th Infantry, 11th Infantry Brigade in the Army’s Americal Division; and

Whereas, PFC Danny Mire Stoneking died the second day of March, 1968, at the age of nineteen, as a result of a wound received from an enemy mine, in action in Quang Ngai Province of Vietnam, while on a special mission for which he had volunteered; and

Whereas, For his brave service to his country, PFC Danny Mire Stoneking was awarded the Bronze Star, for meritorious service in connection with military operations against a hostile force; and

Whereas, PFC Danny Mire Stoneking was also awarded the Purple Heart, National Defense, Vietnam Service and Vietnam Campaign medals, as well as the Combat Infantry Badge; and

Whereas, PFC Danny Mire Stoneking is honored on the Vietnam Veterans Memorial in Washington, D.C. on Panel 42E, Row 42; and

Whereas, As a boy, PFC Danny Mire Stoneking played near his home on an old stone bridge which ran over a small creek, and skipped rocks and fished with his cousins and other family members and friends, from the upper base of the bridge; and

Whereas, PFC Danny Mire Stoneking is buried beside his father, John Lee Stoneking, in the Stoneking family cemetery, just a mile from the old stone bridge; and

Whereas, PFC Danny Mire Stoneking's relatives and friends continue to live in the area and continue to speak of him today; and

Whereas, PFC Danny Mire Stoneking's mother, Lillian Jessie Stoneking, celebrated her 86th birthday in January of 2016; and

Whereas, It is fitting that PFC Danny Mire Stoneking be honored by a memorial in the area where he lived as a child; and

Whereas, The old stone bridge on which PFC Danny Mire Stoneking played as he grew up, has been repaired in recent years and is still in use by his family and friends; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 52-64-2.07 (52A135) (39-63045, -80.47918), locally known as Smith Bridge, carrying County Route 64 over Long Drain in Wetzel County, the "U.S. Army PFC Danny Mire Stoneking Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "U.S. Army PFC Danny Mire Stoneking Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates, forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Marcum, P. White, Eldridge, Phillips, Hicks and Rodighiero offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 52 - “Requesting the Division of Highways to build the bridge on County Route 65/03 located near Tug Valley High School in Naugatuck, Mingo County.”

Whereas, The West Virginia Division of Highways has begun the process to build a potential bridge located on the new County 65/03 Route; and

Whereas, The bridge is vital to the further economic development of Mingo County; and

Whereas, The Mingo County Board of Education has taken steps to develop and improve the Tug Valley High School and its athletic facilities; and

Whereas, These upgrades are very important and in dire need to improve the education and quality of life for all Tug Valley students; and

Whereas, The improvements and further developments of Tug Valley High School cannot proceed without the new bridge; and

Whereas, The students, teachers and citizens of Mingo County deserve the improvements that will stem from the new bridge; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to build the bridge located near Tug Valley High School in Naugatuck, Mingo County, West Virginia; and, be it

Further Resolved, That time is of the essence; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.

Delegates Rowe, B. White and Guthrie offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 53 – “Requesting the Division of Highways name the bridge located in Kanawha County at Standard, Bridge Number 20-83-8.49(20A266) at latitude 38.14129, longitude -81.40192 that traverses Paint Creek, originally known as the “Standard Bridge,” the “Private Arlie Kenneth Graley Memorial Bridge’.”

Whereas, Arlie Kenneth Graley was born in this state, where he was inducted into the U.S. Army on September 19, 1941; and

Whereas, Private Arlie Kenneth Graley served as a parachutist during WWII and was wounded in fierce battle in Algiers on November 8, 1942; and

Whereas, As the result of Private Arlie Kenneth Graley’s heroic conduct on the field of battle in Algiers during WWII and the wounds he received at that time, he was honorably discharged on August 13, 1943; and

Whereas, As the result of his heroic conduct exhibited on the field of battle on behalf of this country, Private Graley was awarded the Purple Heart Medal and the Good Conduct Medal; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge located in Kanawha County at Standard, Bridge Number 20-83-8.49 (20A266) at latitude 38.14129, longitude -81.40192 that

transverses Paint Creek, originally known as the “Standard Bridge”, the “Private Arlie Kenneth Graley Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming the bridge the “Private Arlie Kenneth Graley Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to Tommy Lee Graley.

Delegates R. Smith, Shaffer, J. Nelson and Wagner offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 54 – “Requesting the Division of Highways to name Bridge Number 39-73/73-8.46 (39A143) (39.65892, -79.63833), locally known as Bruceton Mills Bridge, carrying County Route 73/73 over Big Sandy Creek in Bruceton Mills, Preston County, the ‘Byron “Bray” Kelley Memorial Bridge’.”

Whereas, Byron “Bray” Kelley was born in the Centenary area of Preston County to Albon and Sadie Kelley on April 26, 1926. "Bray" was the 6th of 7 children. His elder siblings included eldest brother, Junior, twin sisters, Mary and Martha, brother, Harry, and sister, Jean. Bray was closest in age and had a strong bond to his younger brother Willard. Bray loved the outdoors and enjoyed hunting more than fishing. His father was a farmer and was also employed at the Woolen Mills near Bruceton Mills. Bray attended school at the Union Grove School, which was a one room school in the Bruceton Mills area. Bray was a worker and a doer. He left school at age 16 to begin working. He was first employed on a clearing crew for the Youghiogheny Dam. When that job was over he went to work for the Monongahela Power Company, clearing land for power line right-of- ways; and

Whereas, Bray was drafted into the Army at age 18 and placed in the 17th infantry during WWII. He had just turned 19 years old when he was killed in action on May 7, 1945, in the Battle of Okinawa, Japan, the last and bloodiest battle in the Pacific Theater. This was also the day Germany surrendered, ending the war in Europe. Although he is sadly missed by his family, he is a Preston County Hero who gave the ultimate sacrifice to his country. He now proudly rests in the West Virginia National Cemetery at Grafton, West Virginia; and

Whereas, The short life and sacrifice of Byron ‘Bray’ Kelley should not go unnoticed and the naming of a bridge in his name is fitting and proper; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 39-73/73-8.46 (39A143) (39.65892, -79.63833), locally known as Bruceton Mills Bridge, carrying County Route 73/73 over Big Sandy Creek in Bruceton Mills, Preston County, the “Byron ‘Bray’ Kelley Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the "Byron ‘Bray’ Kelley Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation, and any surviving relatives of Byron “Bray” Kelley.

Delegates Eldridge, Phillips, P. White, Marcum, Moffatt, Morgan, Rodighiero and Miller offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 55 – “Requesting the Division of Highways to name the portion of West Virginia Route 36 in Lincoln County, from the

intersection of Sheridan Road, continuing 1.4 miles southeast, to the Greystone Branch sign, the 'U.S. Army PFC Ray Freeman Meade Memorial Road'.”

Whereas, Private First Class Ray Freeman Meade of Branchland, West Virginia, was born on November 15, 1929, to Ruth A. Hatfield and Raymond D. Meade; and

Whereas, Private First Class Ray Freeman Meade was killed in action in Korea on November 14, 1950; and

Whereas, It is fitting that an appropriate memorial recognizing this soldier's service and sacrifice be established in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the portion of West Virginia Route 36 in Lincoln County, from the intersection of Sheridan Road, continuing 1.4 miles southeast, to the Greystone Branch sign, the “U.S. Army PFC Ray Freeman Meade Memorial Road”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the designated roadway containing bold and prominent letters proclaiming the designated roadway the “U.S. Army PFC Ray Freeman Meade Memorial Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways, and the family of the late Private First Class Ray Freeman Meade.

Delegates Statler, Stansbury, B. White, Kessinger, Rohrbach, Sobonya, Waxman, Hamrick, Summers, Ihle and Atkinson offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 56 – “Requesting the Division of Highways to name Bridge Number 31-77-1.15 (31A212) (39.53532, -79.97705), locally known as Booths Creek Bridge, carrying CR 77 over Booths Creek in Monongalia county, the ‘U.S. Army CPL Robert Eugene Jackson Memorial Bridge’.”

Whereas, Robert Eugene Jackson, a native of Monongalia County, West Virginia, was born June 25, 1921, the youngest of ten children of Herbert E. and Sarah Anna Jenkins Jackson; and

Whereas, Robert Eugene Jackson married June Elizabeth King, and they had a daughter, Barbara June Jackson, born February 25, 1943; and

Whereas, As a youth, Robert Eugene Jackson grew up on a farm along Booths Creek, near the Booth’s Creek Bridge; and

Whereas, Robert Eugene Jackson, the youngest of four brothers and six sisters, was the only one of the Jackson children to serve in the military during World War II. His Army service number was 35396503, and by November of 1943, he had joined Battery D of the 453rd Antiaircraft Artillery Automatic Weapons Battalion; and

Whereas, On February 11, 1944, CPL Eugene Jackson left New York City, New York, aboard the ship Dominion Monarch and arrived in England February 23, 1944; and

Whereas, Robert Eugene Jackson, along with his unit, landed on Utah Beach, on the coast of Normandy, France, June 18, 1944, to provide antiaircraft protection for artillery in the Normandy campaign; and

Whereas, Robert Eugene Jackson was killed in the Battle of Periers on July 16, 1944; and

Whereas, It is the desire of the State of West Virginia that CPL Robert Eugene Jackson’s sacrifice in service to his country be honored with an appropriate memorial; therefore, be it

Resolved by the Legislature of West Virginia:

That Bridge Number 31-77-1.15 (31A212) (39.53532, -79.97705), locally known as Booths Creek Bridge, carrying CR 77 over Booths Creek in Monongalia county, be named the “U.S. Army CPL Robert Eugene Jackson Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U.S. Army CPL Robert Eugene Jackson Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegates Lane, Shott, Householder, E. Nelson, Howell, Cowles, Sobonya, O’Neal and Canterbury:

H. J. R. 42 - “Proposing an amendment to the Constitution of the State of West Virginia amending section fifty-one, article VI thereof, relating to authorizing legislative review of the judiciary budget; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Finance then the Judiciary.

Delegates Ellington, Summers, Upson, Householder, Ihle, Espinosa, Hill, Stansbury, Campbell, Perdue, Atkinson, Bates, Blair, Butler, Duke, Eldridge, Foster, Ireland, Manchin, Perry, Phillips, Skinner, R. Smith, Sobonya and Statler offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 9 - “Recognizing March, 2016, as self-care month in West Virginia.”

Whereas, Self-care is a lifelong daily habit of healthy lifestyle choices, good hygiene practices, prevention of infection and illness,

avoiding unhealthy choices, monitoring for signs and symptoms of changes in health, knowing when to consult a healthcare practitioner and knowing when it is appropriate to self-treat conditions; and

Whereas, The United States Food and Drug Administration deems OTC medicines safe and effective for the self-care treatment of minor acute and chronic health conditions and symptoms such as pain, the common cold, allergies and other conditions that impact large segments of the population; and

Whereas, Over-the-counter medicines are either developed as new nonprescription medicines or switched from existing prescription medicines; and

Whereas, Over-the-counter nonprescription medicines are self-care products that consumers purchase in pharmacies, supermarkets, retail stores and online; and

Whereas, Every dollar spent on over-the-counter medicines saves the United States healthcare system \$6-7 dollars and the availability of over-the-counter medicines provides \$102 billion in value annually; and

Whereas, Nonprescription medicines help to ease the burden on healthcare practitioners, eliminating unnecessary medical examinations that could be avoided with appropriate self-care; and

Whereas, West Virginia benefits when its citizens practice appropriate self-care; do not unnecessarily visit healthcare practitioners and are empowered by higher self-esteem, improved health, and reduced use of health care services; and

Whereas, West Virginia encourages its citizens to take advantage of self-care's potential to improve personal and public health, save personal and public treasury and strengthen the sustainability of the West Virginia health care system; and

Whereas, Achieving self-care's potential is a shared opportunity for consumers, healthcare practitioners, policymakers and regulators; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates: (1) Recognizes the importance of improving awareness of self-care and the value it represents to the citizens of West Virginia; (2) Supports increased consumer empowerment through the development of new nonprescription medicines and the appropriate switch of certain prescription medicines to nonprescription; (3) Acknowledges that over-the-counter medicines can greatly improve and reduce costs to the public health system; (4) Encourages consumers, healthcare practitioners, policymakers and regulators to communicate the benefits of self-care; and (5) Recognizes February 2016 as Self-Care Month in West Virginia.

Petitions

Delegates Fast and Azinger presented petitions from thousands of citizens in support of the West Virginia Religious Freedom Restoration Act; which was referred to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Folk, Walters, Kurcaba and Marcum:

H. B. 4487 - "A Bill to amend and reenact §5-10-2 and §5-10-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7A-17a of said code, all relating to state retirement systems; defining compensation and employee for the Public Employees Retirement System; requiring payment of reinstatement interest in the Public Employees Retirement System in certain circumstances; and providing that failure of employee to pay the Teachers Retirement System according to a contract to purchase

military service credit is to be treated as an overpayment or excess contribution pursuant to the article”; to the Committee on Pensions and Retirement then Finance.

By Delegates Trecoast, Waxman and Hamrick:

H. B. 4488 - “A Bill to amend and reenact §10-1-20 of the Code of West Virginia, 1931, as amended, relating to limiting audits of public libraries to a biennial schedule”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Fleischauer, Shott, Storch, Guthrie, Border, Moore, Hamilton, Sobonya, Miller and Manchin:

H. B. 4489 - “A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and to amend and reenact §62-1D-8 of said code, all relating generally to human trafficking; designating the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; eliminating existing criminal offense and penalties for human trafficking; creating felony offenses and penalties for trafficking an individual; defining terms; creating felony offenses and penalties for using an individual in forced labor; creating felony offenses and penalties for using an individual in debt bondage; creating felony offenses and penalties for compelling an adult through coercion to engage in commercial sexual activity; creating a felony offense for maintaining or making available a minor for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offense; creating a felony offense of patronizing an individual to engage in commercial sexual activity; clarifying that each victim shall be considered a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated

circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for disgorgement of profits and debarment from state and local government contracts; making victims eligible for compensation under the Crime Victims Compensation Fund; providing for criminal immunity for offense of prostitution if individual was a minor at time of offense and was a victim at time of offense; providing for expungement of prostitution conviction for victims of trafficking; and authorizing law enforcement to use wiretaps to conduct investigations”; to the Committee on the Judiciary.

By Delegates R. Smith, Cadle, Foster, Statler, Householder, Faircloth, Howell, Butler and Atkinson:

H. B. 4490 - “A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to requirements by which an employee can authorize deductions from his or her wages”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Hill, Faircloth, Weld, Zatezalo, Cadle and Ihle:

H. B. 4491 - “A Bill to repeal §17C-14-1 of the Code of West Virginia, 1931, as amended, relating to unattended motor vehicles; penalty”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Cadle, Waxman, Ihle, Foster, Phillips, Stansbury, Ellington, Atkinson, R. Smith, Eldridge and Ireland:

H. B. 4492 - “A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-7-8 and §61-7-11a of said code, all relating generally to establishing a mandatory course of instruction in firearm safety for high school students generally; requiring the State Board of Education to provide firearm safety instruction in public schools serving high school students; requiring all high school students to complete the class one time; creating an exception and an alternate qualification; permitting children under the age of eighteen to possess and carry a deadly

weapon while participating in a firearm safety class; correcting a reference to court jurisdiction and proceedings involving violations by juveniles; and authorizing instructors, assistants and students to possess a deadly weapon on school grounds while participating in a school-administered firearm safety class”; to the Committee on Education then Finance.

By Delegates Fluharty, Pushkin, Bates, Ferro, Miley, Fleischauer, Manchin, Skinner, Storch and Reynolds:

H. B. 4493 - “A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating to voter registration in conjunction with issuance, renewal or change of address of driver license and state identification card”; to the Committee on the Judiciary.

By Delegate Miley

[By Request of the Executive]:

H. B. 4494 - “A Bill to amend and reenact §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-17-4b, all relating to increasing the tax rate on cigarettes and tobacco products; requiring a physical inventory of tax stamps and tobacco products and e-cigarette liquids upon the effective date of tax imposition or tax rate increase; applying tax rate changes to inventories; requiring a report of such inventory be filed sixty days after the effective date of the tax imposition or tax rate change; levying the excise tax on e-cigarette liquid; defining terms; providing for administration of the tax on e-cigarette liquid; specifying penalty for failure to file required reports; specifying criminal sanctions; and specifying effective date”; to the Committee on Health and Human Resources then Finance.

By Delegates Walters, McCuskey and Westfall:

H. B. 4495 - “A Bill to amend and reenact §46A-6K-3 of the Code of West Virginia, 1931, as amended, relating to accrual of interest during the rescission period, on a loan where a right of rescission applies”; to the Committee on Banking and Insurance then the Judiciary.

By Delegate Eldridge:

H. B. 4496 - “A Bill to amend and reenact §21-11-6 of the Code of West Virginia, 1931, as amended, relating to permitting contractors to perform work on a construction project without having a contractor’s license when the total cost of that project is less than \$5,000”; to the Committee on Industry and Labor then the Judiciary.

By Delegates Cadle, Hamrick, Cooper, Ambler, Moye, Foster, D. Evans, Atkinson, Canterbury, Stansbury and Arvon:

H. B. 4497 - “A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-3-1 of said code, all relating to dedicating consumer sales tax collected on sales of automobile parts to the State Road Fund”; to the Committee on Roads and Transportation then Finance.

By Delegates Howell, Westfall, B. White, Hamrick and Moffatt:

H. B. 4498 - “A Bill to amend and reenact §17-24A-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17A-4-10 of said code, all relating to certificates of title for certain total loss and abandoned or junked motor vehicles; allowing automobile auctions to obtain title to abandoned vehicles; creating a process by which an automobile auction may obtain a salvage certificate or a nonrepairable motor vehicle certificate for vehicles abandoned on its property; establishing a process by which automobile auctions may obtain title to and sell certain abandoned vehicles; and allowing an insurance company to obtain a salvage certificate or a cosmetic total loss salvage certificate after paying a total loss claim on a vehicle”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates O'Neal, Shott, Lane, Hanshaw, Overington, Sobonya, Azinger and Fast:

H. B. 4499 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-1-27; and to amend said code by adding thereto a new section, designated

§52-2-17, all relating to certain persons who have been disqualified or excused from jury service”; to the Committee on the Judiciary.

By Delegates Ireland, Anderson, R. Smith, Border, Miller, Ambler, Cooper, Zatezalo, Lynch and Eldridge:

H. B. 4500 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-6C-1, §22-6C-2, §22-6C-3, §22-6C-4, §22-6C-5, §22-6C-6, §22-6C-7, §22-6C-8, §22-6C-9 and §22-6C-10, all relating to oil and gas royalty owner protections; creating the Oil and Gas Royalty Payment and Transparency Act of 2016; providing methods of ensuring transparency in determining the amount paid to a royalty interest owner by requiring certain information to be attached to the payment instrument provided to the interest owner by the producer; defining terms; providing for an escalation in certain circumstances; establishing a general rule for the accumulation of proceeds from production and the payment of funds therefrom; requiring the timely payment of royalties and establishing a penalty for failure to timely pay an interest owner; requiring oil and gas producers to report to the Department of Environmental Protection on a quarterly basis all production data associated with a given well; requiring the Department of Environmental Protection to collect all quarterly production data and organize such data on the Department of Environmental Protection website; resolving conflicts between division orders and leases; and providing for rule-making”; to the Committee on Energy then Finance.

By Delegates Phillips, Rodighiero, Hicks, J. Nelson, Eldridge, R. Smith, Azinger, Reynolds, Blackwell, Moye and Perry:

H. B. 4501 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-3-1c, relating to freezing assessments in counties with recent sharp decline in employment due to businesses closing down or sharply reducing their workforces; providing for decreased value presumption; requiring revaluation of all residential property while the freeze is in effect”; to the Committee on Political Subdivisions then Finance.

By Delegates Lane, Miller and Sobonya:

H. B. 4502 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-2b, relating to authorizing the Attorney General to engage in reciprocal agreements with states contiguous to this state and with the District of Columbia, intended to establish regulations, licensing requirements and taxes for small businesses headquartered in contiguous states or the District of Columbia, who conduct business in this state and defining the term ‘small business’ for the purpose of the new section”; to the Committee on Small Business, Entrepreneurship and Economic Development then the Judiciary.

By Delegate Lane:

H. B. 4503 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8D-10, relating to substance abuse while pregnant; providing criminal penalty; allowing drug court course of substance abuse education and treatment as alternative to punishment and conviction; and authorizing expungement”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Perdue, Hornbuckle, Hamilton, Hicks, Rohrbach, Morgan, Guthrie, Fleischauer and Skinner:

H. B. 4504 - “A Bill to amend and reenact §11-19-2 of the Code of West Virginia, 1931, as amended, relating to increasing the excise tax on bottled soft drinks, syrups and dry mixtures; and dedicate the proceeds to the benefit of the state university system”; to the Committee on Finance.

By Delegate Skinner:

H. B. 4505 - “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 Powerball winners to remain anonymous; and providing for an exemption under the Freedom of Information Act for Powerball winner information”; to the Committee on the Judiciary.

By Delegate Trecost:

H. B. 4506 - “A Bill to amend and reenact §17C-15-23 of the Code of West Virginia, 1931, as amended, relating to permitting reflective lighting on motorcycles”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Upson, J. Nelson, Cooper, Blair, Trecost, Householder and Espinosa:

H. B. 4507 - “A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §5-11-9a, all relating to providing an employer may grant preference in hiring to a veteran or disabled veteran without violating any provisions of the state Human Rights Act; and defining the term ‘veteran’ for purposes of the allowable preference in hiring”; to the Committee on Veterans' Affairs and Homeland Security then the Judiciary.

By Delegates McGeehan, Hamrick, Blair, Ihle and Folk:

H. B. 4508 - “A Bill to amend and reenact §7-1-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-12-5 of said code, all relating to prohibiting counties and municipalities from adopting ordinances or regulations that base restrictions on the breed of a dog”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Rowe, Skinner, Rohrbach, Perdue, Cadle, Ellington, Fleischauer, Morgan, Bates and Guthrie:

H. B. 4509 - “A Bill to amend and reenact §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-7 and §16-9A-8 of the Code of West Virginia, 1931, as amended, all relating to raising the legal age for purchase of tobacco, tobacco products, tobacco-derived products, alternative nicotine products and vapor products to twenty-one”; to the Committee on Health and Human Resources then Finance.

By Delegates Howell, Hill, Arvon, Stansbury, Cadle, Ihle, Hamrick, Faircloth, R. Smith, Atkinson and Blair:

H. B. 4510 - “A Bill to amend and reenact §5A-10-5 of the Code of West Virginia, 1931, as amended, relating to requiring a structural

engineering inspection of any building prior to purchase by the state and requiring inspection results to be considered in a cost-benefit analysis”; to the Committee on Government Organization then Finance.

By Delegates Howell, Hill, Arvon, Stansbury, Cadle, Ihle, Hamrick, Faircloth, R. Smith, Atkinson and Blair:

H. B. 4511 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-1-3a, relating to placing a moratorium on the Department of Administration’s purchase of real property in excess of \$1 million until it has submitted a report to the Legislature signifying that it has strengthened its financial resources”; to the Committee on Government Organization then Finance.

By Delegates J. Nelson, Phillips, Perdue, D. Evans, Cooper, Longstreth, Pushkin, McGeehan, Upson, Arvon and Lynch:

H. B. 4512 - “A Bill to amend and reenact §17B-2A-2 of the Code of West Virginia, 1931, as amended, relating to registration for selective service”; to the Committee on Veterans' Affairs and Homeland Security then the Judiciary.

By Delegates Howell, Hill, Arvon, Stansbury, Cadle, Ihle, Hamrick, Faircloth, R. Smith, Atkinson and Blair:

H. B. 4513 - “A Bill to amend and reenact §5A-10-3 of the Code of West Virginia, 1931, as amended, relating to requiring a cost-benefit analysis to be performed before the state purchases certain real estate”; to the Committee on Government Organization then Finance.

By Delegates Eldridge, Skinner, Campbell, Hartman, Perry, Summers, Rohrbach, B. White, Storch, Blackwell and P. Smith:

H. B. 4514 - “A Bill to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating to reducing the number of pupils per school nurses employed by county boards of education”; to the Committee on Education then Finance.

By Delegates Campbell, Eldridge, Rowan, Romine, Boggs, Guthrie, Rohrbach, Lynch, Perry, Caputo and Skinner:

H. B. 4515 - “A Bill to amend and reenact §19-14-4 and §19-14-5 of the Code of West Virginia, 1931, as amended, all relating to increasing the pet food registration fee and directing that additional money to the West Virginia Spay Neuter Assistance Fund”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates Howell, Hill, Arvon, Stansbury, Cadle, Ihle, Hamrick, Faircloth, R. Smith, Atkinson and Blair:

H. B. 4516 - “A Bill to amend and reenact §5A-4-2 of the Code of West Virginia, 1931, as amended, relating to defining what constitutes capitol dome and capitol improvements; clarifying the intent of the Legislature as it relates to the use of the ‘Capitol Dome and Capitol Improvements Fund’; and providing that this fund may not be expended for operating expenses of the Department of Administration, the purchase or construction of buildings that stand alone, to repair properties that are leased by the state or for debt service payments”; to the Committee on the Judiciary then Finance.

By Delegates Manchin, Shott, Shaffer, Byrd, Skinner, Caputo, Longstreth, Lane, McCuskey and Hanshaw:

H. B. 4517 - “A Bill to amend and reenact §39B-1-114 of the Code of West Virginia, 1931, as amended; and to amend and reenact §39B-2-101 of said code, all relating to limiting the ability of an agent under a power of attorney to take self-benefiting actions”; to the Committee on the Judiciary.

By Delegates Statler, Gearheart, R. Smith, Kurcaba, Faircloth, Wagner, Foster, Cadle, Atkinson and Ireland:

H. B. 4518 - “A Bill to amend and reenact §6B-2-5c of the Code of West Virginia, 1931, as amended, relating to use of public funds to display a public official’s name or likeness and prohibiting such display on public road signs”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Hamilton, Campbell, Lynch, P. Smith, Pethtel, Marcum, A. Evans, Statler and Wagner:

H. B. 4519 - “A Bill to amend and reenact §8-22A-2, §8-22A-6 and §8-22A-32 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §8-22A-33, all relating to allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System”; to the Committee on Pensions and Retirement then Finance.

By Delegates Hanshaw and Shott:

H. B. 4520 - “A Bill to amend and reenact §16-5G-2 and §16-5G-4 of the Code of West Virginia, 1931, as amended, all relating to hospitals owned or operated by nonprofit corporations, nonprofit associations or local governmental units; clarifying that these hospitals may have only one governing body whose meetings shall be open to the public; enumerating matters which may be acted upon in executive session; and clarifying and expanding authorization for holding of executive sessions”; to the Committee on the Judiciary.

House Calendar

Third Reading

Com. Sub. for H. B. 4012, West Virginia Religious Freedom Restoration Act; on third reading, coming up in regular order, was read a third time.

Delegate Shaffer was addressing the House when Delegate Kurcaba arose to a point of order, regarding the content of the Gentleman’s remarks, to which point the Speaker asked the Gentleman from the 52nd to confine his remarks to the merits of the bill.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 58**), and there were, including 4 paired--yeas 72, nays 26, absent and not voting 2, with the nays, paired and absent and not voting being as follows:

Nays: Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Manchin, McCuskey, Miley, Moore, Morgan, Perdue, Pethel, Pushkin, Skinner, Sponaugle, Stansbury, Storch, Summers, Trecoast, Weld and B. White.

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Marcum Nay: Byrd

Yea: Blackwell Nay: Rowe

Absent and Not Voting: Flanigan and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4012) passed.

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

H. B. 4148, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 59**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell, Byrd, Flanigan, Morgan and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4148) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

H. B. 4148 - “A Bill to amend and reenact §11-24-3 and §11-24-13 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Corporation Net Income Tax Act; updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; changing the due date for filing a West Virginia Corporation Net Income Tax return; and specifying effective dates.”

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

On this question, the yeas and nays were taken (**Roll No. 60**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell, Byrd, Flanigan, Morgan and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4148) takes effect from its passage.

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

Com. Sub. for H. B. 4158, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 61**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell, Byrd, Flanigan, Morgan and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4158) passed.

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

On this question, the yeas and nays were taken (**Roll No. 62**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell, Byrd, Flanigan, Morgan and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4158) takes effect from its passage.

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

H. B. 4161, Relating to levies on classifications of property by the Board of Public Works; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 63**), and there were--yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell, Byrd, Flanigan, Morgan and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4161) passed.

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

H. B. 4362, Establishing a felony offense of strangulation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 64**), and there were--yeas 93, nays 2, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Cooper and D. Evans.

Absent and Not Voting: Blackwell, Byrd, Flanigan, Morgan and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4362) passed.

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

Second Reading

H. B. 4147, Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 123, Treatment for sexually transmitted diseases,

S. B. 261, Bringing state code relating to daylight saving time in conformity with federal code,

Com. Sub. for H. B. 2615, West Virginia Small Business Capital Act,

Com. Sub. for H. B. 4146, Providing insurance cover abuse-deterrent opioid analgesic drugs,

Com. Sub. for H. B. 4188, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas,

Com. Sub. for H. B. 4218, Expanding the definition of “underground facility” in the One-Call System Act,

Com. Sub. for H. B. 4228, Relating to transportation network companies,

And,

H. B. 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blackwell, Byrd, Flanigan and Westfall.

At 2:07 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 12, 2016.

FRIDAY, FEBRUARY 12, 2016

THIRTY-FIRST DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, February 11, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Cooper, Vice Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. B. 4262, Requiring that three parking spaces in the West Virginia Culture Center parking lot be designated for use by Purple Heart Medal recipients,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4262) was referred to the Committee on the Judiciary.

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4448) was referred to the Committee on the Judiciary.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 330, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 330) was referred to the Committee on the Judiciary.

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

S. B. 415, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold,

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

In accordance with the former direction of the Speaker, the bill (S. B. 415) was referred to the Committee on Finance.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 2, U.S. Army PV2 William Frederick Kump Memorial Bridge,

Com. Sub. for H. C. R. 14, Second Friday in July as West Virginia Collector Car Appreciation Day,

Com. Sub. for H. C. R. 19, H. Laban White Memorial Bridge,

S. C. R. 16, US Army CPL John Belcastro Bridge,

And,

H. R. 7, Designating that the month of April be proclaimed as Sarcoidosis Awareness Month beginning in 2016,

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

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. R. 8, Authorizing the Committee on Rules to arrange a Special Calendar and providing for making public the vote on certain questions in connection with the preparation thereof,

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

Delegate Canterbury, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 2222, Relating to certain members of the Legislature and certain service by members of the Legislature,

H. B. 4487, Relating to state retirement systems,

And,

H. B. 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System,

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

In accordance with the former direction of the Speaker, the bills (H. B. 2222, H. B. 4487 and H. B. 4519) were each referred to the Committee on Finance.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 2192, Exempting heating oil for residential use from the Motor Fuel Excise Tax,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2192) was referred to the Committee on Finance.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4323, Relating to the reporting of emergency incidents by well operators and pipeline operators,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4323 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents by well operators and pipeline operators; defining terms; establishing reporting requirements; establishing obligations of local emergency telephone operators; providing for recording and handling of calls; setting forth administrative civil penalty; and providing appeal process,”

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4347, Providing pregnant women priority to substance abuse treatment, And reports the same back with the recommendation that it do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 6, Requiring drug screening and testing of applicants for TANF program,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 6) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4511, Limiting the authority of the Department of Administration's purchase of real property until it has submitted a report to the Legislature,

And,

H. B. 4513, Requiring a cost-benefit analysis to be performed before the state purchases certain real estate,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4511 and H. B. 4513) were each referred to the Committee on Finance.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4461, Relating to School Building Authority School Major Improvement Fund eligibility,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4461) was referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration:

H. B. 4209, Relating generally to health care provider taxes,

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

Com. Sub. for H. B. 4209 – “A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating generally to health care provider taxes; changing rate of tax imposed on certain eligible acute care hospitals for the fiscal year 2017; specifying purposes for which funds collected may be expended; providing for distribution of remaining funds at the end of fiscal year; and extending expiration date for tax,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4378, Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 3019, Requiring official business and records of the state and its political subdivisions be conducted in English,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 3019 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-2-13, all relating to requiring official business and records of the state and its political subdivisions be conducted in English, and providing exceptions, limitations, and a definition,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4291, Increasing penalties for teachers who commit sexual offenses against children,

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

Com. Sub. for H. B. 4291 – “A Bill to amend and reenact §61-8D-5 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for teachers and service personnel who commit

sexual offenses against children with whom they hold positions of trust; providing that upon conviction for sexual offenses against children with whom they hold positions of trust such teachers and service personnel are prohibited from being employed by any educational, vocational, training, day care, group home, foster care program, or rehabilitation facility in the state; and defining terms.”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4417, Increasing wages protected from garnishment,

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

Messages from the Executive

The Speaker then laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305
February 11, 2016

Veto Message

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
Room 229M, Building 1
State Capitol Complex
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

Re: Enrolled House Bill 4005

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 4005.

The Legislature of West Virginia enacted the Wages for Construction of Public Improvements Act in 1935 to ensure that laborers, workers, and mechanics receive fair wages on state public improvement contracts. Contending that the prevailing wage rates for building bridges, digging ditches, and tunneling sewers have become too generous, several legislators sought the Act's repeal during the 2015 Regular Session of the Legislature. I encouraged a less drastic course of action, and urged the Legislature to collaborate with Workforce West Virginia and our state's foremost universities to improve the Act's methodology for calculating prevailing wage rates. Working together, we achieved a reasonable compromise in 2015, modernizing the Act instead of extinguishing it.

Our compromise, it turns out, was all for naught. Enrolled House Bill 4005 repeals the Act in an about-face from our eight-one year history of paying laborers, workers, and mechanics fairly for constructing public improvements. Because I favor compromise and fairness over extreme measures, I disapprove and return this bill.

Sincerely,

Earl Ray Tomblin,
Governor.

Delegate Cowles moved that the House of Delegates proceed to consider the bill, notwithstanding the objections of the Governor.

On this motion, the yeas and nays were taken (**Roll No. 65**), and there were—yeas 55, nays 43, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, A. Evans, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Kelly, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethel, R. Phillips, Pushkin, Reynolds, Rodighiero, Romine, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecost, Wagner and P. White.

Absent and Not Voting: Blackwell and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The Speaker then propounded, "Shall the bill pass, notwithstanding the objections of the Governor?"

On this question, the yeas and nays were taken (**Roll No. 66**), and there were—yeas 54, nays 44, absent and not voting 2, with the yeas, nays and absent and not voting being as follows:

Yeas: Ambler, Anderson, Arvon, Atkinson, Azinger, Blair, Border, Butler, Cadle, Cooper, Cowles, Deem, Duke, Ellington, Espinosa, D. Evans, Faircloth, Fast, Folk, Foster, Frich, Gearheart, Hamrick, Hill, Householder, Howell, Ihle, Ireland, Kessinger, Kurcaba, Lane, McCuskey, McGeehan, Miller, Moffatt, E. Nelson, J. Nelson, O'Neal, Overington, Rowan, Shott, R. Smith, Sobonya, Stansbury, Statler, Summers, Upton, Walters, Waxman, Weld, Westfall, B. White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Bates, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, A. Evans, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Kelly, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Romine, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecost, Wagner and P. White.

Absent and Not Voting: Blackwell and Flanigan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Enr. H. B. 4005) passed, notwithstanding the objections of the Governor.

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

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

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

“That §29B-1-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. PUBLIC RECORDS.

§29B-1-4. Exemptions.

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which

are specifically exempt from disclosure under the provisions of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

(4) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body;

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications and network security records, passwords, security codes or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests or the results of those tests;

(15) Architectural or infrastructure designs, maps or other records that show the location or layout of the facilities where computing, telecommunications or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers and individual customers, consistent with 47 U. S. C. §222; ~~and~~

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility, or to cause injury to another inmate, resident or to facility personnel; ~~;~~

(20) Information related to applications under section four, article seven, chapter sixty-one of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided:* That information in the aggregate that does not identify any permit holder other than by county or municipality is not exempted: *Provided, however,* That information or other records exempted under this subdivision may be disclosed to a law enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes; and

(21) Personal information of employees of a public body maintained by the public body in the ordinary course of the employer-employee relationship. As used in this paragraph, ‘personal information’ means an employee’s social security number, health information, home address, personal address, personal telephone numbers and personal email addresses and those of his or her spouse, parents and children as well as the names of the employee’s spouse, parents and children.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term “terrorist act” means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.”

And,

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

Com. Sub. for H. B. 2800 – “A Bill to amend and reenact §29B-1-4 of the Code of West Virginia, 1931, as amended, relating to

adding the personal information of public employees and personal information of certain family members of employees of public bodies to the list of exemptions from public records requests; and defining terms.”

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 7 - “A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7B-5 of said code, all relating to establishment of a wrongful conduct rule which applies when plaintiff’s criminal conduct bars recovery; prohibiting recovery of damages for a defendant’s negligence or gross negligence suffered as a result of a plaintiff’s commission or attempted commission of a felony; requiring proximate cause for a bar on recovery; establishing burden of proof for wrongful conduct rule; providing for the applicability of wrongful conduct rule to all civil actions for personal injury and wrongful death, including any and all claims brought against a health care provider under the Medical Professional Liability Act; establishing that the 2016 amendments apply to all causes of action accruing on or after the effective date of those amendments; and applicability”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 341 - “A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016, in the amount of \$659,500 from the Department of Revenue, Insurance Commissioner – Examination Revolving Fund, fund 7150, fiscal year 2016, organization 0704, and in the amount of \$26,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704”; which was referred the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 378 - “A Bill to amend and reenact §18-8-4 and §18-8-8 of the Code of West Virginia, 1931, as amended, all relating generally to truancy intervention; expanding definition of excused absence; exempting absences for chronic medical condition or disability which may be reasonably accommodated by the school; requiring parent to request reasonable accommodation; defining ‘chronic medical condition or disability’; requiring written excuses or documentation from a medical provider in certain cases; limiting number of days which may be excused absences; defining “immediate family”; requiring verification of absence for judicial obligation or court appearance; allowing principal to authorize excused absences for other reason or for longer periods of time with the approval of the county superintendent; removing notice requirement after three days absence; requiring written excuses or documentation to be submitted within certain time frame; defining the term ‘reasonable accommodation’; and modifying the effect of student suspensions on enforcement of the provisions of compulsory attendance enforcement”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 419 - “A Bill to amend and reenact §4-11A-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13A-3b of said code; to amend and reenact §11-13V-4 of said code; and to amend and reenact §11-21-96 of said code, all relating to termination of Workers’ Compensation Debt Reduction Act; specifying effective date of termination; authorizing sooner termination by Executive Order; reallocating deposits of revenues with relation to the Old Fund; authorizing redirection of deposits, by Executive Order, of specified revenues into the General Fund for a limited time period if budget shortfall exceeds specified amount; eliminating language relating to actuarial determination and executive certification of specified conditions; reestablishing severance tax on timber at a specified tax rate; specifying effective dates; and specifying dedication of revenues”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 437 - “A Bill to amend and reenact §29-5A-1, §29-5A-15 and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to regulation of events by State Athletic Commission; authorizing delegation of commission authority to approve certain event changes; eliminating requirements for certain bonds; and providing for rules to govern amateur mixed martial arts”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 449 - “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, fund

0226, fiscal year 2016, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 450 - “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health, fund 0407, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2016, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 451 - “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, West Virginia Parole Board, fund 0440, fiscal year 2016, organization 0605, and to the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2016, organization 0621, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 509 - “A Bill to amend and reenact §21-10-6 of the Code of West Virginia, 1931, as amended, relating to when Division of Labor must inspect amusement rides and amusement attractions”; which was referred to the Committee on Government Organization.

Resolutions Introduced

Delegates A. Evans, Kelly, Storch, Hamrick, Sobonya, Summers, Ellington, Overington, O’Neal, McGeehan and Azinger offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 57 – “Requesting the Division of Highways to name bridge number 12-220-10.31 (12A081) (38.98846, -79.12465), locally known as Petersburg Bridge, carrying US 220 over the south branch of the Potomac River in Grant County, the ‘U.S. Army PVT Leander Reel Memorial Bridge’.”

Whereas, Private Reel was born and raised in Grant County; and

Whereas, Private Reel served in U.S. Army in Normandy and Market Garden in Holland. He was killed in September 1944 fighting for freedom and is buried in the Margraten American Cemetery in the Netherlands; and

Whereas, Private Reel earned a Silver Star in Normandy for his service on June 9, 1944, while serving in the 327th Glider Infantry Regiment, 82nd Airborne Division. As his citation reads: “The company commander called for volunteers to investigate heavy opposition crossing the Merderet River. Private Reel stepped up and advanced through the hedge in the direction of the fire. In a short while the firing stopped and shortly afterward, Private Reel marched out a column of twenty-four enemy soldiers. He had forced them to abandon two machine guns and surrender. His initiative and audacity in neutralizing this group reflects great credit upon himself and the Airborne Forces of the United States Army”; and

Whereas, Private Reel earned the Bronze Star Award on September 25, 1944, in Holland. The citation reads: “For meritorious service in connection with ground operations against a hostile force on 25 September 1944 while serving with Co G, 2nd Batt. 327th GIF regiment, 82nd AB in Holland. The division air assaulted in the Nijmegen-Groesbeek Ridge. The next day, attempts to take the Nijmegen Highway Bridge failed and the division contacted the British Guards Armored Division at Grave for assistance. Private Reel displayed untiring efforts and professional ability while he was subjected to stiff resistance from the enemy forces. His performance of duty was in keeping with the finest traditions of the military service and reflects great credit upon himself, the 82nd AB and the Army of the U.S.”; and

Whereas, U.S. Army Private Leander Reel was awarded a Purple Heart and also earned the

Combat infantry Badge, Army Good Conduct Medal, American Campaign Medal, European-African Middle Eastern Campaign Medal with Arrowhead Device and two Bronze Service Stars, WWII Victory Medal, Glider Wings with two Bronze Service Stars, Belgium Fourragere, Netherlands Orange Lanyard; and

Whereas, U.S. Army Private Leander Reel’s niece, Wanda J. Stump, was given the medals and awards on September 5, 2013. Ms. Stump will cherish his medals and awards forever; and

Whereas, It is fitting and proper that U.S. Army Private Leander Reel be honored by having this bridge named for a soldier who served with distinction and honor and who gave the ultimate sacrifice; therefore, be it

Resolved by the West Virginia Legislature:

That the Legislature hereby requests the Division of Highways to name bridge number 12-22010.31 (12A081) (38.98846, -79.12465), locally known as Petersburg Bridge, carrying US 220 over the south

branch of the Potomac River in Grant County, the “U.S. Army PVT Leander Reel Memorial Bridge” and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the “U.S. Army PVT Leander Reel Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways and U.S. Army Private Leander Reel’s niece, Wanda J. Stump.

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 58 – “Requesting the Division of Highways to name the bridge, to be rebuilt, located near Augusta in Hampshire County that will traverse the Little Cacapon River along State Route 50/9 which original bridge was formerly located in the location of the now non-existent community of Frenchburg, the ‘Frenchburg Bridge’.”

Whereas, One James French was an early settler in the area and was the namesake for the community which later came to be known as Frenchburg; and

Whereas, Hampshire County is one of a few counties in the State of West Virginia that was not in favor of inclusion into the northern union during the Civil War, having had predominantly southern sympathies; and

Whereas, As a result of its southern stance during the Civil War, the town was razed by fire by Union forces sometime between November 1861 when two Ringgold Cavalry soldiers were killed near Frenchburg and Stonewall Jackson’s campaign to Berkeley Springs and Romney in January 1862; and

Whereas, Since Frenchburg was destroyed, it never recovered as a viable community, yet due to its past history, including having been surveyed by George Washington in addition to the foregoing, is endowed with a rich historical significance and heritage; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect signs at both entrances to the replacement bridge to be built located near Augusta in Hampshire County that will traverse the Little Cacapon River along State Route 50/9 which original bridge was formerly located in the location of the now nonexistent community of Frenchburg, proclaiming the new bridge to be built the “Frenchburg Bridge;” and, be it

Further Resolved, That the Clerk of the House of Delegates is hereby requested to forward a certified copy of this concurrent resolution to the Secretary of the Department of Transportation.

Delegates Phillips, Eldridge, Rodighiero and P. White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 59 – “Requesting that Bridge Number 23-10/7-0.01 (23A048) (37.72942, -81.79447), locally known as the Gillman Bottom Bridge carrying CR 10/7 over Huff Creek in Logan County, West Virginia, be named the ‘John B. Short Memorial Bridge’.”

Whereas, John B. Short was born in 1923, the son of LeRoy and Linda Jackson Short of Davin, West Virginia. He died in 2008. He was a graduate of Man High School in 1942 and enlisted in the U. S. Army Air Corps in 1943, where he served until 1946. He went to electrician school in Michigan and, upon his return, he married Ruby K. Nunley Short. They had seven children. John retired as Chief Electrician with

Pittston Coal Company in 1986. He was an avid outdoorsman, hunter and fisherman; and

Whereas, It is fitting that an enduring memorial be established to commemorate this individual who meant so much to his family and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 23-10/7-0.01(23A048) (37.72942, -81.79447), locally known as the Gillman Bottom Bridge carrying CR 10/7 over Huff Creek in Logan County, West Virginia, be named the “John B. Short Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “John B. Short Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways, the surviving children and family of John B. Short.

Delegates Sobonya, Rohrbach, Waxman, Hamrick, B. White, Miller, Border, D. Evans, Ambler and Cooper offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 60 – “Requesting that the Joint Committee on Government and Finance study the statelevel background check process for new employees and volunteers of caregiving businesses and facilities’ .”

Whereas, Background checks are critical to ensure that quality care and treatment is provided to minors, elderly people and people with disabilities in a safe environment; and

Whereas, The state's current background check process for new employees and volunteers of caregiving facilities often prevents new employees and volunteers from beginning work for up to eight weeks from the date of hire; and

Whereas, The businesses affected by long delays in state-level background checks include, but are not limited to, Neonatal Abstinence Centers; Nursing Homes; Assisted Living Facilities; Group Homes and Residential Care Facilities for Minors; and

Whereas, One potential reason for long delays in the background check process for these facilities, is that the West Virginia State Police has entered into an exclusive contract with one business to administer all state-level background checks, including fingerprinting services; and

Whereas, Business administrators in the state believe that the vendor currently providing state level background check services does not complete background checks in a timely or professional manner; and

Whereas, Business administrators in the state believe that background checks completed in neighboring states have been equally, if not more, effective in revealing disqualifying events in a potential volunteer or employee's record, but are completed much faster; and

Whereas, Long delays in state-level background checks delay the state's most vulnerable populations from receiving care from the highly qualified employees and volunteers who wish to serve them; and

Whereas, Long delays in state-level background checks prevent new caregiving facilities wishing to locate in the state from becoming operational in a timely manner; and

Whereas, The state has a strong interest in ensuring that businesses wishing to provide crucial services to the population in this state do not face unnecessary obstacles in becoming operational; and

Whereas, The state has numerous purchasing policies, including competitive bidding requirements, that are meant to ensure that the services purchased by state agencies are costeffective and of high quality; and

Whereas, It is important that the Legislature study and identify the cause of long delays in the state-level background check process, including whether the state's purchasing practices have allowed an exclusive contractual relationship to form that is detrimental to caregiving businesses in this state, as well as the citizens needing caregiving services; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study on the state-level background check process required for the various businesses providing care to vulnerable populations in this state; and, be it

Further Resolved, That in conducting this study, the Joint Committee on Government and Finance review the following issues: whether the current state-level background check process adequately protects the populations served by caregiving facilities in this state; the timeline and quality of service experienced by various caregiving facilities in obtaining state-level background checks for potential employees and volunteers; the reasons for delays or other problems experienced by various caregiving facilities in obtaining state-level background checks for potential employees and volunteers; whether the West Virginia State Police contract with the company providing state-level background checks complies with the state's purchasing policies; whether the West Virginia State Police has received any kind of purchasing exemption or special designation from the State Director of Purchasing and if so, whether the designation is appropriate; and the comparative effectiveness and speed of state-level background check processes in other states; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Delegates Phillips, Eldridge, Rodighiero and P. White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 61 – “Requesting the Division of Highways to name Bridge Number 23-10/12-0.01 (23A316) (latitude 37.73065, longitude -81.83793) locally known as Mallory School Bridge, carrying County Route 10/12 over Huff Creek in Logan County, the ‘U.S. Army PFC Donald Ray Cochran Memorial Bridge’.”

Whereas, Donald Ray Cochran was born December 27, 1926, at Mallory, West Virginia, the son of Millard Cochran and Garnett Walls Cochran. He graduated from Man High School, Class of 1944, and worked for Powellton Coal Company at Rock House on the engineering crew until he was drafted into the United States Army in 1950. He was killed in action in North Korea on May 25, 1951. His remains were shipped home for burial in December 1951, to Forrest Lawn Cemetery at Pecks Mill, West Virginia; and

Whereas, Naming Bridge Number 23-10/12-0.01 (23A316) (latitude 37.73065, longitude 81.83793) locally known as Mallory School Bridge, carrying County Route 10/12 over Huff Creek in Logan County, the “U.S. Army PFC Donald Ray Cochran Memorial Bridge” is an appropriate recognition of his contributions and his supreme sacrifice to his country, state, community and Logan County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 23-10/12-0.01 (23A316) (latitude 37.73065, longitude -81.83793) locally known as Mallory School Bridge, carrying County Route 10/12 over Huff Creek in Logan County, the “U.S. Army PFC Donald Ray Cochran Memorial Bridge” “U.S. Army PFC Donald Ray Cochran Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U.S. Army PFC Donald Ray Cochran Memorial Bridge”; and, be it Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving relatives of Donald Ray Cochran.

Messages from the Executive

The Speaker then laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305
February 11, 2016

Veto Message

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
Room 229M, Building 1 State Capitol
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 1

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 1 for public policy reasons.

I dispute that West Virginia needs a “right to work” law. The issue of “right to work” has been discussed for several years, but I have never had a company cite “right to work” as a barrier to relocating in West Virginia. We do not lack prospects. Our issues are best addressed by improving our workforce and creating new development opportunities. Since I became governor in 2010, West Virginia has welcomed more than \$10 billion in new investments and expansion projects. A “right to work” law will lead to little if any economic growth and may lower the wages of West Virginia workers.

For the foregoing reasons, I disapprove and return the bill.

Sincerely,

Earl Ray Tomblin,
Governor.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had again passed, without amendment, notwithstanding the objections of the Governor, and requested the concurrence of the House of Delegates in the passage, of

Enr. S. B. 1, Establishing WV Workplace Freedom Act.

Delegate Cowles moved that the House of Delegates proceed to consider the bill, notwithstanding the objections of the Governor.

On this motion, the yeas and nays were taken (**Roll No. 67**), and there were—yeas 56, nays 42, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, A. Evans, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Romine, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecost and P. White.

Absent and Not Voting: Blackwell and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The Speaker then propounded, “Shall the bill pass, notwithstanding the objections of the Governor?”

On this question, the yeas and nays were taken (**Roll No. 68**), and there were—yeas 54, nays 43, absent and not voting 3, with the yeas, nays and absent and not voting being as follows:

Yeas: Ambler, Anderson, Arvon, Atkinson, Blair, Border, Butler, Cadle, Cooper, Cowles, Deem, Duke, Ellington, Espinosa, D. Evans, Faircloth, Fast, Folk, Foster, Frich, Gearheart, Hamrick, Hill, Householder, Howell, Ihle, Ireland, Kelly, Kessinger, Kurcaba, Lane, McCuskey, Miller, Moffatt, E. Nelson, J. Nelson, O’Neal, Overington, Rowan, Shott, R. Smith, Sobonya, Stansbury, Statler, Summers, Upson, Wagner, Walters, Waxman, Weld, Westfall, B. White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Bates, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, A. Evans, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Romine, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecost and P. White.

Absent and Not Voting: Azinger, Blackwell and Flanigan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Enr. S. B. 1) passed, notwithstanding the objections of the Governor.

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

Petitions

Delegates Perry, Kessinger and Fast presented a petition signed by residents of Fayette County requesting the Governor and Legislature increase the amount of state funds allocated to PEIA; which was referred to the Committee on Finance.

Delegate Boggs presented a petition signed by residents of Braxton County requesting the Governor and Legislature increase the amount of state funds allocated to PEIA; which was referred to the Committee on Finance.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Cowles and Shott:

H. B. 4521 — “A Bill to amend and reenact §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West Virginia, 1931, as amended, all relating to modifying the requirements that allow a child witness to testify by closed circuit television”; to the Committee on the Judiciary.

By Delegates Statler, Kurcaba, Duke, Weld, Stansbury, Hill, Espinosa, Azinger, Pethel and Blair:

H. B. 4522 - “A Bill to amend and reenact §18-9A-12 of the Code of West Virginia, 1931, as amended, relating to basic state aid to public education; providing for a discretionary adjustment to the allocated state aid share to any county on account of, and in the amount of, payments or contributions in lieu of property tax distributed from the

sheriff to the county board of education as a result of payment in lieu of tax agreements first entered into on or after July 1, 2016”; to the Committee on Education then Finance.

By Delegates Gearheart, Moore, Householder and Ellington:

H. B. 4523 - “A Bill to amend and reenact §29-22B-1101 and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating to permitting licensed limited video lottery retailers to have up to seven video lottery terminals; permitting certain fraternal societies and veterans’ organizations to have up to twelve video lottery terminals; and providing that a portion of the revenue generated by the lottery terminals be deposited into the State Road Fund”; to the Committee on the Judiciary then Finance.

By Delegates Ellington, Blair, Householder, E. Nelson, Ireland, Hamrick, D. Evans and Cooper:

H. B. 4524 - “A Bill to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended, relating to permitting the governing body to charge tuition on certain credit hours”; to the Committee on Education then Finance.

By Delegates Folk, McGeehan, Shaffer, Marcum, Fast, Faircloth, Shott, E. Nelson, Hanshaw, Skinner and Manchin:

H. B. 4525 - “A Bill to amend and reenact §17C-5-4 and §17C-5-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-5A-1a, §17C-5A-2, §17C-5A-2a, §17C-5A-3 and §17C-5A-3a of said code; and to amend said code by adding thereto a new section, designated §17C5C-6, all relating to the procedures for driver’s license suspension and revocation in criminal proceedings for driving under the influence of alcohol, controlled substances or drugs (D.U.I.); eliminating requirements that the Commissioner of the Division of Motor Vehicles automatically suspend an individual’s driver’s license after receipt of a statement from arresting officers that an individual refused a breath or blood test; requiring that an individual arrested for D.U.I. be given a written statement informing the individual of the legal consequences of taking or refusing to take a preliminary breath

test and informing the individual of the right to receive a secondary blood test; requiring that, following an individual's refusal to take a preliminary breath test, an arresting officer execute a signed statement that the officer administered all required warnings; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's driver's license on the basis of D.U.I. in the absence of a conviction or a court-ordered suspension or revocation; eliminating all statutory provisions authorizing or requiring the commissioner to require an individual to complete the Motor Vehicle Test and Lock program or other safety programs; completely eliminating the Division of Motor Vehicle's administrative hearing process for suspending and revoking driver's licenses based on a D.U.I.; creating a process by which an individual may notify the commissioner if his or her driver's license has been incorrectly suspended or revoked based on mistaken identity of the defendant in a transcript of judgment or conviction; requiring the commissioner to take corrective action if a driver's license is incorrectly suspended or revoked based on mistaken identity; completely transferring jurisdiction for suspension or revocation of a driver's license based on D.U.I. to the court with jurisdiction over the criminal proceedings; requiring a court to suspend a defendant's driver's license until acquittal or judgment if the defendant submitted to an alcohol concentration test that revealed a certain level of impairment, committed certain prior offenses, was involved in an accident causing death or bodily injury, or refused to submit to a secondary chemical test; allowing a court to suspend a defendant's license until acquittal or judgment upon a finding that the defendant would otherwise pose a risk of harm to others during the pendency of criminal proceedings; establishing the right to request and receive judicial review of driver's license suspension orders pending criminal proceedings; establishing the scope of review for judicial review of driver's license suspension orders; requiring a defendant to surrender his or her driver's license upon suspension by the court; requiring the clerk of a court to transmit a copy of an order suspending or revoking a driver's license; establishing procedures and a timeline for the

Division of Motor Vehicles to transfer jurisdiction of driver's license suspension and revocation to the courts; and eliminating all statutory provisions authorizing or requiring the commissioner to prescribe the terms and conditions of driver's license reissuance following D.U.I"; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Rohrbach, Stansbury, Faircloth, B. White, Waxman, Campbell, Summers and Ellington:

H. B. 4526 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5 and §16-5Y-6, all relating to establishing an advisory council on rare diseases; creating the advisory council and its composition; setting terms of members; defining words and phrases; defining the duties and the powers of the advisory council; setting out particular duties of the Secretary of the Department of Health and Human Resources; and establishing a special revenue account"; to the Committee on Health and Human Resources then Finance.

By Delegates Manchin, Skinner, Caputo, Longstreth, Fluharty and Lynch:

H. B. 4527 - "A Bill to amend and reenact §3-8-1a, §3-8-2, §3-8-5, §3-8-5a, §3-8-5b, §3-8-7, §3-8-8, §3-8-9 and §3-8-12 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto two new sections, designated §3-8-5c and §3-8-8a, all relating generally to the regulation and control of elections; modifying and adding definitions; modifying what committees qualify for a federal reporting exemption; modifying reporting requirements for independent expenditures; clarifying scope of reporting obligations by committee treasurers; requiring certain contributions be reported to State Election Commission within forty-eight hours of their receipt; requiring financial statements for candidates for State Senate, House of Delegates, circuit judge and family court judge to be filed electronically with the Secretary of State; permitting certain financial statements to be filed by mail, in person or by facsimile or other electronic means; establishing a processing fee for financial statements

not filed electronically; requiring Secretary of State to maintain an online searchable database; setting contribution limits to state party executive committee, or subsidiary thereof, or state party legislative caucus committee; prohibiting contributions by foreign nationals; directing Secretary of State to publish an online list of late filing violators; prohibiting contributions to candidates or candidate committees by corporations or membership organizations; clarifying and modifying disclosure requirements for covered organizations; identifying additional lawful election expenses; identifying additional lawful expenditures for excess campaign funds; creating criminal offenses and setting penalties; and setting requirements for disclosures on certain communications”; to the Committee on the Judiciary then Finance.

By Delegates Canterbury, Cooper, Lynch, A. Evans, Hamilton and Ambler:

H. B. 4528 - “A Bill to amend and reenact §7-17-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-15-9 of said code; and to amend said code by adding thereto a new section, designated §33-3-33b, all relating to permitting an all-volunteer fire department to consolidate with certain other fire departments while retaining their rights to receive funds from the Fire Protection Fund as if they had not consolidated”; to the Committee on Political Subdivisions then Finance.

By Delegate Gearheart:

H. B. 4529 - “A Bill to amend and reenact §17C-5A-2 of the Code of West Virginia, 1931, as amended, relating to providing that the Division of Motor Vehicles may not stay a revocation for D.U.I. if the driver had a stay in place for a pending contested revocation for D.U.I. and the Division of Motor Vehicles receives a statement from a law-enforcement officer that the driver has been charged with a subsequent D.U.I. or if the division receives notice from a court that the same driver has been convicted of an additional offense for DUI; requiring that a person intending to contest a D.U.I. revocation order state “sufficient grounds” in the written objection upon which to

contest the order; providing that the exclusionary rule applicable in criminal cases does not apply in administrative hearings involving contested D.U.I. cases before the Office of Administrative Hearings; deleting the requirement that the Office of Administrative Hearings make a finding that a person was lawfully arrested as a prerequisite to deciding a case and issuing a final order; and, deleting the requirement that the Office of Administrative Hearings must find whether a person was lawfully placed under arrest when the person is alleged to have refused to submit to the secondary chemical test while substituting language that the person was “lawfully directed” to submit to the test”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates McCuskey, Westfall, Skinner and E. Nelson:

H. B. 4530 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24A-2-7, relating to exempting taxicab companies whose drivers are independent contractors, from providing workers’ compensation coverage for the drivers”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Rowe, Deem, Rohrbach, B. White, Faircloth, Guthrie, Miley, Perdue, Reynolds, Ellington and Bates:

H. B. 4531 - “A Bill to amend and reenact §16-5B-9 of the Code of West Virginia, 1931, as amended, relating to requiring hospitals, or other similar institutions, to publish a cost list for the most commonly performed procedures that are billed by the hospital or other similar institution”; to the Committee on Health and Human Resources then the Judiciary.

By Delegate Skinner:

H. B. 4532 - “A Bill to amend and reenact §11-8-5, §11-8-6b and §11-8-6c of the Code of West Virginia, 1931, as amended, all relating to establishing a new class of property on utility right-of-ways and easements for taxation purposes; naming that new class as Class V; giving county commissions the option of adopting that Class V to their

respective tax rolls; and establishing certain tax rates for Class V property”; to the Committee on Political Subdivisions then Finance.

House Calendar

Third Reading

H. B. 4147, Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 69**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4147) passed.

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

On this question, the yeas and nays were taken (**Roll No. 70**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell and Flanigan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4147) takes effect from its passage.

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

Second Reading

S. B. 123, Treatment for sexually transmitted diseases; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-4F-1, §16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; that §30-3-14 of said code be amended and reenacted; that §30-3E-17 of said code be amended and reenacted; that §30-5-14 of said code be amended and reenacted; that §30-7-11 of said code be amended and reenacted; and that §30-14-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4F. EXPEDITED PARTNER THERAPY.

§16-4F-1. Definitions.

As used in this article, unless the context otherwise indicates, the following terms have the following meanings:

(1) ‘Department’ means the West Virginia Department of Health and Human Resources.

(2) ‘Expedited partner therapy’ means prescribing, dispensing, furnishing or otherwise providing prescription antibiotic drugs to the sexual partner or partners of a person clinically diagnosed as infected with a sexually transmitted disease without physical examination of the partner or partners.

(3) ‘Health care professional’ means:

(A) An allopathic physician licensed pursuant to article three, chapter thirty of this code;

(B) An osteopathic physician licensed pursuant to article fourteen, chapter thirty of this code;

(C) A physician assistant licensed pursuant to section four, article three-e, chapter thirty of this code;

(D) An advanced practice registered nurse authorized with prescriptive authority pursuant to section fifteen-a, article seven, chapter thirty of this code; or

(E) A pharmacist licensed pursuant to article five, chapter thirty of this code.

(4) ‘Sexually transmitted disease’ means a disease that may be treated by expedited partner therapy as determined by rule of the department.

§16-4F-2. Expedited partner therapy.

(a) Notwithstanding any other provision of law to the contrary, a health care professional who makes a clinical diagnosis of a sexually transmitted disease may provide expedited partner therapy for the treatment of the sexually transmitted disease if, in the judgment of the health care professional, the sexual partner is unlikely or unable to present for comprehensive health care, including evaluation, testing and treatment for sexually transmitted diseases. Expedited partner therapy is limited to a sexual partner who may have been exposed to a sexually transmitted disease within the previous sixty days and who is able to be contacted by the patient.

(b) Any health care professional who provides expedited partner therapy shall comply with all necessary provisions of article four of this chapter.

(c) A health care professional who provides expedited partner therapy shall provide counseling for the patient, including advice that all women and symptomatic persons, and in particular women with symptoms suggestive of pelvic inflammatory disease, are encouraged to seek medical attention. The health care professional shall also

provide in written or electronic format materials provided by the department to be given by the patient to his or her sexual partner.

§16-4F-3. Informational materials.

(a) The department shall provide information and technical assistance as appropriate to health care professionals who provide expedited partner therapy. The department shall develop and disseminate in electronic and other formats the following written materials:

(1) Informational materials for sexual partners, as described in subsection (c), section two of this article;

(2) Informational materials for persons who are repeatedly diagnosed with sexually transmitted diseases; and

(3) Guidance for health care professionals on the safe and effective provision of expedited partner therapy.

(b) The department may offer educational programs about expedited partner therapy for health care professionals.

§16-4F-4. Limitation of liability.

(a) A health care professional who provides expedited partner therapy in good faith without fee or compensation under this article and provides counseling and written materials as required in subsection (c), section two of this article is not subject to civil or professional liability in connection with the provision of the therapy, counseling and materials, except in the case of gross negligence or willful and wanton misconduct. A health care professional is not subject to civil or professional liability for choosing not to provide expedited partner therapy.

(b) A pharmacist or pharmacy is not subject to civil or professional liability for choosing not to fill a prescription that would

cause that pharmacist or pharmacy to violate any provision of article five, chapter thirty of this code.

§16-4F-5. Rulemaking.

The Secretary of the Department of Health and Human Resources shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to designate certain diseases as sexually transmitted diseases which may be treated by expedited partner therapy. The department shall consider the recommendations and classifications of the federal Department of Health and Human Services, Centers for Disease Control and Prevention and other nationally recognized medical authorities in making these designations.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-14. Professional discipline of physicians and podiatrists; reporting of information to board pertaining to medical professional liability and professional incompetence required; penalties; grounds for license denial and discipline of physicians and podiatrists; investigations; physical and mental examinations; hearings; sanctions; summary sanctions; reporting by the board; reapplication; civil and criminal immunity; voluntary limitation of license; probable cause determinations.

(a) The board may independently initiate disciplinary proceedings as well as initiate disciplinary proceedings based on information received from medical peer review committees, physicians, podiatrists, hospital administrators, professional societies and others.

The board may initiate investigations as to professional incompetence or other reasons for which a licensed physician or podiatrist may be adjudged unqualified based upon criminal

convictions; complaints by citizens, pharmacists, physicians, podiatrists, peer review committees, hospital administrators, professional societies or others; or unfavorable outcomes arising out of medical professional liability. The board shall initiate an investigation if it receives notice that three or more judgments, or any combination of judgments and settlements resulting in five or more unfavorable outcomes arising from medical professional liability have been rendered or made against the physician or podiatrist within a five-year period. The board may not consider any judgments or settlements as conclusive evidence of professional incompetence or conclusive lack of qualification to practice.

(b) Upon request of the board, any medical peer review committee in this state shall report any information that may relate to the practice or performance of any physician or podiatrist known to that medical peer review committee. Copies of the requests for information from a medical peer review committee may be provided to the subject physician or podiatrist if, in the discretion of the board, the provision of such copies will not jeopardize the board's investigation. In the event that copies are provided, the subject physician or podiatrist is allowed fifteen days to comment on the requested information and such comments must be considered by the board.

The chief executive officer of every hospital shall, within sixty days after the completion of the hospital's formal disciplinary procedure and also within sixty days after the commencement of and again after the conclusion of any resulting legal action, report in writing to the board the name of any member of the medical staff or any other physician or podiatrist practicing in the hospital whose hospital privileges have been revoked, restricted, reduced or terminated for any cause, including resignation, together with all pertinent information relating to such action. The chief executive officer shall also report any other formal disciplinary action taken against any physician or podiatrist by the hospital upon the recommendation of its medical staff relating to professional ethics, medical incompetence, medical professional liability, moral turpitude or drug or alcohol abuse.

Temporary suspension for failure to maintain records on a timely basis or failure to attend staff or section meetings need not be reported. Voluntary cessation of hospital privileges for reasons unrelated to professional competence or ethics need not be reported.

Any managed care organization operating in this state which provides a formal peer review process shall report in writing to the board, within sixty days after the completion of any formal peer review process and also within sixty days after the commencement of and again after the conclusion of any resulting legal action, the name of any physician or podiatrist whose credentialing has been revoked or not renewed by the managed care organization. The managed care organization shall also report in writing to the board any other disciplinary action taken against a physician or podiatrist relating to professional ethics, professional liability, moral turpitude or drug or alcohol abuse within sixty days after completion of a formal peer review process which results in the action taken by the managed care organization. For purposes of this subsection, 'managed care organization' means a plan that establishes, operates or maintains a network of health care providers who have entered into agreements with and been credentialed by the plan to provide health care services to enrollees or insureds to whom the plan has the ultimate obligation to arrange for the provision of or payment for health care services through organizational arrangements for ongoing quality assurance, utilization review programs or dispute resolutions.

Any professional society in this state comprised primarily of physicians or podiatrists which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, medical professional liability, moral turpitude or drug or alcohol abuse shall report in writing to the board within sixty days of a final decision the name of the member, together with all pertinent information relating to the action.

Every person, partnership, corporation, association, insurance company, professional society or other organization providing

professional liability insurance to a physician or podiatrist in this state, including the State Board of Risk and Insurance Management, shall submit to the board the following information within thirty days from any judgment or settlement of a civil or medical professional liability action excepting product liability actions: The name of the insured; the date of any judgment or settlement; whether any appeal has been taken on the judgment and, if so, by which party; the amount of any settlement or judgment against the insured; and other information required by the board.

Within thirty days from the entry of an order by a court in a medical professional liability action or other civil action in which a physician or podiatrist licensed by the board is determined to have rendered health care services below the applicable standard of care, the clerk of the court in which the order was entered shall forward a certified copy of the order to the board.

Within thirty days after a person known to be a physician or podiatrist licensed or otherwise lawfully practicing medicine and surgery or podiatry in this state or applying to be licensed is convicted of a felony under the laws of this state or of any crime under the laws of this state involving alcohol or drugs in any way, including any controlled substance under state or federal law, the clerk of the court of record in which the conviction was entered shall forward to the board a certified true and correct abstract of record of the convicting court. The abstract shall include the name and address of the physician or podiatrist or applicant, the nature of the offense committed and the final judgment and sentence of the court.

Upon a determination of the board that there is probable cause to believe that any person, partnership, corporation, association, insurance company, professional society or other organization has failed or refused to make a report required by this subsection, the board shall provide written notice to the alleged violator stating the nature of the alleged violation and the time and place at which the alleged violator shall appear to show good cause why a civil penalty should not be

imposed. The hearing shall be conducted in accordance with the provisions of article five, chapter twenty-nine-a of this code. After reviewing the record of the hearing, if the board determines that a violation of this subsection has occurred, the board shall assess a civil penalty of not less than \$1,000 nor more than \$10,000 against the violator. The board shall notify any person so assessed of the assessment in writing and the notice shall specify the reasons for the assessment. If the violator fails to pay the amount of the assessment to the board within thirty days, the Attorney General may institute a civil action in the circuit court of Kanawha County to recover the amount of the assessment. In any civil action, the court's review of the board's action shall be conducted in accordance with the provisions of section four, article five, chapter twenty-nine-a of this code. Notwithstanding any other provision of this article to the contrary, when there are conflicting views by recognized experts as to whether any alleged conduct breaches an applicable standard of care, the evidence must be clear and convincing before the board may find that the physician or podiatrist has demonstrated a lack of professional competence to practice with a reasonable degree of skill and safety for patients.

Any person may report to the board relevant facts about the conduct of any physician or podiatrist in this state which in the opinion of that person amounts to medical professional liability or professional incompetence.

The board shall provide forms for filing reports pursuant to this section. Reports submitted in other forms shall be accepted by the board.

The filing of a report with the board pursuant to any provision of this article, any investigation by the board or any disposition of a case by the board does not preclude any action by a hospital, other health care facility or professional society comprised primarily of physicians or podiatrists to suspend, restrict or revoke the privileges or membership of the physician or podiatrist.

(c) The board may deny an application for license or other authorization to practice medicine and surgery or podiatry in this state and may discipline a physician or podiatrist licensed or otherwise lawfully practicing in this state who, after a hearing, has been adjudged by the board as unqualified due to any of the following reasons:

(1) Attempting to obtain, obtaining, renewing or attempting to renew a license to practice medicine and surgery or podiatry by bribery, fraudulent misrepresentation or through known error of the board;

(2) Being found guilty of a crime in any jurisdiction, which offense is a felony, involves moral turpitude or directly relates to the practice of medicine. Any plea of nolo contendere is a conviction for the purposes of this subdivision;

(3) False or deceptive advertising;

(4) Aiding, assisting, procuring or advising any unauthorized person to practice medicine and surgery or podiatry contrary to law;

(5) Making or filing a report that the person knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record required by state or federal law; or inducing another person to do any of the foregoing. The reports and records covered in this subdivision mean only those that are signed in the capacity as a licensed physician or podiatrist;

(6) Requesting, receiving or paying directly or indirectly a payment, rebate, refund, commission, credit or other form of profit or valuable consideration for the referral of patients to any person or entity in connection with providing medical or other health care services or clinical laboratory services, supplies of any kind, drugs, medication or any other medical goods, services or devices used in connection with medical or other health care services;

(7) Unprofessional conduct by any physician or podiatrist in referring a patient to any clinical laboratory or pharmacy in which the physician or podiatrist has a proprietary interest unless the physician or podiatrist discloses in writing such interest to the patient. The written disclosure shall indicate that the patient may choose any clinical laboratory for purposes of having any laboratory work or assignment performed or any pharmacy for purposes of purchasing any prescribed drug or any other medical goods or devices used in connection with medical or other health care services;

As used in this subdivision, 'proprietary interest' does not include an ownership interest in a building in which space is leased to a clinical laboratory or pharmacy at the prevailing rate under a lease arrangement that is not conditional upon the income or gross receipts of the clinical laboratory or pharmacy;

(8) Exercising influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity;

(9) Making a deceptive, untrue or fraudulent representation in the practice of medicine and surgery or podiatry;

(10) Soliciting patients, either personally or by an agent, through the use of fraud, intimidation or undue influence;

(11) Failing to keep written records justifying the course of treatment of a patient, including, but not limited to, patient histories, examination and test results and treatment rendered, if any;

(12) Exercising influence on a patient in such a way as to exploit the patient for financial gain of the physician or podiatrist or of a third party. Any influence includes, but is not limited to, the promotion or sale of services, goods, appliances or drugs;

(13) Prescribing, dispensing, administering, mixing or otherwise preparing a prescription drug, including any controlled substance under state or federal law, other than in good faith and in a therapeutic

manner in accordance with accepted medical standards and in the course of the physician's or podiatrist's professional practice. ~~Provided, That a~~ A physician who discharges his or her professional obligation to relieve the pain and suffering and promote the dignity and autonomy of dying patients in his or her care and, in so doing, exceeds the average dosage of a pain relieving controlled substance, as defined in Schedules II and III of the Uniform Controlled Substance Act, does not violate this article;

(14) Performing any procedure or prescribing any therapy that, by the accepted standards of medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed and written consent;

(15) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities that the person knows or has reason to know he or she is not competent to perform;

(16) Delegating professional responsibilities to a person when the physician or podiatrist delegating the responsibilities knows or has reason to know that the person is not qualified by training, experience or licensure to perform them;

(17) Violating any provision of this article or a rule or order of the board or failing to comply with a subpoena or subpoena duces tecum issued by the board;

(18) Conspiring with any other person to commit an act or committing an act that would tend to coerce, intimidate or preclude another physician or podiatrist from lawfully advertising his or her services;

(19) Gross negligence in the use and control of prescription forms;

(20) Professional incompetence; or

(21) The inability to practice medicine and surgery or podiatry with reasonable skill and safety due to physical or mental impairment, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol. A physician or podiatrist adversely affected under this subdivision shall be afforded an opportunity at reasonable intervals to demonstrate that he or she may resume the competent practice of medicine and surgery or podiatry with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor any orders entered by the board shall be used against the physician or podiatrist in any other proceeding.

(d) The board shall deny any application for a license or other authorization to practice medicine and surgery or podiatry in this state to any applicant who, and shall revoke the license of any physician or podiatrist licensed or otherwise lawfully practicing within this state who, is found guilty by any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other than generally accepted therapeutic purposes. Presentation to the board of a certified copy of the guilty verdict or plea rendered in the court is sufficient proof thereof for the purposes of this article. A plea of nolo contendere has the same effect as a verdict or plea of guilt. Upon application of a physician that has had his or her license revoked because of a drug related felony conviction, upon completion of any sentence of confinement, parole, probation or other courtordered supervision and full satisfaction of any fines, judgments or other fees imposed by the sentencing court, the board may issue the applicant a new license upon a finding that the physician is, except for the underlying conviction, otherwise qualified to practice medicine: *Provided*, That the board may place whatever terms, conditions or limitations it deems appropriate upon a physician licensed pursuant to this subsection.

(e) The board may refer any cases coming to its attention to an appropriate committee of an appropriate professional organization for

investigation and report. Except for complaints related to obtaining initial licensure to practice medicine and surgery or podiatry in this state by bribery or fraudulent misrepresentation, any complaint filed more than two years after the complainant knew, or in the exercise of reasonable diligence should have known, of the existence of grounds for the complaint shall be dismissed: *Provided*, That in cases of conduct alleged to be part of a pattern of similar misconduct or professional incapacity that, if continued, would pose risks of a serious or substantial nature to the physician's or podiatrist's current patients, the investigating body may conduct a limited investigation related to the physician's or podiatrist's current capacity and qualification to practice and may recommend conditions, restrictions or limitations on the physician's or podiatrist's license to practice that it considers necessary for the protection of the public. Any report shall contain recommendations for any necessary disciplinary measures and shall be filed with the board within ninety days of any referral. The recommendations shall be considered by the board and the case may be further investigated by the board. The board after full investigation shall take whatever action it considers appropriate, as provided in this section.

(f) The investigating body, as provided in subsection (e) of this section, may request and the board under any circumstances may require a physician or podiatrist or person applying for licensure or other authorization to practice medicine and surgery or podiatry in this state to submit to a physical or mental examination by a physician or physicians approved by the board. A physician or podiatrist submitting to an examination has the right, at his or her expense, to designate another physician to be present at the examination and make an independent report to the investigating body or the board. The expense of the examination shall be paid by the board. Any individual who applies for or accepts the privilege of practicing medicine and surgery or podiatry in this state is considered to have given his or her consent to submit to all examinations when requested to do so in writing by the board and to have waived all objections to the admissibility of the

testimony or examination report of any examining physician on the ground that the testimony or report is privileged communication. If a person fails or refuses to submit to an examination under circumstances which the board finds are not beyond his or her control, failure or refusal is prima facie evidence of his or her inability to practice medicine and surgery or podiatry competently and in compliance with the standards of acceptable and prevailing medical practice.

(g) In addition to any other investigators it employs, the board may appoint one or more licensed physicians to act for it in investigating the conduct or competence of a physician.

(h) In every disciplinary or licensure denial action, the board shall furnish the physician or podiatrist or applicant with written notice setting out with particularity the reasons for its action. Disciplinary and licensure denial hearings shall be conducted in accordance with the provisions of article five, chapter twenty-nine-a of this code. However, hearings shall be heard upon sworn testimony and the rules of evidence for trial courts of record in this state shall apply to all hearings. A transcript of all hearings under this section shall be made, and the respondent may obtain a copy of the transcript at his or her expense. The physician or podiatrist has the right to defend against any charge by the introduction of evidence, the right to be represented by counsel, the right to present and cross-examine witnesses and the right to have subpoenas and subpoenas duces tecum issued on his or her behalf for the attendance of witnesses and the production of documents. The board shall make all its final actions public. The order shall contain the terms of all action taken by the board.

(i) In disciplinary actions in which probable cause has been found by the board, the board shall, within twenty days of the date of service of the written notice of charges or sixty days prior to the date of the scheduled hearing, whichever is sooner, provide the respondent with the complete identity, address and telephone number of any person known to the board with knowledge about the facts of any of the charges; provide a copy of any statements in the possession of or under

the control of the board; provide a list of proposed witnesses with addresses and telephone numbers, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil Procedure; provide inspection and copying of the results of any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing: *Provided*, That the board shall not be required to furnish or produce any materials which contain opinion work product information or would be a violation of the attorney-client privilege. Within twenty days of the date of service of the written notice of charges, the board shall disclose any exculpatory evidence with a continuing duty to do so throughout the disciplinary process. Within thirty days of receipt of the board's mandatory discovery, the respondent shall provide the board with the complete identity, address and telephone number of any person known to the respondent with knowledge about the facts of any of the charges; provide a list of proposed witnesses with addresses and telephone numbers, to be called at hearing, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil Procedure; provide inspection and copying of the results of any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing.

(j) Whenever it finds any person unqualified because of any of the grounds set forth in subsection (c) of this section, the board may enter an order imposing one or more of the following:

(1) Deny his or her application for a license or other authorization to practice medicine and surgery or podiatry;

(2) Administer a public reprimand;

(3) Suspend, limit or restrict his or her license or other authorization to practice medicine and surgery or podiatry for not more

than five years, including limiting the practice of that person to, or by the exclusion of, one or more areas of practice, including limitations on practice privileges;

(4) Revoke his or her license or other authorization to practice medicine and surgery or podiatry or to prescribe or dispense controlled substances for a period not to exceed ten years;

(5) Require him or her to submit to care, counseling or treatment designated by the board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice medicine and surgery or podiatry;

(6) Require him or her to participate in a program of education prescribed by the board;

(7) Require him or her to practice under the direction of a physician or podiatrist designated by the board for a specified period of time; and

(8) Assess a civil fine of not less than \$1,000 nor more than \$10,000.

(k) Notwithstanding the provisions of section eight, article one of this chapter, if the board determines the evidence in its possession indicates that a physician's or podiatrist's continuation in practice or unrestricted practice constitutes an immediate danger to the public, the board may take any of the actions provided in subsection (j) of this section on a temporary basis and without a hearing if institution of proceedings for a hearing before the board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The board shall render its decision within five days of the conclusion of a hearing under this subsection.

(l) Any person against whom disciplinary action is taken pursuant to the provisions of this article has the right to judicial review as provided in articles five and six, chapter twenty-nine-a of this code:

Provided, That a circuit judge may also remand the matter to the board if it appears from competent evidence presented to it in support of a motion for remand that there is newly discovered evidence of such a character as ought to produce an opposite result at a second hearing on the merits before the board and:

(1) The evidence appears to have been discovered since the board hearing; and

(2) The physician or podiatrist exercised due diligence in asserting his or her evidence and that due diligence would not have secured the newly discovered evidence prior to the appeal.

A person may not practice medicine and surgery or podiatry or deliver health care services in violation of any disciplinary order revoking, suspending or limiting his or her license while any appeal is pending. Within sixty days, the board shall report its final action regarding restriction, limitation, suspension or revocation of the license of a physician or podiatrist, limitation on practice privileges or other disciplinary action against any physician or podiatrist to all appropriate state agencies, appropriate licensed health facilities and hospitals, insurance companies or associations writing medical malpractice insurance in this state, the American Medical Association, the American Podiatry Association, professional societies of physicians or podiatrists in the state and any entity responsible for the fiscal administration of Medicare and Medicaid.

(m) Any person against whom disciplinary action has been taken under the provisions of this article shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the practice of medicine and surgery or podiatry on a general or limited basis. At the conclusion of a suspension, limitation or restriction period the physician or podiatrist may resume practice if the board has so ordered.

(n) Any entity, organization or person, including the board, any member of the board, its agents or employees and any entity or

organization or its members referred to in this article, any insurer, its agents or employees, a medical peer review committee and a hospital governing board, its members or any committee appointed by it acting without malice and without gross negligence in making any report or other information available to the board or a medical peer review committee pursuant to law and any person acting without malice and without gross negligence who assists in the organization, investigation or preparation of any such report or information or assists the board or a hospital governing body or any committee in carrying out any of its duties or functions provided by law is immune from civil or criminal liability, except that the unlawful disclosure of confidential information possessed by the board is a misdemeanor as provided in this article.

(o) A physician or podiatrist may request in writing to the board a limitation on or the surrendering of his or her license to practice medicine and surgery or podiatry or other appropriate sanction as provided in this section. The board may grant the request and, if it considers it appropriate, may waive the commencement or continuation of other proceedings under this section. A physician or podiatrist whose license is limited or surrendered or against whom other action is taken under this subsection may, at reasonable intervals, petition for removal of any restriction or limitation on or for reinstatement of his or her license to practice medicine and surgery or podiatry.

(p) In every case considered by the board under this article regarding discipline or licensure, whether initiated by the board or upon complaint or information from any person or organization, the board shall make a preliminary determination as to whether probable cause exists to substantiate charges of disqualification due to any reason set forth in subsection (c) of this section. If probable cause is found to exist, all proceedings on the charges shall be open to the public who are entitled to all reports, records and nondeliberative materials introduced at the hearing, including the record of the final action taken: *Provided*, That any medical records, which were introduced at the hearing and which pertain to a person who has not

expressly waived his or her right to the confidentiality of the records, may not be open to the public nor is the public entitled to the records.

(q) If the board receives notice that a physician or podiatrist has been subjected to disciplinary action or has had his or her credentials suspended or revoked by the board, a hospital or a professional society, as defined in subsection (b) of this section, for three or more incidents during a five-year period, the board shall require the physician or podiatrist to practice under the direction of a physician or podiatrist designated by the board for a specified period of time to be established by the board.

(r) Notwithstanding any other provisions of this article, the board may, at any time, on its own motion, or upon motion by the complainant, or upon motion by the physician or podiatrist, or by stipulation of the parties, refer the matter to mediation. The board shall obtain a list from the West Virginia State Bar's mediator referral service of certified mediators with expertise in professional disciplinary matters. The board and the physician or podiatrist may choose a mediator from that list. If the board and the physician or podiatrist are unable to agree on a mediator, the board shall designate a mediator from the list by neutral rotation. The mediation shall not be considered a proceeding open to the public and any reports and records introduced at the mediation shall not become part of the public record. The mediator and all participants in the mediation shall maintain and preserve the confidentiality of all mediation proceedings and records. The mediator may not be subpoenaed or called to testify or otherwise be subject to process requiring disclosure of confidential information in any proceeding relating to or arising out of the disciplinary or licensure matter mediated: *Provided*, That any confidentiality agreement and any written agreement made and signed by the parties as a result of mediation may be used in any proceedings subsequently instituted to enforce the written agreement. The agreements may be used in other proceedings if the parties agree in writing.

(s) A physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-17. Complaint process.

(a) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings and procedures a physician assistant licenses and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in articles three and/or fourteen of this chapter, depending on which board licenses the physician assistant.

(b) The boards may impose the same discipline, restrictions and/or limitations upon the license of a physician assistant as they are authorized to impose upon physicians and/or podiatrists.

(c) The boards shall direct to the appropriate licensing board a complaint against a physician assistant, a supervising physician and/or an alternate supervising physician.

(d) In the event that independent complaint processes are warranted by the boards with respect to the professional conduct of a physician assistant or a supervising and/or alternate supervising physician, the boards are authorized to work cooperatively and to disclose to one another information which may assist the recipient appropriate licensing board in its disciplinary process. The determination of what information, if any, to disclose shall be at the discretion of the disclosing board.

(e) A physician assistant licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

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

**§30-5-14. Prohibiting the dispensing of prescription orders in
absence of practitioner-patient relationship.**

A pharmacist may not compound or dispense any prescription order when he or she has knowledge that the prescription was issued by a practitioner without establishing a valid practitioner-patient relationship. An online or telephonic evaluation by questionnaire, or an online or telephonic consultation, is inadequate to establish a valid practitioner-patient relationship: *Provided*, That this prohibition does not apply:

- (1) In a documented emergency;
- (2) In an on-call or cross-coverage situation; ~~or~~

(3) For the treatment of sexually transmitted diseases by expedited partner therapy as set forth in article four-f, chapter sixteen of this code; or

(3) (4) Where patient care is rendered in consultation with another practitioner who has an ongoing relationship with the patient and who has agreed to supervise the patient's treatment, including the use of any prescribed medications.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

**§30-7-11. Denial, revocation or suspension of license; grounds for
discipline.**

(a) The board shall have the power to deny, revoke or suspend any license to practice registered professional nursing issued or applied for in accordance with the provisions of this article, or to otherwise discipline a licensee or applicant upon proof that he or she:

(a) (1) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to practice registered professional nursing; or

(b) (2) Has been convicted of a felony; or

(c) (3) Is unfit or incompetent by reason of negligence, habits or other causes; or

(d) (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or

(e) (5) Is mentally incompetent; or

(f) (6) Is guilty of conduct derogatory to the morals or standing of the profession of registered nursing; or

(g) (7) Is practicing or attempting to practice registered professional nursing without a license or reregistration; or

(h) (8) Has wilfully or repeatedly violated any of the provisions of this article.

(b) An Advanced practice registered nurse licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

(a) The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes:

(1) Conviction of a felony, as shown by a certified copy of the record of the trial court;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Violation of any provision of this article regulating the practice of osteopathic physicians and surgeons;

(4) Fraud, misrepresentation or deceit in procuring or attempting to procure admission to practice; (5) Gross malpractice;

(6) Advertising by means of knowingly false or deceptive statements;

(7) Advertising, practicing or attempting to practice under a name other than one's own;

(8) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habitforming drugs.

(b) The board shall also have the power to suspend or revoke for cause any certificate of authorization issued by it. It shall have the power to reinstate any certificate of authorization suspended or revoked by it.

(c) An osteopathic physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code. The bill was then ordered to third reading.

S. B. 261, Bringing state code relating to daylight saving time in conformity with federal code; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2615, West Virginia Small Business Capital Act; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with restricted right to amend by

Delegates Lane and E. Nelson, and the rule was suspended to permit the consideration of the amendment on that reading.

Com. Sub. for H. B. 4146, Providing insurance cover abuse-deterrent opioid analgesic drugs; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Ellington and Summers, the bill was amended on page four, section seven (n), line nine, by striking out the words “and is indicated by the United States Food and Drug Administration”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4188, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4218, Expanding the definition of “underground facility” in the One-Call System Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4228, Relating to transportation network companies; on second reading, coming up in regular order, was read a second time.

Delegate Skinner moved to amend the bill on page twelve, by striking out section seventeen in its entirety, and inserting in lieu thereof the following:

“§17-29-17. No discrimination; accessibility.

(a) The transportation network company shall adopt a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual

orientation or gender identity with respect to passengers and potential passengers and notify transportation network drivers of the policy.

(b) Transportation network drivers shall comply with all applicable laws regarding nondiscrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity.

(c) Transportation network drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A transportation network shall not impose additional charges for providing transportation network services to persons with physical disabilities because of those disabilities.

(e) A transportation network shall provide passengers an opportunity to indicate that they require a wheelchair-accessible vehicle. If a transportation network cannot arrange wheelchair-accessible transportation network service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.”

Delegate Skinner asked and obtained unanimous consent to reform the amendment on page one, line two, by deleting the word “destination”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 71**), and there were — yeas 27, nays 65, absent and not voting 8, with the yeas and absent and not voting being as follows:

Yeas: Blair, Byrd, Campbell, Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin,

Miley, Morgan, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rowe, Shaffer, Shott, Skinner, P. Smith and Sponaugle.

Absent and Not Voting: Blackwell, Deem, Eldridge, Flanigan, Kelly, Moore, J. Nelson and Walters.

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

The bill was then ordered to engrossment and third reading.

H. B. 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 15, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions,

And,

Com. Sub. for H. B. 2122, Making it illegal for first responders to photograph a corpse; Jonathon's Law.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate announced the Senate had repassed, without amendment, notwithstanding the objections of the Governor, of

Enr. H. B. 4005, Repealing prevailing hourly rate of wages requirements.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blackwell and Flanigan.

Remarks of Members

Delegate Byrd asked and obtained unanimous consent that the remarks of Delegates Fluharty, Skinner and Fast regarding the amendment to Com. Sub. for H. B. 4228 be printed in the Appendix to the Journal.

Delegate Canterbury asked and obtained unanimous consent that the remarks of Delegate Lane regarding House Rules 32 and 35 be printed in the Appendix to the Journal.

Delegate O'Neal asked and obtained unanimous consent that all remarks on yesterday regarding the passage of H. B. 4012 be printed in the Appendix to the Journal.

Delegate Cowles asked and obtained unanimous consent that the remarks of Delegate E. Nelson on Wednesday, February 10, 2016 regarding the PEIA funding be printed in the Appendix to the Journal.

The Speaker reminded members to be observant of the Rules of the House regarding decorum.

Miscellaneous Business

Delegate Azinger announced that he was absent on today when the vote was taken on Roll No. 68, and that had he been present, he would have voted "Yea" thereon.

Delegates Frich and Moffatt filed forms with the Clerk's Office per House Rule 94b to be added as cosponsors of H. B. 4519.

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4332.

Delegate Zatezalo filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2904.

Delegate Byrd filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4332.

Delegate Byrd noted to the Clerk that he was absent on yesterday when the votes were taken on Roll Nos. 59 through 64, and that had he been present, he would have voted "Yea" thereon.

At 12:56 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, February 15, 2016.

MONDAY, FEBRUARY 15, 2016

THIRTY-FOURTH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, February 12, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved. Committee Reports

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

S. B. 329, Eliminating sunset provision for commission to study residential placement of children,

And,

Com. Sub. for S. B. 338, Compiling and maintaining Central State Mental Health Registry,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (S. B. 329 and Com. Sub. for S. B. 338) were each referred to the Committee on the Judiciary.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4467, Including financial aid planning and completion of the Free Application for Federal Student Aid in secondary school instruction in personal finance,

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

Com. Sub. for H. B. 4467 - “A Bill to amend and reenact §18-2-7c of the Code of West Virginia, 1931, as amended, relating to including financial aid planning and completion of the Free Application for Federal Student Aid in secondary school instruction in personal finance; including building student familiarity with variety of additional free resources to plan, apply and pay for education and training beyond high school; and making finding and declaration and providing for development and availability of curriculum and instructional resources,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4174 - “A Bill to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended; and to

amend and reenact §61-6-23 of said code, all relating to indoor shooting ranges; exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house; amending the definition of ‘shooting range’ to include an indoor range; exempting activity at indoor shooting ranges from criminal penalties for violations for shooting or discharging a firearm within five hundred feet of any church or dwelling house; and limiting nuisance actions against shooting ranges,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2904, Requiring the clerk of a county commission to maintain a county ordinance book, And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2904 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-2-4, to amend said code by adding thereto a new section, designated §7-1-3pp, and, to amend and reenact §7-1-7 of said Code, all relating to accessible county records; requiring county clerks to report certain county official information to the Secretary of State annually; requiring the Secretary of State to annually update a website of county information; requiring county commissions to maintain a website; and requiring the clerk of a county commission to maintain a county ordinance book,”

With the recommendation that the committee substitute do pass.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on February 11, 2016, he

approved Com. Sub. for H. B. 2101, S. B. 32, Com. Sub. for S. B. 342, S. B. 357 and S. B. 360.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 73 - “A Bill to amend and reenact §17C-4-1 of the Code of West Virginia, 1931, as amended, relating to crashes involving death or physical injuries; creating crimes of leaving scene of a crash resulting in serious bodily injury and leaving the scene of a crash; defining terms; clarifying knowledge requirement; and providing criminal penalties of fine and imprisonment”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 429 - “A Bill to amend and reenact §33-24-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-25-6 of said code; to amend and reenact §33-25A-24 of said code; to amend and reenact §33-25D-26 of said code; to amend and reenact §33-40-1, §33-40-2, §33-40-3, §33-40-6 and §33-40-7 of said code; and to amend said code by adding thereto a new article, designated §33-40A-1, §33-40A-2, §33-40A-3, §33-40A-4, §33-40A-5, §33-40A-6, §33-40A-7, §33-40A-8, §33-40A-9, §33-40A-10, §33-40A-11 and §33-40A-12, all relating to risk-based capital; making health organizations subject to statutory provisions concerning risk-based capital reporting; defining terms associated with risk-based capital reporting for health organizations; requiring health organizations to file risk-based capital reports with Insurance Commissioner; requiring health organizations to perform certain actions if risk-based capital report indicates a negative financial trend or hazardous financial condition; requiring Insurance Commissioner to

conduct certain actions if risk-based capital report of a health organization indicates negative financial trend or hazardous financial condition; providing health organization right to a confidential hearing with respect to certain notifications; specifying confidential and privileged nature of risk-based capital reports and plans and related matters; prohibiting use of risk-based capital reports in ratemaking of a health organization; granting Insurance Commissioner authority to propose rules for legislative approval; providing immunity to Insurance Commissioner and his employees and agents for actions taken with respect to monitoring the financial stability of a health organization; and changing the definition of ‘company action level event’ for a life and health insurer”; which was referred to the Committee on Banking and Insurance then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 465 - “A Bill to amend and reenact §33-31-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-46A-9 of said code, all relating to allowing professional employer organizations to insure certain risks through an insurance captive; establishing that professional employer organizations holding the appropriate license may insure its risks for insurance for accident and sickness as defined in current code; providing that such coverage for all employees and covered employees may be through a captive insurance company; eliminating prohibition against professional employer organizations offering or establishing self-funding health plans; providing that professional employer organizations can offer plans not fully insured by authorized insurers so long as the plan complies with current code requirements; clarifying that all employees covered by a professional employer organization’s health benefit plan shall be considered employees of the professional employer organization; and clarifying that health benefit plans offered under this provision shall be treated as a single employer welfare benefit plan”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 469 - “A Bill to amend and reenact §38-8-1 of the Code of West Virginia, 1931, as amended, relating to exemptions of personal property from execution or other process; removing wages and salary from of items subject to the one-time, \$15,000 exemption; providing that wages and salary are automatically exempted from levy execution up to a certain amount; and clarifying that wages and salary above that automatic exemption amount may not be exempted from levy”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 501 - “A Bill to amend and reenact §38-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-1-103 and §44D-1-107 of said code; to amend said code by adding thereto a new section, designated §44D-1-113; to amend and reenact §44D-3-303 of said code; to amend and reenact §44D-4-403, §44D-4-405, §44D-4-409 and §44D-4-414 of said code; to amend and reenact §44D-5-505 of said code; to amend and reenact §44D-6-604 of said code; and to amend and reenact §44D-8-817 of said code, all relating generally to trusts and their administration; and making clarifications, technical improvements and updates”; which was referred to the Committee on Banking and Insurance then the Judiciary.

Resolutions Introduced

Delegates Lynch, Hamilton, Eldridge, Perry, Campbell, Morgan, Moye, Fleischauer, Byrd, Shaffer and P. Smith offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 62 - “Requesting the Division of Highways to name the portion of West Virginia Route 20 from mile marker 7.30 to mile marker 19.94, in Webster County, the ‘Webster County Veterans Highway’.”

Whereas, A large number of Webster County men and women have served in the nation’s armed forces; and

Whereas, Webster County veterans have been wounded or lost their lives in military service; and

Whereas, The citizens of Webster County wish to honor the memory and sacrifices of its many veterans with a fitting memorial; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the portion of West Virginia Route 20 from mile marker 7.30 to mile marker 19.94, in Webster County, the “Webster County Veterans Highway”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the designated portion of highway containing bold and prominent letters proclaiming the portion of highway the “Webster County Veterans Highway”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Webster County Commission and to the Commissioner of the Division of Highways.

Delegates Phillips, P. White, Marcum, Rodighiero and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 63 - “Requesting the Division of Highways to name bridge number 23-44-4.86 (23A105), (37.70670, -81.98848), locally

known as Crystal Block Concrete Bridge, carrying WV44 over Island Creek in Logan County, the 'U.S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge'."

Whereas, Johnny Baxter Clark and Carl Richard (Dick) Clark, were sons of Carl Aubrey Clark and Garnette Louise Rice Clark, of Logan County; and

Whereas, Both brothers attended Pine Creek, Switzer, Omar and Logan High School; and

Whereas, The brothers had a sister, Rheba Jayne Clarke Browning; and

Whereas, Both brothers have been recognized for distinguished service with the United States Air Force, each having reached the rank of Master Sergeant; and

Whereas, Johnny Baxter Clark was born August 5, 1934, in Naugatuck, West Virginia, and died April 2, 2004, in Colorado; and

Whereas, Master Sergeant Johnny Baxter Clark served one tour of duty in Vietnam and two tours in Thailand; and

Whereas, Johnny Baxter Clark was awarded the Air Force Commendation Medal, Armed Forces Expeditionary Medal, National Defense Service Medal, Vietnam Service Medal with one Oakleaf Cluster, Air Force Outstanding Unit Award with One Oakleaf Cluster, Republic of Vietnam Campaign Medal, Republic of Vietnam Gallantry Cross, Air Force Good Conduct Medal with one Silverleaf and One Oakleaf Cluster, Air Force Longevity Service Award Ribbon with One Silverleaf Cluster, and NCOAG Ribbon; and

Whereas, Master Sergeant Johnny Baxter Clark, at the time of retirement from the Air Force, was cited for loyal and dedicated performance with the 37th Equipment Maintenance Squadron; and

Whereas, Carl Richard (Dick) Clark was born July 21, 1938, in Delbarton, West Virginia, and died May 22, 2013, in Florida; and

Whereas, Carl Richard (Dick) Clark served as an aircraft maintenance technician in Vietnam and was retired from the Air Force November 30, 1978 after serving more than twenty-one years; and

Whereas, It is fitting and proper that the military service of these brothers be recognized by a memorial in their home community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-44-4.86 (23A105) (37.70670, - 81.98848), locally known as Crystal Block Concrete Bridge, carrying WV44 over Island Creek in Logan County, the “U.S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U.S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Eldridge, Phillips, Rodighiero, Moffatt, Reynolds, Miller, Morgan, Hornbuckle, P. White, Perry and Campbell offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 64 - “Requesting the Division of Highways to name the road from the mouth of Harts Creek on Harts Creek Road 1.2 mile to

Warrens Way off SR 10 on CR 19 Lincoln County, the ‘U. S. Army CPL George Browning Memorial Road’.”

Whereas, George Edward Browning was born on January 28, 1949, in Harts, Lincoln County, West Virginia. Corporal George Edward Browning was an infantryman in A TRP, 3rd SQDN, 4th Cavalry, 25th INF DIV, USARV. He began his tour of duty on January 1, 1968, in Vietnam and was killed in action on March 28, 1968 in Tay Ninh Province, South Vietnam; and

Whereas, Naming the road from the mouth of Harts Creek on Harts Creek Road to Warrens Way 1.2 miles off SR 10 on CR 19 Lincoln County, the “U. S. Army CPL George Browning Memorial Road” is an appropriate recognition of his ultimate sacrifice to his country, state and Lincoln County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the road from the mouth of Harts Creek on Harts Creek Road to Warrens Way 1.2 mile off SR 10 on CR 19 Lincoln County, the “U. S. Army CPL George Browning Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the “U. S. Army CPL George Browning Memorial Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving family of George Browning.

Delegates Eldridge, Phillips, Rodighiero, Moffatt, Reynolds, Miller, Morgan, Hornbuckle, P. White, Perry and Campbell offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 65 - “Requesting the Division of Highways to name the road from the beginning of Sand Creek Road on County Route 10/15 at the bend of the Guyandotte River and State Route 10 running one-half mile on Sand Creek Road in Lincoln County, the ‘U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road’.”

Whereas, Wilson B. Lambert, Jr. was born on June 14, 1930, in Harts, Lincoln County, West Virginia. Corporal Wilson B. Lambert, Jr. was an infantryman in the Heavy Mortar Co, 38th Infantry Regiment, 2nd Division, and was injured on February 13, 1951, in Wonju, Korea. He received a Purple Heart, Combat Infantry Badge and Korean Service Medal with two Bronze Stars. Wilson B. Lambert, Jr. returned to West Virginia where he worked in coal mining and construction. He died on May 5, 2011; and

Whereas, Naming the road from the beginning of Sand Creek Road on County Route 10/15 at the bend of the Guyandotte River and State Route 10 running one-half mile on Sand Creek Road in Lincoln County, the “U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road” is an appropriate recognition of his service to his country, state and Lincoln County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the road from the beginning of Sand Creek Road on County Route 10/15 at the bend of the Guyandotte River and State Route 10 running one-half mile on Sand Creek Road in Lincoln County, the “U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road the “U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the

Department of Transportation and the surviving family of Wilson B. Lambert, Jr.

Delegates Phillips, Marcum, P. White, Rodighiero and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 66 - "Requesting the Division of Highways to name the Rossmore Bypass starting at Rossmore and running to Monaville on Route 119/42, in Logan County, the '1SG Carl J. Crabtree Memorial Road'."

Whereas, Carl J. Crabtree was born on November 8, 1917, in Branchland, Lincoln County, West Virginia. He was raised and educated in Logan County and worked there until he enlisted in the military on August 27, 1940. He served in WW II in the 325 Glider Infantry Regiment, 82nd Airborne Division as a 1st Sergeant. He was wounded on June 8, 1944, in France and was a prisoner of war. His decorations and citations included the American Defense, American Theater, Good Conduct, Purple Heart, European African Middle Eastern Theater Ribbon with 1 Bronze Star, Distinguished Unit Badge, Croix De Guerre, Belgium Fourragere and Victory Medal. Carl J. Crabtree served honorably in the United States Army, ending his active service on May 24, 1946. Returning to Logan County and Rossmore, he raised a family and was employed among other occupations in the coal mines. Carl J. Crabtree died on December 6, 2004, survived by three daughters, Connie Herndon of Switzer, West Virginia, Janet Cook and Carolyn Greene of Rossmore, West Virginia. He was preceded in death by his wife and a daughter, Patricia Molnar; and

Whereas, Naming the Rossmore Bypass starting at Rossmore and running to Monaville on Route 119/42, in Logan County, the "1SG. Carl J. Crabtree Memorial Road" is an appropriate recognition of his contributions to his country, state, community and Logan County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the Rossmore Bypass starting at Rossmore and running to Monaville on Route 119/42, in Logan County, the “1SG Carl J. Crabtree Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the Rossmore Bypass starting at Rossmore and running to Monaville on Route 119/42, in Logan County, the “1SG Carl J. Crabtree Memorial Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and Connie Herndon, Janet Cook and Carolyn Greene, the surviving daughters of 1SG Carl J. Crabtree, and their families.

Petitions

Delegate Reynolds presented a petition signed by 1,547 residents urging the passage of Com. Sub. for H. B. 4228, Relating to transportation network companies; which was referred to the Committee on Finance.

Motions

Delegates Skinner, Ferro and Fluharty submitted a written motion to discharge H. B. 4300, Relating to changes in distribution of net terminal income, excess net terminal income and excess lottery fund, from the Committee on the Judiciary.

Delegate Cowles then moved that the motion to discharge the bill from committee be tabled.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 72**), and there were—yeas 53, nays 45, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Deem, Eldridge, Faircloth, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hamilton, Hartman, Hicks, Ihle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Morgan, Moye, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Romine, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecost, Upson, Weld, P. White and Zatezalo.

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the motion to table prevailed.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Weld, Stansbury and Kessinger:

H. B. 4533 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §62-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12 and §62-16-13, all relating to establishing a Mental Health and Military Service Member Court program within Supreme Court of Appeals; defining terms; granting authority to oversee court to Administrator of Supreme Court of Appeals; setting forth structure of court; providing for written agreement to participate in court; setting forth incentives for successful participation; providing for sanctions for violation of provisions of court; setting out disposition on successful completion; providing for teams to function within court; setting forth eligibility requirements for participation; setting forth procedure to participate in court; allowing for mental health and drug treatment services for participants;

providing for governance of court by Supreme Court of Appeals; setting forth information to be maintained on participants; providing for funding mechanisms which may include court fees; and providing for limitation of liability”; to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

By Delegates Walters, McCuskey, Hamilton, Upson, Storch, Manchin, Skinner, Espinosa, Shott, E. Nelson and Phillips:

H. B. 4534 - “A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing tavern, private club and private wine restaurant businesses operational hours for the sale and serving of alcoholic liquors at 11:00 a.m. on Sundays, consistent with operational hours during all days of the week”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Rowe, Pushkin, McCuskey, B. White, Skinner, Sobonya, Fleischauer, Hornbuckle, Faircloth, Byrd and Guthrie:

H. B. 4535 - “A Bill to amend and reenact §18-21-2 of the Code of West Virginia, 1931, as amended, relating to extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth”; to the Committee on the Judiciary.

By Delegates Phillips, Eldridge, Marcum, P. White, Rodighiero, O’Neal, Canterbury, B. White, Arvon, Kessinger and Perdue:

H. B. 4536 - “A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to reducing the severance tax on coal to two percent of gross value; create a ‘Local Government Economic Assistance Fund’; and provide that all of this tax be deposited into the fund for distribution to the coal producing counties”; to the Committee on Energy then Finance.

By Delegates Stansbury, Bates, Rohrbach, Perdue, Sobonya and Ellington:

H. B. 4537 - “A Bill to amend and reenact §16-5H-2, §16-5H-5 and §16-5H-7 of the Code of West Virginia, 1931, as amended, all relating to the regulation of chronic pain clinics; updating definitions; deleting an exemption; and clarifying the process for hearing notices upon appeal”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates A. Evans, Rowan, Romine and Hamilton:

H. B. 4538 - “A Bill to amend and reenact §19-8-1 of the Code of West Virginia, 1931, as amended, relating to cooperative extension workers”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates A. Evans, Espinosa, Romine, Hamilton and Rowan:

H. B. 4539 - “A Bill to amend and reenact §60-1-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3b of said code; and to amend and reenact §60-8-3 of said code, all relating to permitting farm winery licensure as alternating wine proprietorships and permitting farm wineries to provide samples and off-premises sales at separately licensed fairs and festivals”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates A. Evans, Hamilton, Kelly, Zatezalo, Romine, Wagner and Boggs:

H. B. 4540 - “A Bill to amend and reenact §22-15A-22 of the Code of West Virginia, 1931, as amended, relating to removing prohibition of disposal of certain electronics in landfills”; to the Committee on Government Organization.

House Calendar

Unfinished Business

H. R. 7, Designating that the month of April be proclaimed as Sarcoidosis Awareness Month beginning in 2016; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

H. R. 8. Authorizing the Committee on Rules to arrange a Special Calendar and providing for making public the vote on certain questions in connection with the preparation thereof; coming up in regular order, as unfinished business, was reported by the Clerk.

An amendment, recommended by the Committee on Rules, was reported by the Clerk and adopted, amending the resolution on page one, line four, by striking out “Friday, February 12, 2016” and inserting in lieu thereof “Tuesday, February 16, 2016”.

Delegate Sponaugle moved to amend the resolution on page one, on the last line of the paragraph following the resolution clause, by striking out the words “suspension of this Rule”, and inserting in lieu thereof the words “majority of the members present and voting”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 73**), and there were—yeas 36, nays 62, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Faircloth, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Moye, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Hornbuckle and Moore.

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

The question being on the adoption of the resolution, the House divided, and the Speaker declared the resolution adopted.

The following resolutions, coming up in regular order, as unfinished business, were adopted:

S. C. R. 16, US Army CPL John Belcastro Bridge,

Com. Sub. for H. C. R. 2, U.S. Army PV2 William Frederick Kump Memorial Bridge,

Com. Sub. for H. C. R. 14, Second Friday in July as West Virginia Collector Car Appreciation Day,

And,

Com. Sub. for H. C. R. 19, H. Laban White Memorial Bridge.

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

Third Reading

S. B. 123, Treatment for sexually transmitted diseases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 74**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 123) passed.

An amendment to the title of the bill, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the title to read as follows:

S. B. 123 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-4F-1,

§16-4F-2, §16-4F-3, §16-4F-4 and §16-4F-5; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3E-17 of said code; to amend and reenact §30-5-14 of said code; to amend and reenact §30-7-11 of said code; and to amend and reenact §30-14-11 of said code, all relating to treatment for sexually transmitted diseases; providing for expedited partner therapy; defining terms; allowing prescribing of antibiotics to sexual partners of patient without prior examination of partner; requiring patient counseling; establishing counseling criteria; requiring informational materials be prepared by the Department of Health and Human Resources; providing limited liability for providing expedited partnership therapy; requiring rulemaking; and providing that physicians, physician assistants, pharmacists and advanced practice registered nurses are not subject to disciplinary action for providing certain treatment for sexually transmitted diseases for sexual partners of patient.”

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

S. B. 261, Bringing state code relating to daylight saving time in conformity with federal code; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 75**), and there were—yeas 90, nays 8, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge, Folk, Ihle, Marcum, McGeehan, Moffatt, J. Nelson and Wagner.

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 261) passed.

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

Com. Sub. for H. B. 2615, West Virginia Small Business Capital Act; on third reading with the restricted right to amend jointly by Delegates Lane and E. Nelson, was reported by the Clerk.

On motion of Delegates E. Nelson and Lane, the bill was amended on page three, section five hundred four, line fourteen, after the word “elapsed”, by striking out the period, and inserting a colon and the words “*Provided*, That upon the escrowed funds attaining a balance of at least ten percent of the offering amount sought, the attorney holding the money in escrow shall, upon written request of the issuer, withdraw a portion of the money in escrow and deliver such portion of money to the issuer”, followed by a period,

And,

On page three, section five hundred four, beginning on line twenty-one, by striking out subsection (g) in its entirety.

Having been engrossed, the bill was read a third time.

Delegate Kurcaba requested to be excused from voting on the passage of Com. Sub. for H. B. 2615 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Kurcaba would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 76**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2615) passed.

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

Com. Sub. for H. B. 4146, Providing insurance cover abuse-deterrent opioid analgesic drugs; on third reading, coming up in regular order, was read a third time.

Delegate Boggs requested to be excused from voting on the passage of Com. Sub. for H. B. 4146 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Boggs would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 77**), and there were—yeas 89, nays 9, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Cadle, Fast, Folk, Howell, Ihle, McGeehan, Moffatt and J. Nelson.

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4146) passed.

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

Com. Sub. for H. B. 4188, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 78**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4188) passed.

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

Com. Sub. for H. B. 4218, Expanding the definition of “underground facility” in the One-Call System Act; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of Com. Sub. for H. B. 4218 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that Mr. Armstead was a member of a class of persons possibly to be affected by the passage of the bill but exhibited no direct personal or pecuniary interest therein, and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 79**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4218) passed.

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

Com. Sub. for H. B. 4228, Relating to transportation network companies; on third reading, coming up in regular order, was read a third time.

Delegate Pushkin requested to be excused from voting on the passage of Com. Sub. for H. B. 4228 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Pushkin would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 80**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Deem, Ireland, Kelly and Shaffer.

Absent and Not Voting: Hornbuckle and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4228) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 81**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Kelly and Shaffer.

Absent and Not Voting: Hornbuckle, Moore and J. Nelson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4228) takes effect July 1, 2016.

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

H. B. 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person; on third reading, coming up in regular order, was read a third time.

Delegate Cadle requested to be excused from voting on the passage of Com. Sub. for H. B. 4228 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Cadle would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 82**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hornbuckle, Moore and J. Nelson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4309) passed.

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

Second Reading

S. B. 15, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section thirty, line one, following the words “drug or”, by inserting the word “medical”.

And,

On page one, section thirty, line eleven, following the words “drugs or”, by inserting the word “medical”.

The bill was then ordered to third reading.

Com. Sub. for H. B. 2122, Making it illegal for first responders to photograph a corpse; Jonathon’s Law; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page two, section sixteen, line ten, after the word “a”, by inserting the word “human”.

And,

On page two, section sixteen, line fourteen, after the word “a”, by inserting the word “human”.

The bill was then ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. B. 3019, Requiring official business and records of the state and its political subdivisions be conducted in English,

Com. Sub. for H. B. 4209, Relating generally to health care provider taxes,

Com. Sub. for H. B. 4291, Increasing penalties for teachers who commit sexual offenses against children,

Com. Sub. for H. B. 4323, Relating to the reporting of emergency incidents by well operators and pipeline operators,

H. B. 4347, Providing pregnant women priority to substance abuse treatment,

H. B. 4378, Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person,

And,

H. B. 4417, Increasing wages protected from garnishment.

Leaves of Absence

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

At 2:10 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, February 16, 2016.

TUESDAY, FEBRUARY 16, 2016

THIRTY-FIFTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, February 15, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Overington, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

H. B. 4321, Relating to tax credits for apprenticeship training in construction trades,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4321) was referred to the Committee on Finance.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4465, Relating to salary equity among school systems,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4465) was referred to the Committee on Finance.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 146, Establishing instruction standards for early childhood education,

And,

Com. Sub. for S. B. 369, Reducing legislative education reporting requirements,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4359, Requiring the issuance of a photo identification to persons employed as a security guard by a security guard firm,

And,

Com. Sub. for S. B. 309, Relating to child-care center licensing and exempting county parks and recreation from licensure,

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

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

Your Committee on Finance has had under consideration:

H. B. 4150, Making a supplementary appropriation to the Department of Health and Human Resources,

H. B. 4151, Making a supplementary appropriation to the Department of Education,

And,

H. B. 4159, Making a supplementary appropriation to the Public Services Commission – Motor Carrier Division,

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

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

Your Committee on Finance has had under consideration:

H. B. 2474, Relating to the compensation of personnel employed at the West Virginia Schools for the Deaf and the Blind,

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

Com. Sub. for H. B. 2474 – “A Bill to amend and reenact §18-17-1 of the Code of West Virginia, 1931, as amended, relating to the compensation of personnel employed at the West Virginia Schools for the Deaf and the Blind; updating reference to minimum salaries in effect for personnel at facilities under jurisdiction of the State Board of Education; and authorizing board to establish salary schedules or compensation in excess of the minimums for certain teachers at the West Virginia Schools for the Deaf and the Blind,”

And,

H. B. 2852, Relating to legalizing and regulating the sale and use of fireworks,

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

Com. Sub. for H. B. 2852 – “A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating the regulation of fireworks generally; authorizing sale of consumer fireworks; defining consumer fireworks; establishing regulatory framework for sale of fireworks; defining terms; requiring certificate; establishing fees; requiring permits; dedicating certain fees to Veterans Facilities Support Fund, Fire Protection Fund and the State Road Fund; establishing rule-making authority; creating criminal penalties related to the sale, manufacturing, importing or storage of fireworks; defining terms; authorizing exemptions; requiring reporting; and establishing internal effective dates for certain provisions,”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4013, Requiring a person desiring to vote to present documentation identifying the voter, And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 4013 – “A Bill to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §3-1-51, and to amend and reenact §17B-2-1 of said code, all relating to voting procedures; requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; setting forth the requirements for that documentation; identifying acceptable documentation; providing alternative procedures for casting a ballot where acceptable identification is lacking; exempting from disclosure the address of individuals in the Address Confidentiality Program; directing the Secretary of State to educate voters about the identification requirement and develop a program to help ensure that all eligible voters obtain identification; providing for casting of provisional ballot by a person without adequate proof of identification; providing certain exemptions from the requirement to present a photo identification card; modifying provisional ballot procedures; providing for issuance of identification cards at no charge; and establishing procedures for persons over a certain age and lacking certain documents to acquire driver’s licenses and photo identification cards,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4213, Uniform Deployed Parents Custody and Visitation Act,

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

Com. Sub. for H. B. 4213 – “A Bill to repeal §48-1-233.3 of the Code of West Virginia, 1931, as amended, and to repeal §48-1-233.4 of said code, and to repeal §48-9-404 of said code, and to amend said code by adding thereto a new article, designated §48-31-101, §48-31-102, §48-31-103, §48-31-104, §48-31-105, §48-31-106,

§48-31-107, §48-31-201, §48-31-202, §48-31-203, §48-31204, §48-31-205, §48-31-301, §48-31-302, §48-31-303, §48-31-304, §48-31-305, §48-31-306, §4831-307, §48-31-308, §48-31-309, §48-31-310, §48-31-311, §48-31-401, §48-31-402, §48-31-403, §48-31-404, §48-31-501, §48-31-502 and §48-31-503, all relating to adoption of the ‘Uniform Deployed Parents Custody and Visitation Act’; defining terms; providing for enforcement through assessment of attorney fees and costs; establishing procedures to determine matters of child custody and visitation when parents are deployed in military or other national service; requiring notices from deployed parent; providing for out-of-court agreements and establishing minimum requirements therefor; prohibiting consideration of past or future deployments in determining the best interest of the child; authorizing orders for payment of child support during deployment; providing for modification and termination of orders and agreements; and giving guidance for interpretation and construction in conjunction with other laws and orders,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions,

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

Com. Sub. for H. B. 4053 – “A Bill to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Environmental Protection; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing

certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of annual nitrogen oxide emissions, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from combustion of solid waste, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of ozone season nitrogen oxides emissions, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of annual sulfur dioxide emissions, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to surface mining reclamation, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to administrative proceedings and civil penalty assessment, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank fee assessments, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank administrative proceedings and civil penalty assessment, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tanks, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards, and authorizing the Department of Environmental Protection

to promulgate a legislative rule relating to horizontal well development,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4499, Relating to certain persons who have been disqualified or excused from jury service,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4261, Prohibiting the sale or transfer of student data to vendors and other profit making entities,

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

Com. Sub. for H. B. 4261 – “A Bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to student data; prohibiting the department from transferring confidential student information to federal, state or local agencies or other persons or entities; providing for exceptions; authorizing student or redacted data to be provided as part of a contract with a vendor; and adding a new exception providing for the sharing of certain information in the event that the ACT or SAT tests are adopted for use as the state summative assessment,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 150, Authorizing Department of Transportation promulgate legislative rules,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4520, Clarifying that certain hospitals have only one governing body whose meetings shall be open to the public,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4520 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-3d, relating to imposing the consumers sales and service tax and use tax on sales of telecommunications service and ancillary services,"

With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to

agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

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

Senators Ashley, Karnes and Woelfel.

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

Whereupon,

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

Delegates Lane, Hanshaw and Shaffer.

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 299 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-23, relating to establishing Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects; setting forth general structure of fund and distribution of funds; and providing for rulemaking”; which was referred to the Committee on Education then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 328 – “A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new section, designated §9A-1-11b; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12, §29-3E-13 and §29-3E-14; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to the regulation of fireworks generally; relocating certain existing provisions relating to sparkling devices, novelties and toy guns including penalties for certain violations, in a new article; raising funds for veterans’ facilities and volunteer fire departments; creating West Virginia Veterans Program Fund; authorizing sale of consumer fireworks on and after June 1, 2016; defining ‘consumer fireworks’; establishing regulatory framework for sale of fireworks; defining terms; requiring certificate; establishing fees; requiring permit; dedicating certain fees to Veterans Program Fund and Fire Protection Fund; establishing rule-making authority; creating criminal violations related to fireworks; penalties; enforcement; defining terms; exemptions; reporting requirements; and establishing internal effective dates for certain provisions”; which was referred to the Committee on Veterans’ Affairs and Homeland Security then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 403 – “A Bill to amend and reenact §19-8-1 of the Code of West Virginia, 1931, as amended, relating to cooperative extension workers”; which was referred to the Committee on Agriculture and Natural Resources then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 404 – “A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §16-3C-2a and §16-3C-2b; and to amend and reenact §16-4-19 of said code, all relating to testing for HIV and sexually transmitted diseases; authorizing billing of persons for HIV and sexually transmitted disease testing or sexually transmitted disease treatment done by state or local public health agencies; informing persons who wish to opt-out of HIV-related testing that anonymous testing is available; authorizing magistrate and circuit courts to order testing of persons accused of certain sex crimes; requiring prosecuting attorneys to file motion for testing upon request of victim or victim’s parent or guardian; establishing a timeframe for mandatory testing; providing for follow-up HIV-related testing as medically appropriate; providing that costs associated with testing may be borne by the state when the defendant or juvenile respondent is financially unable to pay; authorizing billing of a defendant’s or juvenile respondent’s health insurance provider; requiring testing of juveniles adjudicated of certain sex crimes; removing counseling requirement; removing exemption for providers regulated by Insurance Commissioner; removing limitation on amount that can be charged for medication used to treat sexually transmitted diseases; and removing archaic language related to testing of sexually transmitted diseases”; which was referred to the Committee on Health and Human Resources then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 459 – “A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to requiring promulgation of a rule to provide for payment of tuition by county boards of education to Mountaineer Challenge Academy for students graduating

with a high school diploma from Mountaineer Challenge Academy”;

which was referred to the Committee on Education then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2016, and requested the concurrence of the House of Delegates in the passage, of

S. B. 483 – “A Bill to amend and reenact §18-5A-3a of the Code of West Virginia, 1931, as amended, relating to granting a local school improvement council waiver for the purpose of increasing compulsory school attendance age in Marshall County”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 517 – “A Bill to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended, relating to Public Employees Insurance Agency; clarifying that plans established and administered by Public Employees Insurance Agency are exempt from regulation by Insurance Commissioner unless specifically stated otherwise; and providing that Public Employees Insurance Agency is not an insurer or in the business of insurance”; which was referred to the Committee on Banking and Insurance then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 524 – “A Bill to amend and reenact §30-27-1, §30-27-3, §30-27-4, §30-275, §30-27-8, §30-27-8a, §30-27-9, §30-27-10, §30-27-11, §30-27-12, §30-27-13, §30-27-14, §30-2716, §30-27-17, §30-27-18 and §30-27-19 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-27-8b, all relating to the Board of Barbers and

Cosmetologists; providing jurisdiction to the board over hairstyling, makeup, waxing and shampoo assisting; amending definitions and providing for required clock hours of training; licensing of schools or programs by the Department of Education; composition of the board; requiring examinations meet national standards; requiring licensed schools have one chair per student; on-site and temporary services; barber apprentice program; requirements to sponsor a barber apprentice; providing for certification; certification of waxing specialists and makeup artists; reciprocity standards; continuing education requirements; instructor certification; and eliminating biennial license renewal”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 558 – “A Bill to amend and reenact §21A-8-10 and §21A-8-16 of the Code of West Virginia, 1931, as amended, all relating to maintaining the solvency of the Unemployment Compensation Fund; providing a mechanism for the Governor to borrow funds from the Revenue Shortfall Reserve Fund for a limited period and deposit those funds into the Unemployment Compensation Fund if the balance of the Unemployment Compensation Fund drops below \$50 million; providing that borrowed funds may only be used to pay benefits; providing that no amount borrowed may exceed \$50 million; and providing for repayment of borrowed amounts”; which was referred to the Committee on Finance.

Resolutions Introduced

Delegates Phillips, Rodighiero and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 67 – “Requesting the Division of Highways to name the bridge on Route 119/5, Mile 4.05, Bridge Number 23-119/5-4.05 (23A-259) (37.75856, -82.04788), locally known as Right Fork Pine Creek Box Beam carrying CR 119/5 over Right Fork of Pine Creek in Logan County, the ‘Balentine Brothers Memorial Bridge’.”

Whereas, Paul H. Balentine was born on March 22, 1943, in Omar, Logan County, West Virginia; Phillip D. Balentine was born on January 19, 1945, in Omar, Logan County, West Virginia, the sons of Paul Balentine and Georgia Perry Balentine. They were educated in Logan County schools; and

Whereas, Paul H. Balentine served honorably in the United States Navy, ending his active service in 1965 while serving on the USS Wood CTY IST1178, while his brother, Phillip D. Balentine served honorably in the United States Marine Corps in Vietnam and ended his active service in 1968; and

Whereas, Naming that bridge on Route 119/5, Mile 4.05, bridge number 23-119/5-4.05 (23A-259) (37.75856, -82.04788), locally known as Right Fork Pine Creek Box Beam in Logan County, the “Balentine Brothers Memorial Bridge” is an appropriate recognition of their contributions to their country, state, community and Logan County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on Route 119/5, Mile 4.05, Bridge Number 23-119/5-4.05 (23A-259) (37.75856, -82.04788), locally known as Right Fork Pine Creek Box Beam carrying CR 119/5 over Right Fork of Pine Creek in Logan County, the “Balentine Brothers Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Balentine Brothers Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and Paul H. Balentine, his brother Phillip D. Balentine and their families.

Delegates Ambler, Anderson, Arvon, Atkinson, Azinger, Bates, Blair, Boggs, Border, Butler, Byrd, Cadle, Campbell, Canterbury, Caputo, Cooper, Cowles, Deem, Duke, Eldridge, Ellington, Espinosa, A. Evans, D. Evans, Faircloth, Fast, Ferro, Fluharty, Folk, Foster, Frich, Gearheart, Hamilton, Hamrick, Hanshaw, Hartman, Hicks, Hill, Householder, Howell, Ihle, Ireland, Kelly, Kessinger, Kurcaba, Lane, Longstreth, Lynch, Manchin, Marcum, McCuskey, McGeehan, Miley, Miller, Moffatt, Moore, Morgan, Moye, Mr. Speaker (Mr. Armstead), E. Nelson, J. Nelson, O'Neal, Overington, Perdue, Perry, Pethtel, Phillips, Rodighiero, Rohrbach, Romine, Rowan, Rowe, Shaffer, Skinner, P. Smith, R. Smith, Sobonya, Sponaule, Stansbury, Statler, Storch, Summers, Trecost, Upson, Wagner, Walters, Waxman, Weld, Westfall, B. White, P. White and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 68 – “Urging the United States Environmental Protection Agency not to prohibit conversion of vehicles to race cars.”

Whereas, The United States Environmental Protection Agency has proposed a regulation to prohibit conversion of vehicles originally designed for on-road use into racecars; and

Whereas, The regulation would also make the sale of certain products for use on such vehicles illegal. The proposed regulation was contained within a nonrelated proposed regulation entitled “Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium-and Heavy-Duty Engines and Vehicles—Phase 2”; and

Whereas, The regulation would impact all vehicle types, including the sports cars, sedans and hatch-backs commonly converted strictly for use at the track. While the Clean Air Act prohibits certain

modifications to motor vehicles, it is clear that vehicles built or modified for racing, and not used on the streets, are not the “motor vehicles” that Congress intended to regulate; and

Whereas, “This proposed regulation represents overreaching by the agency, runs contrary to the law and defies decades of racing activity where EPA has acknowledged and allowed conversion of vehicles,” said Specialty Equipment Market Association (SEMA) President and CEO Chris Kersting. “Congress did not intend the original Clean Air Act to extend to vehicles modified for racing and has reenforced that intent on more than one occasion”; and

Whereas, SEMA submitted comments in opposition to the regulation and met with the United States Environmental Protection Agency to confirm the agency’s intentions. The United States Environmental Protection Agency indicated that the regulation would prohibit conversion of vehicles into racecars and make the sale of certain emissions-related parts for use on converted vehicles illegal. This would certainly be detrimental to the economy; therefore, be it

Resolved by the Legislature of West Virginia:

That the State of West Virginia hereby respectfully urges the Environmental Protection Agency not to prohibit conversion of vehicles to race cars; and, be it

Further Resolved, That the State of West Virginia respectfully urges the Environmental Protection Agency not to issue its final regulations until the legislatures of the states have submitted comments; and, be it

Further Resolved, That the State of West Virginia forward official copies of the resolution to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the United States Congress and West Virginia’s representatives in Congress.

Delegates Eldridge and Phillips offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 69 – “Requesting that bridge number 23-14-0.05 (23A368) at latitude 37.80975 and longitude -81.93394, locally known as Rum Creek Connector over Guyandotte River, carrying County Route 14 over Guyandotte River and CSX RR in Logan County, be named the ‘Betty Jo Delong Memorial Bridge’.”

Whereas, Betty Jo Chambers Delong, the daughter of coal miner Harry Chambers and postmaster Geraldine Lowe Chambers, attended Dehue-Chambers Grade School, in Dehue, Logan County, West Virginia; and

Whereas, Betty Jo Chambers was a Golden Horseshoe winner and graduated from Logan High School in Logan County; and

Whereas, Miss Chambers married Don Thomas Delong from Lyburn, West Virginia, and the couple had two children, Donnetta Rainwater, a teacher at Logan Middle School, and Donald Rex Delong, owner of Eastern Petroleum; and

Whereas, Betty Jo Delong grew up with brothers and sisters Donna Lou Hipshire, Dorothy Young, Grover Chambers, Thelma Willis Eplin, Harry Chambers, Gerri Ball, Cora Tooley and Alice Price; and

Whereas, Betty Jo Delong was proud of the Chambers family’s long association with the Rum Creek area; and

Whereas, At one time the Chambers family owned property reaching from Rum Creek to Lowe’s Mountain; and

Whereas, Betty Jo Delong worked at several jobs in Logan County but later in her career was employed at the Logan County Courthouse, where she worked in the record room and was in charge of the deed books; and

Whereas, Betty Jo Delong is still remembered for updating the county's system of obtaining deeds and land proposals; and

Whereas, Betty Jo Delong worked tirelessly to help members of her community, especially the elderly; and

Whereas, Betty Jo Delong assisted with the visit to Logan County of John F. Kennedy when he was a presidential candidate; and

Whereas, Betty Jo Delong died of cancer at the age of forty-two; and

Whereas, At the time of her death, all offices of the courthouse were closed out of respect for Betty Jo Delong's service to the many people of Logan County; and

Whereas, It is fitting that an enduring memorial be established in the name of Betty Jo Delong in an area where she and her family have for so long been a part of the fabric of the community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-14-0.05 (23A368) at latitude 37.80975 and longitude -81.93394, locally known as Rum Creek Connector over Guyandotte River, carrying County Route 14 over Guyandotte River and CSX RR in Logan County, the "Betty Jo Delong Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "Betty Jo Delong Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Phillips, Marcum, Eldridge, Rodighiero and P. White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 70 – “Requesting the Division of Highways to name bridge number 23-12-0.05 (23A057) (37.87210, -81.98544), locally known as the ‘Peach Creek Bridge’, carrying CR-12 over Guyandotte River in Logan county, the ‘U.S. Air Force Staff Sgt Bethel Howard McNeely and U.S. Marine Staff Sgt Clyde Elmo Bryant Bridge’.”

Whereas, Staff Sergeant Bethel Howard McNeely was born on January 1, 1922, at Peach Creek, West Virginia, the son of Manny and Mary McNeely of Peach Creek; and

Whereas, Staff Sergeant Bethel Howard McNeely was raised in Logan County and enlisted in the Air Force in September of 1942. He served with the 94th Bomb Group 333rd Bomb Squadron from September of 1942 until October of 1945, as a Tail Gunner on a B-17 Flying Fortress; and

Whereas, During this time, Staff Sergeant Bethel Howard McNeely flew on twenty-six missions into Germany and enemy-occupied territory; and

Whereas, Staff Sergeant Bethel Howard McNeely was awarded the Presidential Unit Citation Distinguished Flying Cross, Air Medal with Three Oak Leaf Clusters, the Air Offensive Europe with Battle Star and the European, African and Middle East Theater Ribbons; and

Whereas, Upon returning home, Staff Sergeant Bethel Howard McNeely worked for C&O Railroad until he retired in 1985. Today he resides at Crooked Creek in the home where he raised seven children. His wife was a long time employee of the Logan County Board of Education, serving in the Payroll Office; and

Whereas, Staff Sergeant Bethel Howard McNeely is a member of the Crooked Creek Church of Christ and much loved in the community; and

Whereas, United States Marine Staff Sergeant Clyde Elmo Bryant enlisted in the service during World War II, in Bridgeport, Connecticut, when he heard of the attack on Pearl Harbor; and

Whereas, After training at Cherry Point and Paris Island, Staff Sergeant Clyde Elmo Bryant was assigned to the Third Marine Division and shipped off to the Pacific. He made beachhead landings at Guam, Bougainville and Iwo Jima, as well as on other smaller islands; and

Whereas, Staff Sergeant Clyde Elmo Bryant was loading wounded Marines for transfer off the Island of Iwo Jima when the famous flag raising photo was taken by Joe Rosenthal; and

Whereas, Staff Sergeant Clyde Elmo Bryant was awarded the Presidential Unit Citation Award and Ribbon Bar for service on Guam, the Asiatic-Pacific Campaign Medal and the Victory Medal; and

Whereas, Staff Sergeant Clyde Elmo Bryant returned home to Logan County at the end of World War II, married Lila Evelyn Wilson and took up residence at Crooked Creek. He raised his four children on Crooked Creek; and

Whereas, Staff Sergeant Clyde Elmo Bryant was a watchmaker and jeweler and operated several businesses in the City of Logan. He was a leader in the Crooked Creek Church of Christ and in many other community organizations. He was a 32nd Degree Mason; and

Whereas, In 1962, Staff Sergeant Clyde Elmo Bryant was again called to duty as a squad leader and Sergeant 1st class in the 150th Armored Cavalry when the West Virginia National Guard was called up during the “Cuban Missile Crisis”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-12-0.05 (23A057) (37.87210, -81.98544) the “U.S. Air

Force Staff Sgt Bethel Howard McNeely and U.S. Marine Staff Sgt Clyde Elmo Bryant Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U.S. Air Force Staff Sgt Bethel Howard McNeely and U.S. Marine Staff Sgt Clyde Elmo Bryant Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates, forward a certified copy of this resolution to the Secretary of Transportation, to the family of Howard McNeely and to the family of the late Clyde Bryant.

Delegates Phillips, P. White, Marcum, Rodighiero and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 71 – “Requesting the Division of Highways to name bridge number 23-10/19-0.01 (23A221)(37.82788, -81.94412), locally known as the Logan Vo-Tech Bridge, carrying County Route 10/19 over the Guyandotte River in Logan County, West Virginia the ‘US Army PVT James Earl Pelfrey Memorial Bridge’.”

Whereas, James Earl Pelfrey of Cyclone, West Virginia, was born February 2, 1949, at Man, West Virginia, the son of Nell (Jerry) Taddes of Tom’s River, New Jersey and the late James Edward Pelfrey; and

Whereas, James Earl Pelfrey is survived by a widow, Gladys M. Pelfrey and Son Jason Tye, and sisters Barbara Carratozzole of Barnegat, New Jersey and Denise Taddes of Florham Park, New Jersey; and

Whereas, James Earl Pelfrey was a member of the Davin Baptist Church in Logan County, West Virginia; and

Whereas, James Earl Pelfrey spent his youth with his grandparents, Lon and Emma Gibson of Bruno, West Virginia; and

Whereas, James Earl Pelfrey was inducted into the United States Army March 19, 1969, and served in Vietnam; and

Whereas, PVT. James Earl Pelfrey was awarded the National Defense Service Medal, Vietnam Campaign Medal, Vietnam Service Medal, Army Commendation Medal and the Combat Infantryman's Badge; and

Whereas, PVT. James Earl Pelfrey died July 5, 2014; and

Whereas, The bridge leading to the Ralph R. Willis Career and Technical Center in Logan County would be a fitting memorial to PVT. James Earl Pelfrey; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-10/19-0.01 (23A221) (37.82788, -81.94412), locally known as the Logan Vo-Tech Bridge, carrying County Route 10/19 over the Guyandotte River in Logan County, West Virginia, the "US Army PVT James Earl Pelfrey Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "US Army PVT James Earl Pelfrey Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegate Duke offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 72 – “Requesting the Division of Highways to name Bridge Number 02-13-0.81 (02A172) (39.46979, -77.97913), locally known as New North Tennessee Avenue Bridge, carrying County Route 13 over Tuscarora Creek in Berkeley County, be named the ‘Max G. Parkinson Memorial Bridge’.”

Whereas, Max G. Parkinson was born in Martinsburg, Berkeley County, West Virginia, on November 30, 1934. He was the son of the late William Henry Parkinson and Flora Belle White Strine; and

Whereas, Max G. Parkinson served the City of Martinsburg as a city councilman for Ward 3 for nearly twenty-five years, and as the treasurer for eleven years. During this time, he served on a number of committees for the City of Martinsburg, including the Budget and Finance, City Property, Code Enforcement, Personnel, Public Works, Train Station and Utility Committees; and

Whereas, Max. G. Parkinson was a member of St. Joseph Catholic Church and a member of the Knights of Columbus, Elks Club and Moose Lodge; and

Whereas, Max G. Parkinson was a realtor and broker, and was an owner of Baker Parkinson Real Estate. He served on the Eastern Panhandle Board of Realtors; and

Whereas, Max G. Parkinson loved working outdoors to beautify his community by planting trees and shrubs and was responsible for the beautification project at the North Tennessee Avenue entrance to Briarwood; and

Whereas, Max G. Parkinson is survived by his wife of 61 years, Catherine Mickelinc Parkinson; one son, Michael Parkinson and wife, Debbie of Martinsburg; one grandchild, Marissa Parkinson; one brother, Ray Strine and wife, Betty; and two sisters, Shirley Alexander and husband, Lynn, Faye Brown and husband, Bill; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 02-13-0.81 (02A172) (39.46979, -77.97913), locally known as New North Tennessee Avenue Bridge, carrying County Route 13 over Tuscarora Creek in Berkeley County, the “Max G. Parkinson Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming it the Max G. Parkinson Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the family of the late Max G. Parkinson.

On motions for leave, Joint Resolutions were introduced, read by their titles and referred as follows:

By Delegates Lane, Sobonya, Miller, Espinosa and Duke:

H. J. R. 43 - “Proposing an amendment to the Constitution of the State of West Virginia amending section two of Article X thereof, relating to establishing legislative review, amendment, disapproval, or approval, of the actions of the State Board of Education”; to the Committee on Education then the Judiciary.

And,

By Delegates Skinner, Caputo, Fluharty, Lynch, Miley, Manchin, Reynolds, Boggs, Moore, P. White and Guthrie:

H. J. R. 44 - “Proposing an amendment to the Constitution of the State of West Virginia amending section fourteen, article VII relating to requiring a vote of two thirds of the members of each legislative house to override the Governor’s veto and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on the Judiciary.

Delegates McCuskey, Westfall, Weld, B. White, Stansbury, E. Nelson and Byrd offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 10 - “Expressing concern of the House of Delegates to the need to create patient navigation, psychosocial and survivorship support services and programs for childhood cancer patients and their families in West Virginia.”

Whereas, An estimated 13,500 children and adolescents under age of 20 are diagnosed with cancer each year; and

Whereas, In 1960, only 4 percent of children with cancer survived more than 5 years, but today, cure rates have increased to over 80 percent for children and adolescents under the age of 20; and

Whereas, The population of survivors of childhood cancers has grown dramatically, to over 360,000 individuals of all ages as of 2012; and

Whereas, As many as two-thirds of childhood cancer survivors are likely to experience at least one late effect of treatment, with as many as one-fourth experiencing a late effect that is serious or life-threatening, with the most common late effects of childhood cancer being neurocognitive, psychological, cardiopulmonary, endocrine and musculoskeletal effects and secondary malignancies; and

Whereas, As a result of disparities in the delivery of cancer care, minority, low-income, and other medically underserved children are more likely to be diagnosed with late stage disease, experience poorer treatment outcomes, have shorter survival time with less quality of life, and experience a substantially greater likelihood of cancer death; and

Whereas, As the late effects of cancer treatment may change as therapies evolve, which means that the monitoring and care of cancer survivors may need to be modified on a routine basis; and

Whereas, There is a lack of standardized and coordinated psychosocial care, survivorship education on long term effects and available long term clinics in West Virginia for the children and their families, from the date of diagnosis through treatment and survivorship; therefore, be it

Resolved by the House of Delegates:

That an organized system of care and a method of care for pediatric cancer survivors is needed; and, be it

Further Resolved, That this state needs focused efforts to collaborate, communicate and research using assessment and customer service forms with parents and children during and after treatment into survivorship, during their hospital stay and after they enter their communities, and to help remove barriers to cancer care and answer questions about the optimal ways to provide health care, followup monitoring services, support services and helping integrate them back into the health care facilities if they relapse during their survivorship journey; and, be it

Further Resolved, That the House of Delegates believes that there is a need to create patient navigation, psychosocial, and survivorship support services and programs for childhood cancer patients and their families in West Virginia to contribute to improvements in the quality of care and quality of life of those individuals.

Delegates Stansbury, Phillips, Hamilton, R. Smith, Cadle, B. White, Ambler, Summers, J. Nelson, Perdue and Statler offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 11 - “Urging the United States Congress to enact legislation for the purpose of enhancing hunting, fishing, recreational shooting, and other outdoor recreational opportunities, as well as strengthen conservation efforts nationwide.”

Whereas, To this day, conservation is funded primarily by sportsmen and women. This American system of conservation funding is a user pays-public benefits approach that includes excise taxes on hunting, fishing, and boating equipment. This strategy is widely recognized as the most successful model of fish and wildlife management funding in the world; and

Whereas, Through the pursuit of their outdoor passions, sportsmen and women support hundreds of thousands of jobs and contribute billions to our economy annually through salaries, wages, and product purchases; and

Whereas, The United States Congress has worked on several pieces of legislation over the years to boost a number of key conservation priorities that are supported by millions in the outdoor recreational community; and

Whereas, Currently pending legislation in both the U.S. House and Senate would create or renew several important programs that are vital to the continued conservation of our natural resources, the health of America's local economies, and the enhancement and protection of our time-honored outdoor pastimes. Known as the Sportsmen's Heritage and Recreational Enhancement (SHARE) Act (H.R. 2406) and the Bipartisan Sportsmen's Act (S. 405), these bills contain a broad array of bipartisan measures, including the Recreational Fishing and Hunting Opportunities Act; the Hunting, Fishing, and Recreational Shooting Protection Act; the Target Practice and Marksmanship Training Support Act; and the Recreational Lands Self-Defense Act; and

Whereas, A complementary piece of pro-sportsmen legislation also exists in the U.S. House, called the Sportsmen's Conservation and Outdoor Recreation Enhancement (SCORE) Act (H.R. 3173). It shares several similar titles with the SHARE Act and Bipartisan Sportsmen's Act. Provisions in the SCORE Act include: The National Fish Habitat Initiative Sense of Congress, the Federal Lands Transaction Facilitation Act reauthorization, the North American Wetlands

Conservation Act reauthorization, the National Fish and Wildlife Foundation reauthorization, the Neotropical Migratory Bird Conservation Act reauthorization, the Partners for Fish and Wildlife Program Act reauthorization, and the Making Public Lands Public authorization; and

Whereas, By renewing or creating these programs, these bills will enhance opportunities for hunters, anglers, recreational shooters, and other outdoor recreation enthusiasts, improve access to public lands, and help boost the outdoor recreation economy. Conserving our fish and wildlife resources and their habitats and ensuring that future generations have access to public lands and continued recreational opportunities are of great importance and are bipartisan issues; now, therefore, be it

Resolved by the House of Delegates:

That the United States Congress is urged to enact legislation for the purpose of enhancing hunting, fishing, recreational shooting, and other outdoor recreational opportunities, as well as strengthen conservation efforts nationwide; and, be it

Further Resolved, That the Clerk of the House of Delegates forward copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of West Virginia's congressional delegation.

Petitions

Unanimous consent having been obtained, Delegate Miley presented a petition on the floor of the House signed by more than 4,700 citizens in support of the Legislature acting immediately to fund and fix PEIA; which was referred to the Committee on Finance.

Motions

Delegate Cowles asked and obtained unanimous consent that, for the remainder of the session, members of Conference Committees be

permitted to vote on any question or issue before the House which they may have missed as a direct result of their duties on Conference Committees, provided that such members notify the Clerk of the House in writing as to how they wished to vote and on the day the votes were missed, and that any such vote not change the outcome on any question.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Phillips, Folk, Stansbury, J. Nelson, Eldridge, Rodighiero, Sobonya, Householder, Upson and Zatezalo:

H. B. 4541 - "A Bill to amend and reenact §8-12-5a of the Code of West Virginia, 1931, as amended, relating to the authority of municipalities to regulate the purchasing, possessing, transferring, owning, carrying, transporting, selling and storing of knives"; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Canterbury and Ambler:

H. B. 4542 - "A Bill to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating to allowing persons with property within rural fire protection districts to opt out of fire protection coverage by a municipality for a specified property; financial responsibility for services actually rendered to the specified property"; to the Committee on Political Subdivisions then the Judiciary.

By Delegates McCuskey and Westfall:

H. B. 4543 - "A Bill to amend and reenact §5-16-12 and §5-16-12a of the Code of West Virginia, 1931, as amended, all relating to willful misrepresentation to gain benefits or payment under the Public Employees Insurance Act; authorizing set-off by the director to recover overpayment; authorizing investigation by the director of

misrepresentations by an employer, employee or providers under the Public Employees Insurance Act; authorizing the director to issue administrative subpoenas; providing requirements for service of subpoenas; authorizing fees for service and witnesses; establishing a process to compel obedience with a subpoena; authorizing the agency to recover benefits or claims obtained by fraud through administrative hearing; providing for the confidentiality of data; and providing criminal penalties”; to the Committee on Banking and Insurance then Finance.

By Delegate Howell:

H. B. 4544 - “A Bill to amend and reenact §30-13-4 and §30-13-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-22-5 of said code, all relating to discontinuing the West Virginia Board of Landscape Architects and transferring its duties and authority to the Board of Registration for Professional Engineers; renaming the Board of Registration for Professional Engineers as the Board of Registration for Professional Engineers and Landscape Architects”; to the Committee on Government Organization.

By Delegate Howell:

H. B. 4545 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-46-21, relating to regulation of pharmacy benefits managers; defining terms; requiring pharmacy benefits managers to register with the commissioner; authorizing the commissioner to charge registration fees; authorizing the commissioner to take action against a pharmacy benefits manager’s license or fine a pharmacy benefits manager upon violation of certain requirements; requiring pharmacy benefits managers to maintain a ‘Maximum Cost List’, which is a list of sources used to determine maximum allowable cost pricing for products; requiring pharmacy benefits managers to update Maximum Allowable Cost Lists and to make the updates available in a reviewable format for pharmacies; establishing requirements for drugs to be placed on Maximum Allowable Cost Lists; requiring contracts between pharmacy

benefits managers and pharmacies to include a process to appeal, investigate and resolve disputes regarding maximum allowable cost pricing; establishing requirements for the appeals and dispute resolution process; requiring pharmacy benefits managers to make certain disclosures to pharmacies regarding maximum cost lists; allowing a pharmacy to decline to provide a service or product to a patient if the Maximum Cost List will prevent the pharmacy from being paid the cost of providing the service; and prohibiting a patient from being required to pay an amount for pharmacist services that is greater than the amount the pharmacy may retain”; to the Committee on Health and Human Resources then Finance.

By Delegates Howell, Arvon, Hill, Stansbury, Cadle, Ihle, Blair, Hamrick, Moffatt, Faircloth and R. Smith:

H. B. 4546 - “A Bill to amend and reenact §18B-5-4 of the Code of West Virginia, 1931, as amended, relating to use of statewide contracts issued by the State Purchasing Division”; to the Committee on Education then Finance.

By Delegates Walters, McCuskey, Westfall, Phillips, Zatezalo, Moore, P. White, Gearheart, Canterbury, Hanshaw and Howell:

H. B. 4547 - “A Bill to amend and reenact §33-2-21a of the Code of West Virginia, 1931, as amended, relating to the Volunteer Fire Departments Workers’ Compensation Subsidy Program and the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund; and providing for the merger of the purposes and provisions of that subsidy program and the subsidy fund in the state agency workers (compensation programs section of the code”; to the Committee on Finance.

By Delegates Canterbury and Ambler:

H. B. 4548 - “A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to disallowing municipalities not admitted to the Municipal Home Rule Pilot Program as of February 1, 2016, from participating in the Municipal Home Rule

Pilot Program when more than half of the population served by the zip codes that serve the municipality live outside the limits of the municipality”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Kessinger, Perry, Arvon, Hill, Foster and Stansbury:

H. B. 4549 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-6-13, and to amend and reenact §18-2-1, all relating to requiring that four members of the State Board of Education be elected on a nonpartisan basis; decreasing the term lengths to four years; and establishing an election procedure”; to the Committee on Education then the Judiciary.

By Delegate Ireland:

H. B. 4550 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-4-9, relating to requiring proceeds of partition of any interest in real property that includes oil and gas but not surface that are due to a person whose name or location are unknown and are unclaimed for five years be paid to the Oil and Gas Reclamation Fund rather than paid or delivered to the Treasurer as abandoned and unclaimed property”; to the Committee on Energy then Finance.

By Delegates McCuskey and Westfall:

H. B. 4551 - “A Bill to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended, relating to the Public Employees Insurance Agency; clarifying that the plans established and administered by the Public Employees Insurance Agency are exempt from regulation by the Insurance Commissioner, unless specifically stated otherwise; and providing that the Public Employees Insurance Agency is not an ‘insurer’ or in the ‘business of insurance’ for purposes of the Insurance Commissioner”; to the Committee on Banking and Insurance then Finance.

By Delegates Statler, Flanigan, Rohrbach and Kurcaba:

H. B. 4552 - “A Bill to amend and reenact §5A-3-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §12-3-10g, all relating to purchasing requirements for the Division of Highways; permitting the Division of Highways to make purchases of up to \$100,000 without engaging in competitive bidding and prohibiting the Division of Highways from requiring purchasing card users in district offices to secure bids for purchases under a certain amount”; to the Committee on Finance.

By Delegates Miller, Sobonya, Rohrbach, Hicks, Morgan, Perdue, Reynolds and Hornbuckle:

H. B. 4553 - “A Bill to amend and reenact §16-29B-1, §16-29B-3, §16-29B-8, §16-29B-12 and §16-29B-26 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-29B-23a, all relating to the West Virginia Health Care Authority; expanding the legislative findings and purpose; defining ‘Cooperative agreement’ and ‘Commercial Health Plan’; powers of the board of directors; authorizing review applications for approval of proposed cooperative agreements and establishing fees for the applications; when administrative hearings may be closed to the public; establishing procedures for review of cooperative agreements; applicability of administrative procedures act applicable and providing for protection of confidential proprietary information; Legislative policy and intent, review of cooperative agreements, reports required, judicial review, and reimbursement of fees and costs to board as applied to cooperative agreement with other hospitals or health care providers; and exempting the actions of the board of the West Virginia Health Care Authority from state and federal antitrust laws”; to the Committee on Health and Human Resources.

By Delegates Ambler, Gearheart, Trecost, Hamrick, P. Smith, Ireland, Cooper and D. Evans:

H. B. 4554 - “A Bill to authorize the Commissioner of the Division of Highways to allow an increase of gross weight limitations on certain

roads in Greenbrier County”; to the Committee on Roads and Transportation then Government Organization.

By Delegates Rowan, Border, Moye, Duke, Shaffer, Hamilton, Ferro, Pethtel, Romine, Campbell and Overington:

H. B. 4555 - “A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §55-7I-1, §55-7I-2, §55-7I-3, §55-7I-4, §55-7I-5 and §55-7I-6, all relating to establishing a cause of action against a person who commits an act of financial exploitation against an elderly person, protected person or incapacitated adult; defining certain terms; restricting certain defenses which, standing alone, are based on legal relationship to and elderly person, protected person or incapacitated adult; providing for court authorized remedies; providing for attorneys’ fees; providing that damage awards have priority; prescribing the burden of proof; authorizing the court to freeze assets while also providing options the court may exercise if a person violates an injunction; and, providing a penalty for violating an injunction”; to the Committee on Senior Citizen Issues then the Judiciary.

By Delegates Skinner, Perdue, Fleischauer, Manchin, Sponaugle, Caputo, Longstreth, Hornbuckle and P. White:

H. B. 4556 - “A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to the PROMISE scholarship program; limiting percentage of awards to private, not-for-profit institutions in the state; and terminating awards to students at private, not-for-profit institutions in the state in 2020”; to the Committee on Education then Finance.

By Delegates A. Evans, Romine, Rowan, Hamilton, Lynch, Ambler, Miller and Cooper:

H. B. 4557 - “A Bill to amend and reenact §19-1-11 of the Code of West Virginia, 1931, as amended, by removing the requirement that the West Virginia Rural Rehabilitation Loan Committee outsource the servicing of its loans”; to the Committee on Banking and Insurance then Finance.

By Delegates Frich, Shott, Arvon, P. Smith, Rowan, Sobonya, Miller, Border, Upson, Kessinger and Summers:

H. B. 4558 - “A Bill to amend and reenact §61-11A-8 of the Code of West Virginia, as amended, relating to victim notification and designation of additional individuals to receive notice of an offender’s release, sentencing, placement or escape; providing an option to victims to designate additional adult individuals to receive notification; and requiring the victim to provide the additional adult individual’s contact information in writing to the appropriate notifying entity”; to the Committee on the Judiciary.

By Delegates Kurcaba, Statler, Householder, McGeehan, Azinger, Overington, Ellington and Fast:

H. B. 4559 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to requiring the Commissioner of Highways to develop a statewide communications plan known as the Comprehensive Public Involvement Plan; requiring that the plan utilize multimedia outlets to inform the public of known or anticipated disruptions in traffic patterns; requiring that the plan include a mechanism to receive and respond to communications from the public in a timely manner; requiring that the plan include a mechanism for collecting feedback from the public on the division’s response to public communications; requiring the division to employ a communications specialist in each maintenance district; and requiring the division to submit the plan to the Legislature for approval as a legislative rule”; to the Committee on Roads and Transportation then Government Organization.

By Delegates Kurcaba, Gearheart, Cowles, Flanigan, Statler, Upson, Householder, McGeehan, Azinger, Overington and Ellington:

H. B. 4560 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4 and §17-29-5, all relating to requiring the Commissioner of Highways to develop a formula for allocating road funds among districts, for the benefit of the counties; making

legislative findings; requiring the commissioner to solicit and consider public comments; requiring the commissioner to include certain factors in the formula; and requiring the commissioner to submit the formula to the Legislature for approval as a legislative rule”; to the Committee on Roads and Transportation then Finance.

By Delegates Kurcaba, Statler, Upson, Householder, McGeehan, Azinger, Overington, Ellington, Fast, Foster and Gearheart:

H. B. 4561 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to creating a special hiring process for West Virginia Division of Highways employees; requiring the Commissioner of the West Virginia Division of Highways and the Director of the West Virginia Division of Personnel to collaborate to develop a special hiring process for Division of Highways employees; establishing requirements for the special hiring process; exempting the West Virginia Division of Highways from regular appointment procedures upon implementation of the special hiring process; and establishing reporting requirements”; to the Committee on Roads and Transportation then Government Organization.

By Delegates Kurcaba, Statler, Upson, Householder, McGeehan, Azinger, Ellington, Fast, Overington, Foster and Gearheart:

H. B. 4562 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-24, relating to performance metrics for the West Virginia Division of Highways; requiring the division to develop performance standards and criteria to measure agency performance in all essential operations; requiring the division to employ a management information system that will track the division’s past and current progress toward meeting performance standards; and requiring the division to report to the Joint Committee on Infrastructure”; to the Committee on Roads and Transportation then Government Organization.

By Delegates Storch, Anderson, Boggs, Campbell, Ferro, Frich, Miller, R. Smith, Upson, Wagner and Waxman:

H. B. 4563 - “A Bill to amend and reenact §11-13J-3, §11-13J-4, §11-13J-4a, §11-13J-10 and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating generally to the Neighborhood Investment Program Act; reauthorizing the Act until July 1, 2021; defining the terms ‘community based’ and ‘emergency assistance’; modifying the definition of ‘economically disadvantaged area’; reducing the frequency of required project transferee reports; reducing the number of required advisory board meetings; reducing the required number of West Virginia Development Office reports to the board; eliminating guidance on what a community based project is when the board is evaluating a project; removing the requirement that the Tax Commissioner annually publish the addresses of taxpayers who claim the credit; and reducing the frequency of program assessments by the director”; to the Committee on Government Organization then Finance.

By Delegates Miley, Guthrie, Bates, Rowe, Moye, Perdue, Fleischauer, Campbell, Blackwell, Perry and Skinner:

H. B. 4564 - “A Bill to amend and reenact §11-17-2 and §11-17-3 of the Code of West Virginia, 1931, as amended, all relating to the taxing certain tobacco products; taxing certain tobacco products to fund public employees insurance and substance abuse programs; establishing new taxes and providing incremental increases in those taxes; creating a special revenue account; and authorizing the Secretary of the Department of Health and Human Resources to establish and administer programs to address drug addiction in this state”; to the Committee on Health and Human Resources then Finance.

By Delegates McCuskey and Skinner:

H. B. 4565 - “A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing Class A Licensees to begin selling alcohol at ten o’clock a.m. on Sundays; and to provide the county commission with the authority to decide whether Class B Licensee may begin selling at ten

o'clock a.m. on Sundays"; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Espinosa, Duke, Statler and D. Evans:

H. B. 4566 - "A Bill to amend and reenact §18-4-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §18A-2-2, §18A-2-5a, §18A-2-6, §18A-2-7 and §18A-2-8a of said code; to amend said code by adding thereto a new section, designated §18A-2-7b; to amend and reenact, §18A-4-7a, §18A-4-8b and §18A-4-8e of said code; and to amend and reenact §18A-5-8 of said code, all relating to school personnel; including assistant and associate superintendents under provisions for permanent administrative certification for superintendents; changing deadline for county board vote on termination of continuing contracts of teachers; requiring the department to report on database system certain disqualifications to teach; changing deadlines for teachers and service personnel to give notice of retirement to qualify for early notification payment; changing deadline for county board vote on termination of continuing contracts of service persons; changing deadline for notice of consideration for transfer; changing deadline for hearing on proposed transfer; changing deadline to provide list of employees considered for transfer to county board; changing method of notification and documentation of receipt of notice to employees recommended for transfer; making technical alignment of dates on personnel action and foreseen need for personnel; consolidating limitations on employee transfers after twentieth day prior to instructional term; removing reports to state superintendent; removing exemption for position vacated but not posted; changing transfer limit to twentieth day for prior for service person employed and assigned as autism mentor or certain aid, paraprofessional, interpreter or early childhood assistant teacher; limiting transfers service persons after the twentieth day prior with certain exceptions; changing deadline providing county board list of probationary teachers recommended for rehire; providing for filling position known on or before March 1 to exist for the next school year and requiring employees subject to release to be considered prior to posting for application for nonemployees; removing requirement to

submit lateral transfer policies to state board to be complied for reports to LOCEA; facilitating postings for longer than the five-day minimum; removing requirement to any applicant of status of his or her application after hiring decision made; changing requirements for notice and receipt notification to persons on preferred recall of all position openings; requiring periodic review and update of service personnel competency tests; removing requiring requirement for minimum one day in-service training to assist preparation for competency tests; removing obsolete language and making technical improvements”; to the Committee on Education then Finance.

By Delegates Fleischauer, Perdue, Pushkin, Rowe, Morgan, Guthrie, Hornbuckle and Moore:

H. B. 4567 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-6C-1, §22-6C-2 and §22-6C-3, all relating to establishing an industrial water extraction fee; placing a one cent fee on every gallon of water extracted for industrial use; placing an additional one cent fee on every gallon of water extracted for industrial use that is transported over state roads; requiring measuring of water withdrawals by a specified method; defining terms; and providing rule-making authority”; to the Committee on the Judiciary then Finance.

By Delegate Skinner:

H. B. 4568 - “A Bill to amend and reenact §17A-3-3b of the Code of West Virginia, 1931, as amended, relating to permitting the assessor to mail a notice advising the owner of a vehicle believed not to be properly registered in the state to contact the office of the assessor and provide certain information concerning residency; and imposing a criminal penalty”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Hamrick, Waxman, Statler, Ellington and Stansbury:

H. B. 4569 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-1-51 relating

to appointment of, conduct of and training of poll watchers; and imposing duties on Secretary of State and county clerks with regard to poll watchers”; to the Committee on the Judiciary.

By Delegates Bates, Miley, Fluharty, Morgan, Shaffer, Guthrie, Manchin, Fleischauer, Hornbuckle, Perdue and Moore:

H. B. 4570 - “A Bill to amend and reenact §11-13V-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §11-13DD-1, §1113DD-2 and §11-13DD-3, all relating to continuing certain severance taxes that are dedicated to the Workers’ Compensation Debt Reduction Fund towards the State Road Fund upon satisfaction of debt; and providing a tax credit against the tax for taxpayers that create value-added jobs”; to the Committee on Finance.

By Delegates Espinosa, Gearheart, Upson, Storch, Shott and E. Nelson:

H. B. 4571 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b, relating to creating a one-day special license for charitable events to sell nonintoxicating beer”; to the Committee on the Judiciary then Finance.

By Delegates Espinosa, Statler, Blackwell, D. Evans, Romine, Westfall, Stansbury and R. Smith:

H. B. 4572 - “A Bill to amend and reenact §18-1-1 of the Code of West Virginia, 1931, as amended, relating to excepting specialized contract instructors from the definition of teacher; and defining that term”; to the Committee on Education.

By Delegates A. Evans, Hamilton, Kelly, Rowan, Zatezalo and Romine:

H. B. 4573 - “A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting the Department of Environmental Protection’s construction or reclamation

contracts from the review and approval requirements of the Division of Purchasing”; to the Committee on Government Organization then the Judiciary.

By Delegates Faircloth, Flanigan, Blair and Hill:

H. B. 4574 - “A Bill to repeal §30-9-2, §30-9-3, §30-9-4, §30-9-5, §30-9-6, §30-9-7, §30-9-8, §30-9-9, §30-9-10, §30-9-11, §30-9-12, §30-9-13, §30-9-14, §30-9-15, §30-9-16, §30-9-17, §30-9-18, §30-9-19, §30-9-20, §30-9-21, §30-9-22, §30-9-23, §30-9-24, §30-9-25, §30-9-26, §30-9-27, §30-9-28, §30-9-29 and §30-9-30 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-9-1 of said code, all relating to terminating the West Virginia Board of Accountancy; and providing deadlines for wind-up activities of the board”; to the Committee on Government Organization.

Special Calendar

Third Reading

S. B. 15, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 83**), and there were—yeas 97, nays 3, absent and not voting none, with the nays and absent and not voting being as follows:

Nays: Fast, Shaffer and Waxman.

Absent and Not Voting. None.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 15) passed.

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

Com. Sub. for H. B. 2122, Making it illegal for first responders to photograph a corpse; Jonathon’s Law; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 84**), and there were—yeas 100, nays none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2122) passed.

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

Com. Sub. for H. B. 2122 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-12-16, relating to making it illegal for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a human corpse or person being provided medical care or assistance; defining terms; creating a criminal offense for first responders to photograph, film, videotape, record, or otherwise reproduce in any manner the image of a human corpse or person being provided medical care or assistance; creating a criminal offense for first responders to knowingly disclose any photograph, film, videotape, record, or other reproduction of the image of a human corpse or person being provided medical care or assistance; providing for exceptions to the criminal offenses; providing for criminal penalties; providing for enhanced penalties for subsequent offenses; and designating as ‘Jonathon’s Law’.”

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

Second Reading

Com. Sub. for H. B. 3019, Requiring official business and records of the state and its political subdivisions be conducted in English; on

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

Com. Sub. for H. B. 4209, Relating generally to health care provider taxes; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4291, Increasing penalties for teachers who commit sexual offenses against children; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page two, section five, line thirteen, by striking out the word “personnel” and inserting in lieu thereof the word “person”.

On page two, section five, line twenty-nine, by striking out the word “personnel” and inserting in lieu thereof the word “person”.

On page two, section five, line thirty-one, by striking out the word “personnel” and inserting in lieu thereof the word “person”.

On page three, section five, line forty-six, by striking out the word “personnel” and inserting in lieu thereof the word “person”.

On page three, section five, line forty-nine, by striking out the word “personnel” and inserting in lieu thereof the word “person”.

And,

On page three, section five, line fifty-seven, by striking out the word “personnel” and inserting in lieu thereof the word “person”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4323, Relating to the reporting of emergency incidents by well operators and pipeline operators; on second reading, coming up in regular order, was read a second time.

Delegate Ireland moved to amend the bill on page two, section one, subdivision three, line eighteen, by striking out the period and inserting in lieu thereof a colon and the following:

“Provided, That the term ‘pipeline facility’ shall not include pipelines of four inches or less, measuring the inside diameter, that service a farm or residence.”

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on questions regarding Com. Sub. for H. B. 4323 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

Mr. Speaker, Mr. Armstead, in the Chair

The amendment, offered by Delegate Ireland, was then adopted.

The bill was then ordered to engrossment and third reading.

H. B. 4347, Providing pregnant women priority to substance abuse treatment; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4378, Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two,

section seventeen, line fourteen, immediately following the word “in”, by inserting the word “recent”.

The bill was then ordered to engrossment and third reading.

H. B. 4417, Increasing wages protected from garnishment; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. B. 2904, Requiring the clerk of a county commission to maintain a county ordinance book,

Com. Sub. for H. B. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house,

And,

Com. Sub. for H. B. 4467, Including financial aid planning and completion of the Free Application for Federal Student Aid in secondary school instruction in personal finance.

Remarks by Members

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegates Sponaugle and Miley regarding plans to fix PEIA and those of Delegate Morgan regarding the current legislative session be printed in the Appendix to the Journal.

Delegate Azinger asked and obtained unanimous consent that the remarks of Delegate McGeehan regarding the 1st Amendment be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Eldridge filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4334.

Delegate E. Nelson filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2852.

At 12:53 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, February 17, 2016.

WEDNESDAY, FEBRUARY 17, 2016

THIRTY-SIXTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, February 16, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At 11:25 a.m., upon motion of Delegate Cowles, the House recessed for ten minutes.

Committee Reports

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 2966, Relating to the Senior Farmers' Market Nutrition Program,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2966) was referred to the Committee on Finance.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4339, Relating to wildlife resources,

And,

H. B. 4411, Relating to penalty for illegally taking native brook trout,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4339 and H. B. 4411) were each referred to the Committee on the Judiciary.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4369, Decreasing and ending the tax on timber,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4369) was referred to the Committee on Finance.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 2977, Providing that rents and royalties from leases of the minerals under the state's rivers and streams shall be expended for road paving and maintenance,

And,

H. B. 4168, Creating a special motor vehicle collector license plate,

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

In accordance with the former direction of the Speaker, the bills (H. B. 2977 and H. B. 4168) were each referred to the Committee on Finance.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 2665, Relating to participation in Motor Vehicle Alcohol Test and Lock Program,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2665) was referred to the Committee on the Judiciary.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 41, U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 41) was referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 39, US Army PFC Cornelius Vance Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 39 - "Requesting the Division of Highways to name Bridge Number 23-119/18-0.01 (23A141) (37.76693, -81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the 'US Army PFC Cornelius Vance Memorial Bridge'."

With the recommendation that the committee substitute be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for H. C. R. 39) was referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 2569, Relating to the Dealer Recovery Program,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2569) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4380, Adding the spouse of an indigent person as a possible individual who may be liable for the funeral service expenses,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4380) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4040, Regulating step therapy protocols in health benefit plans,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4040 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-16I-1, §33-16I-2 and §33-16I-3, all relating to regulating step therapy protocols in health benefit plans which provide prescription drug benefits,”

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and to expand the prescriptive authority that may be granted to advanced practice registered nurses,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4334) was referred to the Committee on Government Organization.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4488, Limiting audits of public libraries to a biennial schedule,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4488) was referred to the Committee on Government Organization.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4508, Prohibiting counties and municipalities from adopting ordinances or regulations that base restrictions on the breed of a dog,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4508) was referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4060, **H. B. 4107** and **H. B. 4108**, Authorizing Department of Military Affairs and Public Safety to promulgate legislative rules,

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

Com. Sub. for H. B. 4060 - "A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Fire Commission to promulgate a legislative rule relating to the fire code; authorizing the Fire Commission to promulgate a legislative rule relating to the state

building code; and authorizing the Fire Commission to promulgate a legislative rule relating to the standards for the certification of continuing education of municipal, county and other public sector building code officials, inspectors and plans examiners,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4080 and **H. B. 4079**, Authorizing Department of Veterans’ Assistance to promulgate legislative rules,

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

Com. Sub. for H. B. 4080 - “A Bill to amend and reenact article 11, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Veterans’ Assistance to promulgate a legislative rule relating to VA headstones or markers; and relating to authorizing the Department of Veterans’ Assistance to promulgate a legislative rule relating to the state home for veterans,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4521, Modifying the requirements that allow a child witness to testify by closed circuit television,

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

Com. Sub. for H. B. 4521 - “A Bill to amend and reenact §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West Virginia, 1931, as amended, all relating to modifying the requirements that allow a child witness to testify by live, one way, closed-circuit television; defining terms; expanding the allowance of such closed-circuit testimony to other alleged criminal offenses; authorizing use for persons with certain intellectual disabilities; clarifying the use and requirements of one way closed-circuit television; setting forth findings to be made by the circuit court prior to ordering testimony through live, one way, closed-circuit television; granting the court discretion to appoint a psychiatrist, licensed psychologist or licensed social worker to provide an expert opinion regarding the factors and findings to be made by the court in deciding whether to order testimony through live, one way, closed circuit television; requiring court-appointed expert witness to provide written report within established deadline; providing for the effect of failure to comply with filing deadline; revising the procedures required for taking testimony of child witness by live, one-way, closed circuit television; setting forth the procedures for testimony by live, one-way, closed circuit television; establishing a location for witness testimony and individuals allowed in the witness room; setting requirements for display in the courtroom; requirements; providing who may question the child witness and the procedures therefor; providing for requirement of electronic means for defendant to confer with counsel during the taking of the testimony; providing for instruction to jury regarding use of live, one-way, closed circuit television; authorizing the defendant to waive jury instruction regarding use of live, one-way, closed circuit television; prohibiting counsel from making comments in the presence of the jury; authorizing the court to establish measures for the physical safety of the child witness and for the confidentiality of sensitive information; authorizing the court to allow accommodations for child witness testimony in court rather than by live, one-way, closed circuit television; authorizing the allowance of a toy, blanket or similar item to be in possession of child witness while testifying; authorizing the allowance of a designated support person and seating of such support

person in the courtroom; and providing requirements for allowance of a designated support person by motion,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 14, Limiting successor corporation asbestos-related liabilities,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4365, Relating to the certificate of need process,

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

Com. Sub. for H. B. 4365 - “A Bill to repeal §16-2D-4a, §16-2D-4b, §16-2D-5a, §16-2D-5b, §16-2D-5c, §16-2D-5d, §16-2D-5e

and §16-2D-7a, of the Code of West Virginia, 1931, as amended; to amend and reenact §16-2D-1, §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-6, §16-2D-7, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-12, §16-2D-13, §16-2D-14 and §16-2D-15; and to amend said code by adding thereto five new sections, designated §16-2D-16, §16-2D-17, §16-2D-18, §16-2D-19 and §16-2D-20, all relating to the certificate of need process; providing legislative findings; defining terms; providing powers to the authority; providing duties to the authority; providing rulemaking authority; continuing a special revenue account; providing a process to update certificate of need standards; providing a process to update the state health plan; providing a process to review the cost effectiveness of the certificate of need standards; providing a process for the Health Care Authority to review whether a certificate of need is required; providing health services that require a certificate of need; providing health services for which a certificate of need may not be granted; providing an exemption process; providing exemptions to the certificate of need requirement; providing criteria the authority shall use to determine whether to grant a certificate of need; changing the certificate of need process; providing certain timelines; requiring the creation of a process to review an uncontested certificate of need application; requiring the authority to make certain findings to approve a certificate of need; providing an appeal process; prohibiting the transfer of a certificate of need; permitting the authority to perform a compliance review of an issued certificate of need; permitting the revocation of a license; creating an injunction process; establishing a statute of limitations; establishing an administrative penalty.”

With the recommendation that the committee substitute do pass.

Select Committee Reports

Delegate Ellington, Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4240, Relating to the Uniform Controlled Substances Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4240) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4503, Relating to substance abuse while pregnant,

And reports the same back without recommendation as to its passage, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 4503) was referred to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

S. B. 123, Treatment for sexually transmitted diseases.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 147 - “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §11-15-9o, relating to specifying exemption from the consumers sales and service tax and use tax for purchases of certain services and tangible personal property sold for the repair, remodeling and maintenance of certain specified aircraft; defining terms; and specifying method for claiming exemption”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 272 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6, relating to Attorney General’s investigators; and allowing duly authorized investigators to carry concealed weapons under certain circumstances”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 298 - “A Bill to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to allowing restaurants, private clubs, distilleries, mini-distilleries and wineries to sell and serve alcohol beginning at 10:00 a.m. on Sundays”; which was referred to the Committee on Roads and Transportation then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 423 - “A Bill to amend and reenact §36-8-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-8-2a, all relating to the specific escheat of United States savings bonds and all rights and legal title thereto; and defining terms”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 493 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §44D-5-503a, §44D-5-503b and §44D-5-503c; and to amend and reenact §44D-5-505 of said code, all relating to allowing the creation of self-settled spendthrift trusts; permitting a grantor to transfer assets into a qualified self-settled spendthrift trust and retain an interest in that trust; excluding applicability of certain provisions of code to that qualified interest; clarifying applicability of self-settled spendthrift trust provisions when certain interests are not qualified interests; prohibiting inference of intent to delay, hinder or defraud creditors solely based on grantor’s establishment of or transfer to a self-settled spendthrift trust; permitting transfer to trust to be set aside under certain circumstances; providing for the payment of expenses associated with defending the trust to be paid from transfer; permitting creditors to bring actions against transfer of trust assets within four years after date of grantor’s transfer; limiting creditor rights to grantor’s transfer; prohibiting credit claims or causes of action against certain other persons or entities; providing applicability of provisions governing creditor’s actions to avoid transfers to situations involving multiple transfers; setting statute of limitations for self-settled spendthrift trust moved to this state for four years from date assets moved to the state; defining terms; providing for filling of vacancies in office of qualified trustee or independent qualified trustee; permitting certain terms to be included in self-settled spendthrift trust without deeming trust irrevocable; requiring treatment of beneficiary

with right to withdraw entire beneficial interest be treated as grantor once right to withdraw has lapsed, been released or otherwise expired; and exempting self-settled spendthrift trusts from being subject to claims of the grantor's creditors"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 510 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-15-9a, relating to establishing a new special revenue fund, designated the Adult Drug Court Participation Fund, for the purpose of collecting and remitting moneys to the State Treasury for participation in an adult drug court program administered by the Supreme Court of Appeals"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 511 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-1-22, relating to establishing a new special revenue fund, designated the Court Advanced Technology Subscription Fund, for the purpose of collecting and remitting moneys to the State Treasury for the use of certain advanced technology systems provided by the Supreme Court of Appeals"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 516 - “A Bill to amend and reenact §17B-2A-2 of the Code of West Virginia, 1931, as amended, relating to registration for selective service”; which was referred to the Committee on Veterans’ Affairs and Homeland Security then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 583 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2, §64-12-3, §64-12-4 and §64-12-5, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; authorizing certain agencies and commissions under Department of Administration to repeal certain legislative and procedural rules; repealing Department of Administration legislative rule relating to the availability of state surplus buildings and equipment to charity food banks; repealing State Building Commission procedural rule relating to procedural rules for meetings; repealing Ethics Commission legislative rule relating to advisory opinions; repealing Ethics Commission legislative rule relating to guidelines and standards for determining the existence of disqualifying financial interests; repealing Ethics Commission legislative rule relating to contributions; repealing Public Employees Insurance Agency procedural rules relating to procedural rules for the Public Employees Insurance Agency Advisory Board; and repealing Board of Risk and Insurance Management legislative rule relating to discontinuation of professional malpractice insurance”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 584 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5, §64-12-6 and §64-12-7, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing certain legislative, procedural and interpretive rules promulgated by certain agencies and boards under the Department of Environmental Protection; repealing the Department of Environmental Protection legislative rule relating to requiring the submission of emission statements for volatile organic compound emissions and oxides; repealing the Department of Environmental Protection legislative rule relating to bona fide future use; repealing the Department of Environmental Protection legislative rule relating to abandoned wells; repealing the Department of Environmental Protection legislative rule relating to the Environmental Excellence Program; repealing the Department of Environmental Protection legislative rule relating to oil and gas operations – solid waste; repealing the Department of Environmental Protection legislative rule relating to the Recycling Assistance Fund Grant Program; repealing the Department of Environmental Protection legislative rule relating to commercial hazardous waste management facility siting fees; repealing the Department of Environmental Protection legislative rule relating to groundwater protection standards; repealing the Department of Environmental Protection legislative rule relating to Underground Storage Tank Insurance Trust Fund; repealing the Department of Environmental Protection legislative rule relating to hazardous waste management; repealing the Department of Environmental Protection legislative rule relating to solid waste management; repealing the Department of Environmental Protection legislative rule relating to waste tire management; repealing the Department of Environmental Protection legislative rule relating to sewage sludge management; repealing the Department of Environmental Protection legislative rule relating to Hazardous Waste Emergency Response Fund regulations; repealing the Department of Environmental Protection interpretive rule

relating to initial inspection, certification and spill prevention response plan requirements; repealing the Department of Environmental Protection legislative rule relating to the Office of the Environmental Advocate; repealing the Department of Environmental Protection legislative rule relating to coal refuse; repealing the Department of Environmental Protection procedural rule relating to administrative procedures and civil administrative penalty assessment – Water Resources Protection Act; repealing the Department of Environmental Protection procedural rule relating to procedures and practice before the Department of Energy; repealing the Commercial Hazardous Waste Management Facility Siting Board legislative rule relating to certification requirements; repealing the Environmental Quality Board legislative rule relating to requirements governing water quality standards; repealing the Environmental Quality Board procedural rule relating to requests for information; repealing the Environmental Quality Board procedural rule relating to rules governing the notice of open meetings under the Open Governments Proceedings Act; repealing the Miner Training, Education and Certification Board legislative rule relating to certification of blasters for surface coal mines and surface areas of underground mines; repealing the Miner Training, Education and Certification Board legislative rule relating to standards for certification of blasters for surface coal mines and surface areas of underground mines; repealing the Water Resources Board legislative rule relating to the State National Pollutant Discharge Elimination System Program; repealing the Water Resources Board legislative rule relating to requirements governing the State National Pollutant Discharge Elimination System; repealing the Air Quality Board procedural rule relating to requests for information; repealing the Oil and Gas Inspectors Examining Board procedural rule relating to matters pertaining to the rules and regulations dealing with the Oil and Gas Inspectors Examining Board; and repealing the Board of Miner Training, Education and Certification procedural rule relating to temporary suspension of certificates issued to persons pending full hearing before the board of appeals”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 585 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1 and §64-12-2, all relating generally to repealing certain legislative, procedural, or interpretive rules promulgated by certain agencies and boards which are no longer authorized or are obsolete; repealing certain legislative, procedural and interpretive rules promulgated by certain agencies under the Department of Health and Human Resources; repealing the Department of Health and Human Resources legislative rule relating to preliminary requirement for approval by the West Virginia Department of Health of a laboratory for a specified technique; repealing the Department of Health and Human Resources legislative rule relating to ice cream and frozen milk; repealing the Department of Health and Human Resources legislative rule relating to the establishment of a Controlled Substances Therapeutic Research Program and the certification of patients, practitioners and hospital pharmacies; repealing the Department of Health and Human Resources legislative rule relating to instillation of medication in the eyes of the newborn and the dissemination of advice and information concerning the dangers of inflammation of the eyes of the newborn; repealing the Department of Health and Human Resources legislative rule relating to hazardous materials treatment information repository; repealing the Department of Health and Human Resources legislative rule relating to immunization criteria for transfer students; repealing the Department of Health and Human Resources legislative rule relating to specialized health procedures in public schools; repealing the Department of Health and Human Resources legislative rule relating to incorporation of the handicapped children services manual; repealing the Department of Health and Human Resources legislative rule relating to termination of income withholding; repealing the Department of Health and Human Resources legislative rule relating to obtaining support from federal

and state income tax refunds; repealing the Department of Health and Human Resources legislative rule relating to interstate income withholding; repealing the Department of Health and Human Resources legislative rule relating to providing information to credit reporting agencies; repealing the Department of Health and Human Resources interpretive rule relating to the health facilities plan for the fiscal years 1985-89; repealing the Department of Health and Human Resources interpretive rule relating to the design, information and procedural manual for mobile home parks; repealing the Department of Health and Human Resources interpretive rule relating to pertussis guidelines; repealing the Department of Health and Human Resources procedural rule relating to procedural rules for the advisory Committee for the Omnibus Health Care Act; repealing the Health Care Authority legislative rule relating to a freeze on hospital rates and granting of temporary rate increases; repealing the Health Care Authority legislative rule relating to Utilization Review and Quality Assurance Program – Phase 1; repealing the Health Care Authority legislative rule relating to limitation on hospital gross patient revenue; repealing the Health Care Authority legislative rule relating to exemption for rural primary care hospitals”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 586 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1 and §64-12-2, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, commissions and boards which are no longer authorized or are obsolete; repealing certain legislative rules by certain agencies and commissions under the Department of Military Affairs and Public Safety; repealing the Division of Corrections legislative rule relating to a furlough program for adult inmates; repealing the Division of

Corrections legislative rule relating to employment of displaced correctional employees; repealing the Division of Corrections legislative rule relating to parole supervision; repealing the Division of Corrections legislative rule relating to recording of inmate phone calls; repealing the Division of Corrections legislative rule relating to monitoring inmate mail; repealing the Division of Corrections interpretive rule relating to charges assessed against inmates for services provided by state medical co-payment; repealing the Division of Corrections procedural rule relating to inmate grievance procedures; and repealing the Jails and Prison Standards Commission legislative rule relating to minimum standards for construction, operation and management of holding facilities”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 587 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2 and §64-12-3, all relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards which are no longer authorized or are obsolete; repealing certain legislative and procedural rule promulgated by certain agencies and boards under the Department of Revenue; repealing the Tax Division legislative rule relating to listing of interests in natural resources for purposes of first statewide appraisal; repealing the Tax Division legislative rule relating to guidelines for assessors to assure fair and uniform nonutility personal property values; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to review of appraisals by the county commission sitting as an administrative appraisal review board; repealing the Tax Division legislative rule relating to additional review and implementation of property appraisals; repealing the Tax Division legislative rule relating to

review by circuit court on certiorari; repealing the Tax Division legislative rule relating to revision of levy estimates; repealing the Tax Division legislative rule relating to inheritance and transfer tax; repealing the Tax Division legislative rule relating to annual tax on incomes of certain carriers; repealing the Tax Division legislative rule relating to the telecommunications tax; repealing the Tax Division legislative rule relating to tax credit for employing former members of Colin Anderson Center; repealing the Tax Division legislative rule relating to tax credits for new value-added, wood manufacturing facilities; repealing the Tax Division legislative rule relating to tax credits for new steel, aluminum and polymer manufacturing operations; repealing the Tax Division legislative rule relating to the business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit; repealing the Tax Division legislative rule relating to appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes; repealing the Banking Commissioner legislative rule relating to the West Virginia Consumer Credit and Protection Act; repealing the Banking Commissioner procedural rule relating to West Virginia Board of Banking and Financial Institutions; repealing the Office of the Insurance Commissioner legislative rule relating to utilization management; and repealing the Office of the Insurance Commissioner legislative rule relating to Medicare supplement insurance coverage”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 588 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, relating generally to repealing certain legislative, procedural, or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing certain legislative, procedural and interpretive rules promulgated by

certain agencies under the Department of Transportation; repealing the Division of Motor Vehicles legislative rule relating to rules and regulations; repealing the Division of Motor Vehicles legislative rule relating to special permits; repealing the Division of Motor Vehicles legislative rule relating to a safety and treatment program; repealing the Division of Motor Vehicles procedural rule relating to dealer and financial institution applicant or licensee administrative hearings; repealing the Division of Motor Vehicles legislative rule relating to seizure of driver's license, issuance of the temporary driver's license; repealing the Division of Motor Vehicles legislative rule relating to the Federal Safety Standards Inspection Program; and repealing the Division of Motor Vehicles interpretive rule relating to dealer issuance of temporary registration plates"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 589 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5, §64-12-6, §64-12-7, §64-12-8, §64-12-9, §64-12-10 and §64-12-11, all relating generally to repealing certain legislative, legislative exempt, procedural or interpretive rules promulgated by certain miscellaneous agencies, boards and commissions which are no longer authorized or are obsolete; repealing the Department of Agriculture legislative rule relating to tobacco; repealing the Department of Agriculture legislative rule relating to the conduct of beef industry self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to the conduct of beef self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to West Virginia seal of quality; repealing the Department of Agriculture legislative rule relating to aquaculture farm rules; repealing the Department of Agriculture procedural rule relating to the conduct

of tree fruit industries self-improvement assessment program referendums; repealing the Cable TV Advisory Board legislative rule relating to franchising procedures; repealing the Cable TV Advisory Board legislative rule relating to implementing regulations; repealing the Cable TV Advisory Board legislative rule relating to calculation and collection of late fee; repealing the Cable TV Advisory Board procedural rule relating to administrative procedures for consumer complaint resolution under the West Virginia Cable TV Systems Act; repealing the Cable TV Advisory Board procedural rule relating to rate regulation procedures; repealing the Cable TV Advisory Board procedural rule relating to form and service of notice under section eight, article eighteen-a, chapter five of this code; repealing the Contractor Licensing Board legislative rule relating to consumer complaints; repealing the Secretary of State legislative rule relating to matters relating to corporations and other business entity filing; repealing the Secretary of State legislative rule relating to matters relating to official election forms and vendor authorization; repealing the Respiratory Care Board legislative rule relating to the procedure for licensure applications; repealing the Attorney General procedural rule relating to freedom of information; repealing the Municipal Bond Commission procedural rule relating to rules of procedure covering board and executive committee meetings of the Municipal Bond Commission; repealing the Housing Development Fund legislative rule relating to refiling of administrative rules pertaining to administration of single-family mortgage loans; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for carrier access to the lines and facilities of other carriers; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for shipper access to the lines and facilities of rail carriers; repealing the Infrastructure and Jobs Development Council procedural rule relating to establishing procedures to provide public notice of date, time, place, agenda and purpose of meetings of the West Virginia Infrastructure and Jobs Development Council and manner in which meetings are to be conducted; and repealing the Water Development Authority procedural rule new procedures in relation to

providing public notice of date, time, place and purpose of meetings of the West Virginia Water Development Authority and manner in which meetings are to be conducted”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 590 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §64-12-1, §64-12-2, §64-12-3, §64-12-4, §64-12-5 and §64-12-6, all relating generally to repealing certain legislative, procedural and interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing certain legislative and procedural rules of certain agencies and boards of the Department of Commerce; repealing the Commercial Whitewater Advisory Board legislative rule relating to commercial whitewater outfitters; repealing the Commercial Whitewater Advisory Board procedural rule relating to regulations for open governmental proceedings; repealing the Commissioner of Employment Security legislative rule relating to regulations of the Commissioner of Employment Security; repealing the Commissioner of Employment Security legislative rule relating to implementation of a pilot employment supplemental matching program; repealing the Division of Forestry procedural rule relating to Freedom of Information Act requests; repealing the Division of Labor legislative rule relating to the West Virginia safety code for aerial passenger tramways, lifts and tows; repealing the Division of Labor legislative rule relating to the West Virginia Prevailing Wage Act; repealing the Minimum Wage Rate Board legislative rule relating to the West Virginia Prevailing Wage Act; repealing the Division of Natural Resources legislative rule relating to shoreline camping of government owned reservoir areas in West Virginia; repealing the Division of Natural Resources legislative rule relating to special bear hunting; and repealing the Division of Natural Resources procedural

rule relating to rules for open government proceedings”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegate Canterbury offered the following resolution, which was read by its title and referred to the Committee on Health and Human Resources then Rules:

H. C. R. 73 - “Requesting that the Joint Committee on Government and Finance study the funding methodology and process by which at-risk children and their families receive treatment services.”

Whereas, Residential treatment programs for children are a vital and essential part of a comprehensive continuum of services for at-risk children and their families; and

Whereas, Residential treatment services have been operating under a highly successful state controlled funding system since 1994, designed to reimburse residential treatment centers for the bundled costs of room, board, and supervision using federal funds received under Title IV-E of the Social Security Act and to fund treatment using Medicaid funds; and

Whereas, The bundled funding system allows residential treatment centers to specialize in different levels of treatment corresponding to the different levels of treatment needs in the state’s at-risk youth population and to receive bundled funding based on the level of treatment provided at the respective centers; and

Whereas, The system that the State of West Virginia has developed for funding residential treatment services for at-risk children has been highly successful in providing a stable and predictable source of funding for quality services; and

Whereas, In recent months, the Department of Health and Human Resources has taken steps to discontinue the bundled funding system

and has moved toward implementing a fee-for-service model for funding residential treatment of at-risk children; and

Whereas, The cost to residential treatment centers to provide services to at-risk children under a fee-for-service reimbursement model will be much greater than the cost to provide such services under the current bundled funding system; and

Whereas, An increase in cost for providing services to at-risk children will render residential treatment centers incapable of providing high quality care to the same number of children that are currently residing at the centers; and

Whereas, A decrease in capacity of in-state residential treatment centers will result in a greater number of at-risk children being transferred to residential facilities outside of the state, locating the children far from their families and costing the state substantially more than in-state placements; and

Whereas, Considering the geographical nature of West Virginia and current economic issues in the state, a lack of funding for residential treatment centers will have a significant impact on local economies in which the centers are located; and

Whereas, Prior to an executive agency making drastic, long lasting changes to the methodology for funding essential services for children, the state's lawmakers should have the opportunity to fully evaluate the impact of unbundling and un-leveling services for West Virginia's at-risk children, their families, and the companies whose mission it is to serve them; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study on the optimal funding methods for maintaining a comprehensive continuum of services for at-risk children in West Virginia that includes community based, in home, foster care,

residential treatment, aftercare, and transitional living services; and, be it

Further Resolved, That in conducting this study, the Joint Committee on Government and Finance review the following issues: how to create a longitudinal plan that provides adequate time to develop and implement an effective continuum of comprehensive services for at-risk children and families while coordinating with West Virginia universities and colleges to address workforce issues; how to reduce the number of children incarcerated in congregate juvenile jails; the financial impact to the state of placing children in residential treatment facilities outside of West Virginia's borders; the impact that a change in the bundled funding system would have on county boards of education and the Office of Institutional Education; and best practices for accommodating children with various and differing developmental needs, trauma histories, and behavioral symptoms under one state-wide system; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegates Skinner, Caputo, Fluharty, Lynch, Miley, Manchin, Reynolds, Boggs, Moore, P. White and Guthrie:

H. J. R. 45 - "Proposing an amendment to the Constitution of the State of West Virginia amending section fourteen, article VII relating to requiring a vote of sixty percent of each legislative house to override the Governor's veto and providing a summarized statement of the

purpose of such proposed amendment”; to the Committee on the Judiciary.

Petitions

Delegate Romine presented a petition signed by 2,183 residents urging the return of school prayer; which was referred to the Committee on Education.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates McCuskey, Foster and Hanshaw:

H. B. 4575 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6 and §61-147, all relating to laundering and concealment of proceeds from criminal activity; defining terms; creating felony crime of conducting financial transactions involving proceeds of criminal activity; creating felony crime of transporting, transmitting or transferring monetary instruments or property involving proceeds of criminal activity; creating felony crime of concealing monetary instruments or property involving proceeds of criminal activity; providing for penalties; providing for presumptions when law enforcement or persons acting at the direction of law enforcement are involved with proceeds of criminal activity; denying availability of certain defenses; providing for seizure and forfeiture of property or monetary instruments; clarifying conduct that constitutes separate offenses; and setting forth venue for offenses”; to the Committee on the Judiciary.

By Delegates Sobonya, Weld, Azinger, Shott, Marcum, Byrd, Hicks, Fast and Rohrbach:

H. B. 4576 - “A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties

for transporting controlled substances into the state; and exempting marihuana from this provision”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Overington, Folk, Kessinger, Shaffer and Azinger:

H. B. 4577 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to use of a firearm during, in relation to, or in furtherance of a violation of the Uniform Controlled Substances Act; creating the felony offense of use or possession of a firearm; providing penalties; clarifying that the offense is separate and distinct from other offenses; denying eligibility for sentencing alternatives; and clarifying the term ‘convicted’”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Weld, Byrd, Sobonya, B. White, Foster, Moore, Hicks and Perdue:

H. B. 4578 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to conspiracy to commit violations of the Uniform Controlled Substances Act; creating the felony offense of conspiracy; providing penalties; establishing a sentencing guideline based upon quantity for certain controlled substances; authorizing the court to make the determination of applicable quantity; and authorizing the aggregation of quantities from all participants and members of the conspiracy”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Lane, Summers, Hanshaw, Zatezalo, Storch, Manchin, Skinner, Miley, Sobonya, Fluharty and Byrd:

H. B. 4579 - “A Bill to amend and reenact §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, all relating to voter registration list maintenance and the combined voter registration and driver licensing fund; and providing that under certain circumstances

moneys from that fund would be transferred to another fund”; to the Committee on the Judiciary then Finance.

By Delegates R. Smith, Blair, Hill, Faircloth, Ihle and Atkinson:

H. B. 4580 - “A Bill to repeal §30-19-2, §30-19-3, §30-19-4, §30-19-5, §30-19-6, §30-19-7, §30-19-8, §30-19-9, §30-19-10, §30-19-11, §30-19-12, §30-19-13, §30-19-14, §30-19-15, §30-19-16 and §30-19-17 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-1A-7; and to amend and reenact §30-19-1 of said code, all relating to terminating the State Board of Registration of Foresters; providing deadlines to wind-up activities of the board; transferring the assets and records of the board to the Division of Forestry; creating a special fund; authorizing rule-making; and providing for the transfer and disposition of board assets and funds”; to the Committee on Government Organization then Finance.

By Delegate Perry:

H. B. 4581 - “A Bill to amend and reenact §18B-1F-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18B-1F-10, all relating to ownership of real property housing BridgeValley Community and Technical College at the West Virginia Education, Research, and Technology Park and membership on the Technology Park corporation’s board of directors”; to the Committee on Education then Finance.

By Delegate Perry:

H. B. 4582 - “A Bill to amend and reenact §18B-3C-11 of the Code of West Virginia, 1931, as amended, relating to Bridge Valley Community and Technical College service facility fee assessments at the West Virginia Education, Research and Technology Park; and aligning these fees with the rate charged for the Advanced Technology Center”; to the Committee on Education then Finance.

By Delegates McCuskey, McGeehan, Moffatt, Blair, Foster, Byrd, Fluharty, Weld, B. White and Storch:

H. B. 4583 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-28-1 and §47-28-2, all relating to fantasy games; defining fantasy game; providing that fantasy games are lawful; and exempting fantasy games from regulation”; to the Committee on the Judiciary then Finance.

By Delegate Upson:

H. B. 4584 - “A Bill to amend and reenact §24-2-2 of the Code of West Virginia, 1931, as amended, relating generally to public service districts; prohibiting shifting future development costs onto existing public service district customers”; to the Committee on Government Organization then Finance.

By Delegates Fluharty, Storch, McCuskey, Blair, Miley, Kessinger, Ferro, Hornbuckle, Reynolds, Byrd and Bates:

H. B. 4585 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-25; to amend said code by adding thereto a new section, designated §18-2-41; and to amend said code by adding thereto a new section, designated §18B2A-9, all relating to establishing the ‘Stay in State’ tax credit against personal income for higher education tuition for certain state residents; creating credit for student loan payments for all in-state community college, college or university undergraduates and their in-state employers against personal income tax; establishing conditions and qualifications for the tax credit; providing methodology for calculating credit; providing for graduate and employer eligibility for payments against student loans for employees; defining terms; and providing that the Board of Education, State Board of Education and governing boards of colleges promotion of the program”; to the Committee on Education then Finance.

By Delegate Cowles:

H. B. 4586 - “A Bill to amend and reenact §54-2-4 of the Code of West Virginia, 1931, as amended, relating to representation in condemnation proceedings where a property owner or other party is

under a legal disability; requiring representation for protected persons, incarcerated persons and unknown parties; clarifying that the statutory procedures for condemnation actions control; and authorizing payment for representatives”; to the Committee on the Judiciary.

By Delegate Moffatt:

H. B. 4587 - “A Bill to amend and reenact §3-9-19 of the Code of West Virginia, 1931, as amended, relating to violations associated with absent voters’ ballots; providing cleanup language by changing reference of circuit clerk to clerk of county commission; changing gender references and making other changes relating to the language in the misdemeanor provisions of this section”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Sobonya, Rohrbach, Stansbury, Waxman, Miller, Morgan, Reynolds, Hicks, Perdue and Hornbuckle:

H. B. 4588 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to setting certain safety standards for youth lacrosse; and requiring the West Virginia Secondary Schools Activities Commission to adopt certain safety standards for youth lacrosse under certain circumstances”; to the Committee on Health and Human Resources then Education.

By Delegate Manchin:

H. B. 4589 - “A Bill to amend and reenact §64-10-3 of the Code of West Virginia, 1931, as amended, relating to reauthorizing, with amendment, the legislative rule contained in title twentyeight, series two of the Code of State Rules relating to the Contractors Licensing Act (28 CSR 2); and modifying the definition of remodeling and repair contractor”; to the Committee on the Judiciary.

By Delegate Walters:

H. B. 4590 - “A Bill to amend and reenact §46A-4-101 and §46A-4-107 of the Code of West Virginia, 1931, as amended, all relating to the requirements for making regulated consumer loans; clarifying authority to take assignment or undertake certain actions to

collect or enforce a regulated consumer loan; and adjusting finance charge rate brackets”; to the Committee on Banking and Insurance then Finance.

By Delegate Lane:

H. B. 4591 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-1007, relating to prohibiting the Department of Health and Human Resources from discontinuing the bundled service funding and reimbursement system for residential treatment of at-risk children”; to the Committee on Health and Human Resources then Finance.

By Delegates McGeehan, Ihle, Kelly and Folk:

H. B. 4592 - “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to the hunting of coyotes; permitting year-round hunting of coyotes using artificial light or night vision technology and permitting hunting of coyotes at any hour”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Cooper, Fleischauer, Manchin, Pushkin, Perdue, Moore, Campbell, Bates, Faircloth, Rodighiero and Skinner:

H. B. 4593 - “A Bill to amend and reenact §33-15-2a and §33-15-4, of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto three new sections designated §33-15-4m, §33-15-20a and §33-15-22, all related to defining surprise bills and health care providers, adding new disclosure requirements for health care providers, hospitals and insurers, adding the requirement that insurers develop an access plan for consumers, and establishing how surprise bills are to be handled in certain circumstances”; to the Committee on Banking and Insurance then Health and Human Resources.

By Delegates Howell, Sponaugle, Cadle, Hartman, Morgan, Blair, Hamilton and Butler:

H. B. 4594 - “A Bill to amend and reenact §30-21-7 of the Code of West Virginia, 1931, as amended, relating to predoctoral psychology

internship qualifications; and requiring that in order to be eligible for a license to engage in the practice of psychology, an applicant with a doctor of philosophy degree or its equivalent must have at least one thousand eight hundred hours from a doctoral internship”; to the Committee on Health and Human Resources then Government Organization.

By Delegates Perry, Campbell, Lynch, Reynolds, Folk, Moore, Kessinger, Cooper, Ambler, Perdue and Miller:

H. B. 4595 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-23, relating to the State Board Of Education; requiring the board to develop a county plan to use funds designated for the support of isolated schools without reducing other funds the boards would use for the isolated schools; and providing that these schools continue to receive this classification and funding until the State Board of Education conducts a public hearing or administrative proceeding to determine why the schools should not be considered ‘isolated’”; to the Committee on Education then Finance.

By Delegate R. Smith:

H. B. 4596 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2 and §11-28-3, all relating to creating a five-year tax credit for businesses locating on post-mine sites; defining terms; setting eligibility requirements for credit; establishing the amount of tax credit allowed; and establishing how credit may be applied”; to the Committee on Energy then Finance.

By Delegates Fleischauer, P. Smith, Shaffer, Caputo, Morgan, Lynch, Ferro, Faircloth, Moffatt, Pushkin and Eldridge:

H. B. 4597 - “A Bill to amend and reenact §30-27-5 of the Code of West Virginia, 1931, as amended, relating to expanding duties of Board of Barbers and Cosmetologists to permit students to perform

acts of public service, including practicing their craft at temporary off-site events”; to the Committee on Government Organization.

By Delegates Rowe, Pushkin, Sobonya, Miller, Hornbuckle, Moore, Perry, Fluharty, B. White, Guthrie and Fleischauer:

H. B. 4598 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections designated as §16-1-16 and §16-1-16a, all relating to social determinants of health; establishing the Minority Health Advisory Team including its composition and duties; authorizing a Community Health Equity Initiative Demonstration Project; authorizing the Commissioner of the Bureau for Public Health to establish a Community Health Equity Initiative Demonstration Project; establishing eligibility requirements; providing for the administration of the demonstration project; establishing requirements for a demonstration project plan and the selection of communities for participation; establishing reporting requirements; and establishing the date on which the demonstration project terminates”; to the Committee on Health and Human Resources then Finance.

By Delegates Skinner, Fleischauer, Campbell, Guthrie, Fluharty, Miley, Manchin, Reynolds, P. White, Eldridge and Byrd:

H. B. 4599 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, relating to extending the statute of limitations in personal actions for damages for victims of criminal actions”; to the Committee on the Judiciary.

By Delegates Skinner, Fleischauer, Perry, Guthrie, Miley, Manchin, Reynolds, P. White, Campbell, Eldridge and Byrd:

H. B. 4600 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-2-12a, relating to limitations of actions and suits; providing civil actions for damages due to sexual abuse; and designating this as the ‘Child Victims Act’”; to the Committee on the Judiciary.

By Delegate Upson:

H. B. 4601 - “A Bill to amend and reenact §48-9-206 of the Code of West Virginia, 1936, as amended, relating to court ordered allocation of custodial responsibility of children; and providing that the court to allocate time equally between parents, unless equal custody is not consistent with the best interest of the child”; to the Committee on the Judiciary.

By Delegates Sobonya, Rohrbach, Miller, Border, D. Evans, Cooper, Ambler, Waxman, B. White, Statler and Summers:

H. B. 4602 - “A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto three new sections, designated §60A-4-414, §60A-4-415 and §60A-4-416; relating to mandatory minimum sentences for trafficking drugs into the state and for other drug offenses; increasing period of ineligibility for parole for certain violations of possession or distribution of controlled substances and establishing applicable conditions; increasing period of ineligibility for parole for transporting certain controlled substances into the state and establishing applicable conditions; prohibiting application of alternative sentences; providing an exception to the mandatory minimums; increasing the penalties for transporting controlled substances into the state; establishing a penalty for conspiracy; establishing a penalty for attempt; and establishing a penalty for possession or use of a firearm in furtherance of a drug transaction”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Walters and Frich:

H. B. 4603 - “A Bill to amend and reenact §46A-2-121 of the Code of West Virginia, 1931, as amended, relating to unconscionability and fraudulent conduct”; to the Committee on the Judiciary.

By Delegates Householder, Mr. Speaker (Mr. Armstead), Kessinger, Upson, Shott, Folk and Lane:

H. B. 4604 - “A Bill to amend and reenact §6B-2-4 of the Code of West Virginia, 1931, as amended, relating to violations of the Ethics

Act; changing the burden of proof needed to show a violation of the Ethics Act to a preponderance of evidence standard; and, extending the statute of limitations for filing complaints alleging violations of the Ethics Act from two years to five years”; to the Committee on the Judiciary.

By Delegates Kessinger, Mr. Speaker (Mr. Armstead), Shott, Householder, Upson, Lane and Folk:

H. B. 4605 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-10f, relating to the disclosure of interested parties to a government contract; defining terms; prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; requiring submission of supplemental disclosure within thirty days of completion or termination of the contract; providing exceptions to the disclosure requirement for certain contracts; requiring the Ethics Commission create disclosure form; specifying contents to be included in the disclosure form; requiring state agencies to submit completed forms to the Ethics Commission; requiring the Ethics Commission to make disclosures publicly available; and requiring the Ethics Commission to post disclosures on the commission website when technologically able”; to the Committee on the Judiciary.

By Delegates Upson, Mr. Speaker (Mr. Armstead), Lane, Kessinger, Shott, Householder and Folk:

H. B. 4606 - “A Bill to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating to the recusal of public officials from voting for appropriation of moneys to nonprofit entities; requiring public officials, except members of the Legislature, to recuse themselves from voting on the appropriation of moneys or award of contract to a nonprofit corporation if the public official or an immediate family member is employed by or an officer or board member of the nonprofit, whether compensated or not”; to the Committee on the Judiciary.

Special Calendar

Third Reading

Com. Sub. for H. B. 3019, Requiring official business and records of the state and its political subdivisions be conducted in English; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 85**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Moore, Pushkin and Skinner.

Absent and Not Voting: Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3019) passed.

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

Com. Sub. for H. B. 4209, Relating generally to health care provider taxes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 86**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Sponaule.

Absent and Not Voting: Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4209) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 87**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4209) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4291, Increasing penalties for teachers who commit sexual offenses against children; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 88**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4291) passed.

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

Com. Sub. for H. B. 4323, Relating to the reporting of emergency incidents by well operators and pipeline operators; on third reading, coming up in regular order, was read a third time.

The Speaker reminded the Members that yesterday Speaker Pro Tempore Anderson ruled that any impact on him would be as a

member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 89**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger and McGeehan.

Absent and Not Voting: Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4323) passed.

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

H. B. 4347, Providing pregnant women priority to substance abuse treatment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 90**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger and McGeehan.

Absent and Not Voting: Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4347) passed.

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

H. B. 4378, Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected

person; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 91**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4378) passed.

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

H. B. 4417, Increasing wages protected from garnishment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 92**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4417) passed.

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

Second Reading

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

Com. Sub. for H. B. 2904, Requiring the clerk of a county commission to maintain a county ordinance book,

And,

Com. Sub. for H. B. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house.

Com. Sub. for H. B. 4467, Including financial aid planning and completion of the Free Application for Federal Student Aid in secondary school instruction in personal finance; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Perry and Espinosa, the bill was amended on page two, subsection (d), following line nineteen, by adding “Every effort shall be made to maintain the confidentiality of sensitive financial documents.”

The bill was then ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 146, Establishing instruction standards for early childhood education,

Com. Sub. for S. B. 150, Authorizing Department of Transportation promulgate legislative rules,

Com. Sub. for S. B. 309, Relating to child-care center licensing and exempting county parks and recreation from licensure,

Com. Sub. for S. B. 369, Reducing legislative education reporting requirements,

Com. Sub. for H. B. 2474, Relating to the compensation of personnel employed at the West Virginia Schools for the Deaf and the Blind,

Com. Sub. for H. B. 2852, Relating to legalizing and regulating the sale and use of fireworks,

Com. Sub. for H. B. 4013, Requiring a person desiring to vote to present documentation identifying the voter,

Com. Sub. for H. B. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions,

H. B. 4150, Making a supplementary appropriation to the Department of Health and Human Resources,

H. B. 4151, Making a supplementary appropriation to the Department of Education,

H. B. 4159, Making a supplementary appropriation to the Public Services Commission – Motor Carrier Division,

Com. Sub. for H. B. 4213, Uniform Deployed Parents Custody and Visitation Act,

Com. Sub. for H. B. 4261, Prohibiting the sale or transfer of student data to vendors and other profit making entities,

H. B. 4359, Requiring the issuance of a photo identification to persons employed as a security guard by a security guard firm,

H. B. 4499, Relating to certain persons who have been disqualified or excused from jury service,

And,

Com. Sub. for H. B. 4520, Clarifying that certain hospitals have only one governing body whose meetings shall be open to the public.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Reynolds.

Miscellaneous Business

Delegate Frich filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4377, H. B. 4543, H. B. 4551 and H. B. 4576.

At 12:54 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 18, 2016.

THURSDAY, FEBRUARY 18, 2016

THIRTY-SEVENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, February 17, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on Finance has had under consideration:

H. B. 4268, Relating to dedication of severance tax proceeds to the West Virginia Infrastructure General Obligation Debt Service Fund,

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

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

Your Committee on Finance has had under consideration:

H. B. 4152, Making a supplementary appropriation to the Division of Environmental Protection – Protect Our Water Fund,

H. B. 4155, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health–West Virginia Birth-to-Three Fund, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund,

And,

H. B. 4160, Making a supplementary appropriation to the Department of Revenue, Tax Division,

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

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

Your Committee on Finance has had under consideration:

H. B. 4197, Allowing required HIV and hepatitis testing for the protection of law-enforcement officers who may have been exposed,

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

Com. Sub. for H. B. 4197 – “A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended, relating to the testing for HIV or hepatitis of certain persons; authorizing the Commissioner of the Bureau of Health to require HIV or hepatitis testing of certain persons who may have been exposed to HIV or hepatitis while providing certain services; and authorizing the Commissioner of the Bureau of Health or his or her designees to determine the appropriate therapy, counseling and psychological support for the exposed person,”

H. B. 4265, Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds,

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

Com. Sub. for H. B. 4265 – “A Bill to amend and reenact §7-3-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-17 of said code; to amend and reenact §8-27-16 of said code; to amend and reenact §10-2A-16 of said code; and to amend and reenact §17-17-22 and §17-17-34 of said code, all relating to direct payments of principal and interest on certain bonds owned by the United States or any governmental agency or department of the United States,”

H. B. 4319, Including in the definition of “veteran” active members of the Guard and Reserve in order to exempt them from fees charged by the Secretary of State,

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

Com. Sub. for H. B. 4319 – “A Bill to amend and reenact §59-1-2a of the Code of West Virginia, 1931, as amended, relating to defining the term ‘veteran’ as that term pertains to veteran-owned businesses,”

And,

H. B. 4366, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state,

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

Com. Sub. for H. B. 4366 - “A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof,”

With the recommendation that the committee substitutes each do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4340, Amending licensing requirements for an act which may be called Lynette's Law,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4540, Removing prohibition of disposal of certain electronics in landfills,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4540 – "A Bill to amend and reenact §22-15A-22 of the Code of West Virginia, 1931, as amended, relating to removing prohibition of disposal of certain electronics in landfills,"

With the recommendation that the committee substitute do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions,

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

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

Your Committee on Finance has had under consideration:

H. B. 4217, Reducing the distributions to the West Virginia Infrastructure Fund,

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

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

Your Committee on Finance has had under consideration:

H. B. 4157, Supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways,

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

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

Your Committee on Finance has had under consideration:

H. B. 4316, Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification,

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

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4445, Relating to the selection and purchase of instructional educational resources,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4445 – “A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new section, designated §18-2A-10, relating to the adoption of instructional resources for use in the public schools; providing for transition to new provisions for instructional resources adoption; defining instructional resources; requiring state board policy on required criteria included in instructional resources and requiring resources adopted to substantially cover; requiring pricing statement to be filed with state superintendent by person, firm or corporation desiring to sell instructional resources; prohibiting adoption or use unless of person firm or corporation not complying; disqualification of person, firm or corporation for failure to honor terms of filing; supplementary resources exempted; provisions for furnishing necessary instructional resources to students; requiring county board policy on instructional resources adoption and specifying minim provisions; and prohibiting board of education member or employee from acting as sales agents for person, firm or corporation filing statement with superintendent,”

And,

H. B. 4310, Relating to the West Virginia University Institute of Technology,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4310 – “A Bill to repeal §18B-1E-1, §18B-1E-2, §18B-1E-3 and §18B-1E-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-1C-1 and

§18B1C-2 of said code, all relating to the West Virginia University Institute of Technology; finding that there is a need to maintain the valuable educational services provided by the West Virginia University Institute of Technology; finding that there are continued enrollment and facilities issues facing the West Virginia University Institute of Technology in Montgomery, West Virginia; finding that the West Virginia University Institute of Technology, West Virginia University, Marshall University, Concord University, Bluefield State College, and other private partners should collaborate; eliminating the requirement that the headquarters of the West Virginia University Institute of Technology remain in Montgomery, West Virginia; clarifying provisions relating to the West Virginia University Institute of Technology Board of Visitors; eliminating outdated provisions; and repealing provisions relating to the West Virginia University Institute of Technology Revitalization Project.”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on Finance has had under consideration:

H. B. 4322, Expanding the Learn and Earn Program,

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

Com. Sub. for H. B. 4322 – “A Bill to amend and reenact §18B-3D-1 and §18B-3D-4 of the Code of West Virginia, 1931, as amended, all relating to the Workforce Development Initiative Program; revising the purposes for which certain funding is provided under program; removing condition upon which certain equipment may be sold, disposed of or used; and eliminating exception to dollar-for-dollar grant funding match from private sector partners,”

And,

H. B. 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days,

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

Com. Sub. for H. B. 4377 – “A Bill to amend and reenact §7-18-1 and §7-18-3 of the Code of West Virginia, 1931, as amended, all relating to exemptions from the hotel occupancy tax; eliminating exemption from the imposition of the hotel occupancy tax on consumers occupying a hotel room for thirty or more consecutive days; and excluding from the meaning of the term ‘hotel room’ certain sleeping accommodations,”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4606, Relating to the recusal of certain public officials from voting for appropriation of moneys to nonprofit entities,

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

Com. Sub. for H. B. 4606 – “A Bill to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating to prohibited interests in public contracts and appropriations of monies under the Ethics Act; prohibiting certain elected or appointed members of a municipality from being employed by the municipality in which they serve; and requiring public officials, except members of the Legislature, to recuse themselves from voting on the appropriation of

moneys or award of contract to a nonprofit corporation if the public official or an immediate family member is employed by or an officer or board member of the nonprofit, whether compensated or not,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4604, Relating to violations of the Ethics Act,

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

Com. Sub. for H. B. 4604 – “A Bill to amend and reenact §6B-2-4 of the Code of West Virginia, 1931, as amended, relating to violations of the Ethics Act; establishing a deadline of one year for the Ethics Commission to investigate and make a probable cause determination on a complaint; allowing extension past one year if consented by both respondent and complainant or unless good cause is made in writing by the Ethics Commission to both the respondent and complainant; changing the burden of proof needed to show a violation of the Ethics Act to a clear and convincing evidence standard; and extending the statute of limitations for filing complaints alleging violations of the Ethics Act from two years to five years,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2795, Providing that when a party’s health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order,

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

Com. Sub. for H. B. 2795 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to production of medical records and medical billing records in civil actions; defining medical records and medical billing records; establishing procedures for requesting releases for medical records and medical billing records to specified health care providers; providing that all releases comply with applicable state and federal law and prohibit contact between a requester and health care provider beyond written request; providing opportunity and procedure for objections to the release of medical records and medical billing records; directing copy of requests to health care providers any records received to be provided to the party who is the subject of the requests; providing that other lawful discovery methods not foreclosed; providing for confidential use and maintenance of medical records and medical billing records by receiving party, its attorneys, experts, consultants, agents and insurance carriers; allowing parties to agree on whether to provide copies of medical records or medical billing records to individual parties; requiring that medical records and medical billing records not be shared, provided or disseminated to other third parties not enumerated without consent; providing for confidential maintenance and use of medical records and medical billing records by insurance carriers; providing for limits on restrictions or conditions that may be imposed on insurance carriers with respect to maintenance of medical records and medical billing records; specifying that nothing in this section restricts, supersedes or enlarges rights or obligations under rule twenty-six of the West Virginia Rules of Civil Procedure; and preserving rights of a party to object to production of medical records or medical billing records,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4605, Prohibiting contracting with a state agency unless business entity submits disclosure of interested parties,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4605 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-10f, relating to the disclosure of interested parties to a government contract; defining terms; prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; requiring submission of supplemental disclosure within thirty days of completion or termination of the contract; providing exceptions to the disclosure requirement for certain contracts; requiring the Ethics Commission create disclosure form; specifying contents to be included in the disclosure form; requiring state agencies to submit completed forms to the Ethics Commission; requiring the Ethics Commission to make disclosures publicly available; and requiring the Ethics Commission to post disclosures on the commission website when technologically able,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4001, Relating to candidates or candidate committees for legislative office disclosing contributions,

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

Com. Sub. for H. B. 4001 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §3-8-15, relating to candidates or candidate committees for election to the office of Governor, Board of Public Works, or legislative office to disclose contributions received while the Legislature is in session; requiring timely disclosure of certain contributions from persons while the Legislature is in session; clarifying that the legislative session includes special session; requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; defining terms; imposing the same reporting requirements upon former candidates or candidate committees for legislative office who are still in office; requiring the Secretary of State to create a form for disclosure; requiring the Secretary of State to publish information on the Secretary of State's website; authorizing the Secretary of State to establish a means for electronic filing and disclosure in the alternative; and authorizing the Secretary of State to promulgate legislative and emergency rules,"

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Sobonya, Ireland, Foster, Zatezalo, Fast, Rowe, Deem, Skinner, Folk, Manchin and Marcum:

H. B. 4618 - "A Bill to repeal §6B-2-5c of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §6B-2B-1, §6B-2B-2, §6B-2B-3, §6B2B-4, §6B-2B-5, §6B-2B-6 and §6B-2B-7, all relating to limitations on use of a public official's name or likeness; prohibiting public officials, their agents or anyone on public payroll from placing the public official's name or likeness on trinkets; prohibiting public officials, their agents or anyone on public payroll from using public funds, public employees, or public resources to distribute, disseminate, publish, or display the public official's name or likeness for the purpose of advertising to the public; prohibiting public officials, their agents or anyone on public payroll from placing the public official's

name or likeness on publicly-owned vehicles; prohibiting a public official's name or likeness from being placed on any educational material that is paid for with public funds; placing restrictions on a public official's name or likeness on a public agency's website and social media; prohibiting use of public resources to display or distribute trinkets, educational material or advertising with a public official's name or likeness; providing exceptions; providing for alternative uses for prohibited material after the effective date; and providing an opportunity to obtain an exemption from the Ethics Commission.”

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

Your Committee on the Judiciary has had under consideration:

H. B. 2605, Removing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 10 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-20-1, relating to the creation of the Unborn Child Protection from Dismemberment Abortion Act; providing definitions; prohibiting dismemberment abortions; deeming violations by physicians and other licensed medical practitioners to be a breach of the standard of care and outside the scope of practice that is permitted by law; allowing for discipline from the applicable licensure board for that conduct including, but not limited to, loss of professional license to practice for violation; constituting violations for nonphysician and nonlicensed

medical practitioners as unauthorized practice of medicine and subject to criminal penalties; preserving existing legal remedies for violations; and clarifying that no penalty may be assessed against a patient”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

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

S. B. 15, Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 16 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6 and §11-13DD-7, all relating generally to providing tax credit for providing broadband service and wireless broadband service to unserved areas; requiring Tax Commissioner to propose rules for legislative approval to administer this article; providing definitions; specifying amount, application, restrictions, timing and cap on tax credit; and permitting a carryover of credit to subsequent tax year”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 105 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to education; providing for the Tim Tebow Act; permitting students instructed at home, by a private tutor or enrolled in a private, parochial or church school or a school operated by a religious order, who do not attend a school that is a member of the

West Virginia Secondary School Activities Commission to participate in extracurricular athletic or other extracurricular activities at a school that is a member of the commission; providing requirements, standards and insurance coverage; and providing that accommodating schools may not be impeded from competing against other schools”; which was referred to the Committee on Education then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 267 – “A Bill to amend and reenact §6-6-1 and §6-6-7 of the Code of West Virginia, 1931, as amended, relating to modifying the procedure for removal of certain county, school district and municipal officers; modifying definitions; and providing for political subdivisions be responsible for costs associated with removal proceedings when the outcome is in favor of a challenged officer”; which was referred to the Committee on Government Organization then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 283 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3-9, relating to creating crime of causing the burning of a building or other structure while operating a clandestine drug laboratory and establishing criminal penalties”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 351 – “A Bill to amend and reenact §31-15A-16 of the Code of West Virginia, 1931, as amended, relating to dedication of severance tax proceeds to the West Virginia Infrastructure General Obligation

Debt Service Fund; and specifying reduction of the amount of severance tax proceeds dedicated to the West Virginia Infrastructure General Obligation Debt Service Fund”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 436 – “A Bill to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to animal cruelty; and defining adequate shelter for certain dogs and cats and giving discretion in determining adequate shelter in certain circumstances”; which was referred to the Committee on Agriculture and Natural Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 439 – “A Bill to amend and reenact §11B-2-27 of the Code of West Virginia, 1931, as amended, relating to approval of requisitions for payment of personal services by budget director; and exceptions”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 462 – “A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to reducing distributions to the West Virginia Infrastructure Fund to \$30 million for fiscal year 2017 and increasing the percentage of funds available for grants therefrom”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 504 – “A Bill to amend and reenact §49-5-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §62-6B-2 of said code; and to amend said code by adding thereto a new section, designated §62-6B-6, all relating to confidentiality of records; providing that a recorded interview of a minor in a criminal or abuse or neglect case is generally confidential and exempt from disclosure; defining terms, including ‘interviewed child’ and ‘recorded interview’; providing that recorded interviews of children in criminal and administrative proceedings are confidential and subject to disclosure only pursuant to a court order; requesting Supreme Court of Appeals to promulgate rules which ensure access of parties and counsel to the contents of the recorded interview while ensuring that unauthorized duplication and publication are eliminated; creating the criminal offense of unlawfully duplicating, publishing or using a recorded interview in violation of the terms of a court order or the general confidentiality provision; and establishing penalties therefor”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 507 – “A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating generally to the jurisdiction of the Public Service Commission over motor carriers; and exempting vehicles engaged in nonemergency transportation of Medicaid members from permit requirements”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 515 – “A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing

the Auditor to issue warrants for the payment thereof”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolutions, which were read by their titles and referred to the Committee on Rules:

Com. Sub. for S. C. R. 18 – “Requesting Division of Highways name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the ‘USAF Airman First Class Wilbur Lee Clayton Memorial Bridge’.”

Whereas, Wilbur Lee Clayton was born in the small town of Moorefield, West Virginia, and attended elementary and high school there before heading off to Potomac State College, followed by West Virginia University; and

Whereas, Wilbur Lee Clayton’s college education was interrupted when he joined the United States Air Force in July, 1963, attended basic training at Lackland Air Force Base in San Antonio, Texas, and spent eleven months at Chanute Air Force Base in Rantoul, Illinois, being trained in Minuteman Missile maintenance; and

Whereas, In July, 1964, he was assigned to the 341st Missile Maintenance Squadron at Malmstrom Air Force Base in Great Falls, Montana, where his work involved primarily the alignment and targeting of Minuteman Missiles; and

Whereas, After being honorably discharged in July, 1967, Wilbur Lee Clayton resumed his education at Eastern Montana College in Billings, Montana, and following tradition established by his grandfather and grandmother, earned a Bachelor’s Degree in Education; and

Whereas, In 1970, he returned east to Franklin County, Virginia, to be closer to his parents. He remained there until 1978, at which time he was hired to teach social studies at Moorefield High School, fulfilling a desire to return home to Hardy County and the family farm where he grew up. There, he then built his home, raised his three children and happily remained until his untimely death in 1992; and

Whereas, Being a positive influence in the lives of hundreds of his junior high and high school students during his twenty-four years of teaching was without question Wilbur Lee Clayton's greatest contribution to the State of West Virginia; and

Whereas, Being highly respected and genuinely loved by students and colleagues, he was a man of quiet mannerisms and a subtle sense of humor that was reflected in his teaching style; and

Whereas, Wilbur Lee Clayton's classroom became a place where students felt comfortable and confident knowing that there was an even playing field. All were treated the same; consequences were dealt out fairly; rewards were given equally; and

Whereas, There was a two-way exchange of respect between teacher and student; and

Whereas, After all these years after his unexpected death at age fifty-two, his former students praise him for the competent, compassionate, humorous teacher that he was and still acclaim him as their favorite teacher ever; and

Whereas, There can be no greater contribution than to have been this quiet, unassuming man who served his country proudly and set for himself the task of being a wonderful, competent and compassionate teacher and positive role model. Wilbur Lee Clayton lived a simple life devoted to helping students succeed not only in school, but more importantly, in life; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 16-48-13.65 (16A124), locally known as Clifford Hollow

Bridge, carrying US 48 (Corridor H) over Clifford Hollow in Hardy County, the “USAF Airman First Class Wilbur Lee Clayton Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “USAF Airman First Class Wilbur Lee Clayton Memorial Bridge”; and, be it

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

S. C. R. 19 – “Requesting Division of Highways to name bridge number 03-20-3.30 (03A059) (37.98919, -81.84550), locally known as Six-mile Creek Bridge (BR No. 3940), carrying County Route 20 over Six-mile Creek in Boone County, as the ‘Rev. Rexford Montgomery Workman Memorial Bridge’.”

Whereas, Reverend Rexford Montgomery Workman was born on April 7, 1916, and died on July 1, 2012; and

Whereas, Reverend Workman received seminary training and a degree from Emory University; and

Whereas, Reverend Workman was an ordained Methodist minister for fifty-seven years and preached for over sixty-five years; and

Whereas, Reverend Workman pastored five local churches in Boone County throughout his ministry; and

Whereas, Reverend Workman preached thousands of revivals locally and broadly; and

Whereas, Reverend Workman conducted thousands of funerals in Boone County; and

Whereas, Reverend Workman was a reserve funeral preacher at Handley Funeral Home; and

Whereas, Reverend Workman was a member of the Independent Order of Odd Fellows; and

Whereas, Reverend Workman owned Wiggly's Grocery in downtown Madison and co-founded and co-owned Van Home Outfitting with Reverend John Hager in Van; and

Whereas, Reverend Workman had an infectiously jovial demeanor and that joy was never abated and affected everyone with whom he was acquainted; and

Whereas, It is fitting and proper to honor the life of Reverend Rexford Montgomery Workman for his dedicated service to his community and county by naming this bridge in his memory; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 03-20-3.30 (03A059) (37.98919, -81.84550), locally known as Six-mile Creek Bridge (BR No. 3940), carrying County Route 20 over Six-mile Creek in Boone County, as the "Rev. Rexford Montgomery Workman Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Rev. Rexford Montgomery Workman Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and to the family members of Reverend Rexford Montgomery Workman.

Com. Sub. for S. C. R. 20 – "Requesting Division of Highways name bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236

20A453) (38.56209, -81.63631) in Kanawha County, the 'U. S. Army CPL Troy Matthews Memorial Bridge'.”

Whereas, Troy Matthews was born July 8, 1914, in Putnam County, West Virginia, the son of Ed and Hulda Matthews. As a young man, the family lived on Cabin Creek in Kanawha County where his father worked in the coal mines. After the coal mine wars in the late 20s, his parents bought a small farm in Sissonville and moved the family there.

Whereas, Troy enlisted in the United States Army on June 8, 1941, and was sent to Ft. Knox, Kentucky where he was trained as a tank mechanic and served in Headquarters Company, 2nd Battalion, 3rd Armored Division. He served in Northern France, the Ardennes (Belgium) and Rhineland (Germany - European Theater of Operations) where he was wounded as a result of enemy action on September 15, 1944.

Whereas, His wounds resulted in paralysis to his right arm and hand and serious wounds to his back and leg. He spent over a year in several military hospitals and was discharged from the Army as a Tec 5 (Corporal) from Northington General Hospital in Tuscaloosa, Alabama, on October 11, 1945. His decorations include the European Theater Ribbon, Good Conduct Medal, three Bronze Battle Stars and a Purple Heart.

Whereas, Although his injuries were severe, and his right hand and arm paralyzed, he learned to write again with his left hand and to do most anything he could do before his injuries. He farmed, worked on equipment and in March 1950, he went to work for the Department of the Navy at the Naval Ordnance Plant in South Charleston, West Virginia, where he helped to make tracked military vehicles. He worked there until the plant was decommissioned and closed in 1961 after being sold to FMC. At that time, he applied for and received his disability retirement based on his service record and related disability. Although retired, he continued to work for many years as a dispatcher for Point Express, a trucking company in Charleston.

Whereas, Troy was married to the late Glyda Boggess Matthews. They had three children: Linda, Dennis and Jay. Troy passed away on May 20, 1984, at the age of 69; and

Whereas, Naming the bridge on Interstate 77 over County Route 19 and Allen Fork, bridge number 20-77-117.30 northbound and southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge” is an appropriate recognition of his contributions to his country, state, community and Kanawha County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on Interstate 77 over County Route 19 and Allen Fork, Bridge Number 20-77-117.30 Northbound and Southbound (20A236 20A453) (38.56209, -81.63631) in Kanawha County, the “U. S. Army CPL Troy Matthews Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL Troy Matthews Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and any surviving members of the family of CPL Troy Matthews.

S. C. R. 21 – “Requesting Division of Highways name bridge on County Route 21 over Mill Creek in Jackson County, bridge number 18-21-19.61 (18A234) (38.80123, -81.69929), locally known as the Hardman Bridge, the ‘U. S. Army S/SGT Delmer R. Jones Memorial Bridge’.”

Whereas, Staff Sergeant Delmer R. Jones, a native of Ripley, West Virginia, served in the U. S. Army during the Vietnam War. He began his tour in Vietnam on October 4, 1967; and

Whereas, Staff Sergeant Delmer R. Jones was killed in battle on January 7, 1968, in Quang Tin, South Vietnam, by multiple fragmentation wounds; and

Whereas, It is fitting that an appropriate memorial recognizing this soldier's service and sacrifice be established in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on County Route 21 over Mill Creek in Jackson County, bridge number 18-21-19.61 (18A234) (38.80123, -81.69929), locally known as the Hardman Bridge, the "U. S. Army S/SGT Delmer R. Jones Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "U.S. Army S/SGT Delmer R. Jones Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate forward a certified copy of this resolution to the Commissioner of Highways and the family of the late Staff Sergeant Delmer R. Jones.

S. C. R. 22 – "Requesting Division of Highways to name bridge number 50-152-23.71 (50A110), located at latitude 38.36457, longitude -82.47448 where it intersects the West Fork of Twelvepole Creek in Sidney, West Virginia, originally called the 'Sidney Beam Span', the 'Trautwein Family Bridge'."

Whereas, Fred and Ora Trautwein migrated to Wayne County, West Virginia, in the early 1900s; and

Whereas, Fred and Ora Trautwein had five children, Harold, Roy, Charles, Robert and Doris, all of whom served honorably in the United States Military during World War II; and

Whereas, It is fitting and proper that the bridge near where the Trautwein family resided in Sidney, Wayne County, be named after the Trautwein siblings to honor their military service during World War II; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-152-23.71 (50A110) located at latitude 38.36457, longitude -82.47448 where it intersects the West Fork of Twelvepole Creek in Sidney, West Virginia, originally called the “Sidney Beam Span”, the “Trautwein Family Bridge”; and, be it

Further Resolved, That the Commissioner of Highways is hereby requested to have made and be placed signs identifying the “Trautwein Family Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to Joe Trautwein who resides in Fort Gay, West Virginia.

S. C. R. 23 – “Requesting Division of Highways name bridge number 30-3/5-1.60 (30A182) (37.81271, -82.27014), locally known as Lower Canterbury Box Beam Bridge, carrying County Route 3/5 over Laurel Creek in Mingo County, the ‘Johnny Mack Bryant Memorial Bridge’.”

Whereas, Johnny Mack Bryant was born July 19, 1977, to John and Linda (Colley) Bryant; and

Whereas, Johnny Mack Bryant was married to the love of his life Leeann Hammond and had two children, Johnny and Mackenzie; and

Whereas, Johnny Mack Bryant worked for Buck Deskins and Randy Akers doing carpentry and installing metal roofs until he went to work for Coal River Mining where he died in a mining accident on July 27, 2012; and

Whereas, Johnny Mack Bryant loved to hunt, fish, ride four wheelers, dirt bikes and hill climbing. He won National Championships for hill climbing in West Virginia and Massachusetts and traveled as far as Minnesota to hill climb; and

Whereas, Johnny Mack Bryant had two sisters, Mattie Cassidy and Lori Williams of Ohio. He had a niece Allyson and many aunts, uncles and cousins who love and miss him; and

Whereas, Johnny Mack Bryant's two best friends were Wes Maynard and Brandon Urban who have memorial rides and golf tournaments every year in his name to honor him; and

Whereas, Johnny Mack Bryant always had a smile on his face no matter what and about one thousand people attended his wake and funeral; and

Whereas, It is fitting that the bridge which is located at the beginning of the hollow where Johnny Mack Bryant lived and his body is now buried be named for him; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 30-3/5-1.60 (30A182) (37.81271, 82.27014), locally known as Lower Canterbury Box Beam Bridge, carrying County Route 3/5 over Laurel Creek in Mingo County, the "Johnny Mack Bryant Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "Johnny Mack Bryant Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate forward a certified copy of this resolution to the Commissioner of the Division of Highways and the family of Johnny Mack Bryant.

S. C. R. 24 – "Requesting Division of Highways name bridge number 41-77-42.30 NB and SB (41A226, 41A227) (37.76241,

-81.21447), locally known as TPK. OVER WV 16 CONN, carrying Interstate 77 Northbound and Southbound over WV 16 Connector in Raleigh County, West Virginia, the ‘U. S. Army PFC Arland W. Hatcher Memorial Bridge’.”

Whereas, Arland W. Hatcher was born in Fitzpatrick, Raleigh County, West Virginia, February 2, 1924; and

Whereas, Arland W. Hatcher married Rachael Walker in Beckley, West Virginia, November 5, 1942, and the couple raised five children; and

Whereas, Arland W. Hatcher entered the United States Army and served in the 37th Infantry as a combat military policeman during World War II; and

Whereas, Arland W. Hatcher’s duties included service at New Caledonia, Guadalcanal, Bougainville, Luzon, the Philippines and Japan; and

Whereas, Arland W. Hatcher’s military duties at one time included protecting General Douglas MacArthur and the General’s home in the Philippines; and

Whereas, Following the war, Arland W. Hatcher worked in Ohio and enjoyed such hobbies as working with wood, camping and golfing; and

Whereas, Arland W. Hatcher died April 7, 2005; and

Whereas, It is fitting that an enduring structure commemorate Arland W. Hatcher’s service to his country during World War II; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 41-77-42.30 NB and SB (41A226, 41A227) (37.76241, -81.21447), locally known as TPK. OVER WV 16 CONN, carrying Interstate 77 Northbound and

Southbound over WV 16 Connector in Raleigh County, West Virginia, the “U. S. Army PFC Arland W. Hatcher Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “U.S. Army PFC Arland W. Hatcher Memorial Bridge”; and, be it

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

S. C. R. 25 – “Requesting the Division of Highways to name bridge number 23-119/18-0.01 (23A141) (37.76693, -81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the ‘US Army PFC Cornelius Vance Memorial Bridge’.”

Whereas, Cornelius Vance was born January 29, 1924, at Breedon, Wayne County, West Virginia, and later lived at Chauncey, Logan County, West Virginia; and

Whereas, Cornelius Vance served his country in World War II as an Army Private First Class, a member of the 5th Army, 15th Army Group, 85th Custer Division, 337th Infantry (Wolverines), Company B; and

Whereas, PFC Cornelius Vance fought in Rome-Arno, North Apennines and Po Valley Battles in Italy; and

Whereas, PFC Cornelius Vance was awarded the Purple Heart; three Bronze Stars; Good Conduct Medal; European, African and Middle Eastern Campaign Medals; World War II Victory Ribbon and an Honorable Service Lapel Button for his service during the war; and

Whereas, PFC Cornelius Vance was trained as an automatic rifleman and served in the Army’s 85th Division as a scout and combat

infantryman, taking part in the Anzio Beach landing; and assisting the British 8th Army and the U. S. Army 10th Mountain Division with driving the German forces out of the Apennine Mountains; and

Whereas, PFC Cornelius Vance was wounded from gunshot and was transferred to a hospital in Naples, Italy; and

Whereas, Following recovery from his wound, PFC Cornelius Vance was assigned to guard prisoner of war German General Anton Dostler, and escort him to surrender and be tried by a military tribunal, at which he was later sentenced to die by firing squad. General Dostler had previously ordered the execution of 15 American soldiers who were captured while attempting to set explosives in a tunnel. To complete his duty to deliver the general for official surrender and trial, at one point in the journey, PFC Cornelius Vance had to draw his weapon and threaten a crowd of Italians to keep them from killing the general and, at another point, had to protect the general from American soldiers who attempted to remove the general from the vehicle; and

Whereas, After being discharged from the Army December 6, 1945, PFC Cornelius Vance, along with his brothers Preston and Randolph, returned home from the war to Logan County; and

Whereas, Cornelius Vance married Bertie Lou DeHart of Pine Creek, in the Omar area of Logan County, made their home at Chauncey, and raised seven children: Gloria Jean; Carlene; Donnie; Ronnie; Randal and twins, Pamela and Carmela; and

Whereas, Cornelius Vance worked twenty-eight years as a coal miner and, following a disabling injury as a miner, became a cook and housekeeper at home to help raise his children, and enjoyed hunting, gardening, canning and being a Sunday School teacher at the Walnut Grove Free Will Baptist Church; and

Whereas, Cornelius Vance also helped remodel his church building, assisted the Beth Haven Christian School founded by his brother, the Rev. Preston Vance, and regularly volunteered to drive

disabled and elderly neighbors to help them with shopping, banking, medical and other personal errands; and

Whereas, It is appropriate to honor this veteran who served well his country, his family and his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-119/18-0.01 (23A141) (37.76693, -81.98861), locally known as Chauncey Girder, carrying County Route 119/18 over Island Creek in Logan County, the “US Army PFC Cornelius Vance Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “US Army PFC Cornelius Vance Memorial Bridge”; and, be it

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

S. C. R. 26 – “Requesting the Division of Highways to name the bridge that traverses Hurricane Creek on U.S. Route 52, bridge number 50-52-21.27 (50A001), latitude 38.19237, longitude -82.59982, in Wayne County, originally called the Hubbardstown Bridge, the ‘Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge’.”

Whereas, Charles Edward Ellis and Ira Virgil Ellis were brothers, born in Hubbardstown in Wayne County, West Virginia; and

Whereas, Charles and Ira served this country during WWII in the United States Army, in which each brother sacrificed his life. Charles was killed on December 30, 1943, and Ira was killed on March 23, 1945; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge that traverses Hurricane Creek on U.S. Route 52, bridge number 50-52-21.27 (50A001), latitude 38.19237, longitude 82.59982, in Wayne County, originally called the Hubbardstown Bridge, the “Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Herbert Wellman, Jr., Chairman of the Fort Gay Veterans Park.

Com. Sub. for S. C. R. 27 - “Requesting the Division of Highways to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the ‘U.S. Army PFC Herman Daner Rogers Memorial Bridge’.”

Whereas, Herman Daner Rogers was born in Kanawha County on February 8, 1924; and

Whereas, Herman Daner Rogers served this country during WW II as a PFC in the U.S. Army, being engaged in fierce combat in Normandy, Northern France and the Rhineland in Central Europe; and

Whereas, PFC Herman Daner Rogers displayed heroism and courage on various fields of battle upon which he served, including for action taken during a fourteen-day attack, resulting in the destruction of an entire German division for which an honor was bestowed upon

him by U.S. Army Lieutenant General George Patton, Jr. Among the medals and honors he received for his service to this country are the Bronze Star Medal, the EAME Theater Ribbon with four Bronze Stars per, the American Theater Ribbon, the Good Conduct Ribbon, the World War II Victory Medal and Combat Infantry Badge. He later received the Jubilee of Liberty award from then- Congresswoman Shelley Moore Capito in 2001 for which he was extremely proud; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge located on Interstate 64, 0.43 miles north of County Route 34, bridge number 40-34-15.00 (40A090), latitude 38.45599, longitude -81.93554, originally called the I-64 Winfield Interchange Bridge, in Putnam County, the “U.S. Army PFC Herman Daner Rogers Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested have made and be placed signs identifying the “U.S. Army PFC Herman Daner Rogers Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Drema K. Rogers Justice, the daughter of PFC Herman Daner Rogers.

S. C. R. 28 – “Requesting Division of Highways name bridge number 30-52/26-0.01 (30A081) (37.65255, -82.06172), locally known as Musick Box Beam, carrying County Route 52/26 over Pigeon Creek on Musick Bottom Road in Mingo County, the ‘U. S. Marine Corps CPL Ronald ‘Duke’ Varney Memorial Bridge’.”

Whereas, Ronald J. Varney, “Duke” was born on April 15, 1950. He spent his childhood in Varney, West Virginia, where he attended

Red Jacket High School. At the age of seventeen he voluntarily enlisted in the United States Marine Corps where he defended his country as a Corporal in the Vietnam War. In May of 1972, he married Penny White, of Lenore, West Virginia, and they had three children, Kimberly, Kelly and Michael Varney. He also had seven grandchildren, Amber Rasnake, Ronnisue Justice, McKenzie Goff, Tori Varney, Kylee Varney, Waylon Parker Varney, Kelsey Stogsdill and one great-grandson, Noah Michael Rasnake. He passed away in February, 2004, from cancer as a result of Agent Orange. He was a very loving and dedicated father who worked hard for his family. He was a retired coal miner who lived in Mingo County for fifty-four years. "Duke" was a friend to so many people and never failed to help anyone in need. He is sadly missed and sweetly remembered by all who had the pleasure of knowing him; and

Whereas, Naming bridge number 30A081 crossing County Route 52/26 over Pigeon Creek on Musick Bottom Road in Mingo County, the "U. S. Marine Corps CPL Ronald 'Duke' Varney Memorial Bridge" is an appropriate recognition of his contributions to his country, state, community and Mingo County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-52/26-0.01 (30A081) (37.65255, -82.06172), locally known as Musick Box Beam, carrying County Route 52/26 over Pigeon Creek on Musick Bottom Road in Mingo County, the "U. S. Marine Corps CPL Ronald 'Duke' Varney Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the "U. S. Marine Corps CPL Ronald 'Duke' Varney Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate forward a copy of this resolution to the Commissioner of the Division of Highways and the surviving wife and children of CPL Ronald "Duke" Varney and their families.

And,

S. C. R. 29 – “Requesting Division of Highways to name bridge number 18-21-0.31 (18A249)(38.55904, -81.63456), locally known as the Fishers Chapel Bridge, carrying CR 21 over Pocatatico Creek near Sissonville in Jackson County, West Virginia, the ‘U. S. Army SSG Landon Clair Ray and U. S. Army SPC4 Garry Dwight Haynes Memorial Bridge’.”

Whereas, Landon Clair Ray was born July 21, 1936, at Kenna, West Virginia, the son of Mr. and Mrs. Charles Ray of Kenna; and

Whereas, Landon C. Ray graduated from Sissonville High School and was a member of the Pleasant View Church near Kenna; and

Whereas, Staff Sergeant Landon C. Ray served ten years in the United States Army and was a military policeman with Company A, 1st Battalion, 5th Infantry, 25th Infantry Division; and

Whereas, Staff Sergeant Landon C. Ray died February 3, 1967, as a result of wounds received from sniper fire in combat during his second tour of duty in Tay Ninh Province, South Vietnam; and

Whereas, At his death, Staff Sergeant Landon C. Ray was survived by his parents, brothers Raymond and Jobe of Sissonville, and sisters Juanita and Vallie, both at home; and

Whereas, Garry Dwight Haynes was born August 24, 1945, the son of Mr. and Mrs. William H. Haynes of Romance, West Virginia, and was a graduate of Ripley High School; and

Whereas, Army Specialist 4th Class Garry D. Haynes entered the Army in December 1967, and deployed to Vietnam where he was wounded a few months later and spent a month in the hospital before going back into action; and

Whereas, Specialist 4th Class Garry D. Haynes died December 9, 1968, as a result of wounds received while on combat operations in

Kien Hoa Province, South Vietnam, where he was engaged in a fire fight with hostile forces; and

Whereas, At his death, Specialist 4th Class Garry D. Haynes was survived by his parents, five brothers and three sisters; and

Whereas, It is fitting that a proper memorial be established for these two young men who gave their lives in service to their country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 18-21-0.31 (18A249) (38.55904 -81.63456), locally known as the Fishers Chapel Bridge, carrying CR 21 over Pocatalico Creek near Sissonville, in Jackson County, West Virginia, the “U. S. Army SSG Landon Clair Ray and U. S. Army SPC4 Garry Dwight Haynes Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army SSG Landon Clair Ray and U. S. Army SPC4 Garry Dwight Haynes Memorial Bridge”; and, be it

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

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Shott, Lane, Folk, Kessinger and Householder:

H. B. 4607 - “A Bill to amend and reenact §5-10A-2 of the Code of West Virginia, 1931, as amended, relating to adding violations of law upon which a public servant’s retirement plan may be forfeited; changing the definition of less than honorable service; removing the

exception of a misdemeanor from the definition of less than honorable service relating to impeachment and conviction of a participant or former participant under the Constitution; removing the exception for certain lesser included crimes to constitute less than honorable service; and adding additional violations of law which constitute less than honorable service”; to the Committee on Pensions and Retirement then the Judiciary.

By Delegate Statler:

H. B. 4608 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-3-10g, relating to requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice”; to the Committee on Government Organization.

By Delegates Fleischauer, Shaffer, Pushkin, Morgan, Hicks, Rowe, Fluharty, Rodighiero, Perdue, Campbell and Longstreth:

H. B. 4609 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §19-36-1, §19-36-2, §19-36-3, §19-36-4, §19-36-5, §19-36-6, §19-36-7, §19-36-8 and §19-36-9, all relating to creating the West Virginia Residential Furniture and Children’s Products Flame Retardants Act administered and enforced under the authority of the Commissioner of the Bureau for Public Health; prohibiting the use of certain flame-retardant chemicals in certain products; legislative findings; definitions; rule making authority; when replacement chemicals may be used; exemptions to requirements; requiring report to Joint Committee on Government and Finance; requiring certificate of compliance; injunctive relief for violations; and providing civil penalties for violations”; to the Committee on the Judiciary.

By Delegates Folk, McGeehan, Faircloth, Walters, Perry, Azinger, Kelly, Wagner and Moyer:

H. B. 4610 - “A Bill to amend and reenact §18B-2B-3 of the Code of West Virginia, 1931, as amended, relating to abolishing the West

Virginia Council for Community and Technical College Education; transferring all powers and duties of the council pertaining to institutions of higher education to the board of governors of the institutions and providing for the transfer and disposition of assets, property and records of the council”; to the Committee on Education then Finance.

By Delegates Folk, McGeehan, Faircloth, Walters, Perry, Azinger, Kelly, Wagner, Westfall, Romine and Moye:

H. B. 4611 - “A Bill to amend and reenact §18B-1B-1 of the Code of West Virginia, 1931, as amended; relating to abolishing the West Virginia Higher Education Policy Commission; transferring all powers and duties of the commission pertaining to institutions of higher education to the board of governors of the institutions and providing for the transfer and disposition of assets, property and records of the commission”; to the Committee on Education then Finance.

By Delegates E. Nelson, Mr. Speaker (Mr. Armstead), Gearheart, Hamrick, Householder, Anderson, Shott, Storch, Espinosa, Howell and Boggs:

H. B. 4612 - “A Bill to repeal §11-10-26 and §11-10-27 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-11B-3, §7-11B-4, §7-11B-14, §7-11b-21 and §7-11B-22 of said code; to amend said code by adding thereto two new sections, designated §7-11B-29 and §7-11B30; to amend and reenact §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of said code; to amend said code by adding thereto three new sections, designated §7-22-23, §7-22-24 and §7-22-25; to amend and reenact §8-38-5, §8-38-7, §8-38-8, §8-38-12 and §8-38-14 of said code; to amend said code by adding thereto three new sections, designated §8-38-23, §8-38-24 and §8-38-25; and to amend and reenact §11-10-11a and §11-10-11c of said code, all relating generally to tax increment financing and economic opportunity development districts and expanding its use for financing and funding road projects in West Virginia; permitting certain agreements between the Division of Highways and counties or

municipalities regarding development districts; permitting financing of certain projects be with the proceeds of tax increment financing obligations; permitting road construction projects be done jointly by counties and municipalities; establishing procedures; permitting the Division of Highways to propose a joint project; establishing procedures for the West Virginia Development Office and the Tax Commissioner; permitting audits; establishing a procedure for adding or removing property from an economic opportunity development district; requiring procedures relating to taxpayers; providing for confidentiality; providing that roads to be part of the state road system; permitting a fee to be assessed; making findings; establishing an effective date; and defining terms”; to the Committee on Finance.

By Delegates Ireland, Anderson, Gearheart, Ambler, D. Evans, Border, Miller, Cooper, Hanshaw, Overington and Walters:

H. B. 4613 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to declaring rights-of-way held by the Division of Highways that are no longer publically travelled, or not maintained by the Division of Highways for five or more years, null and void”; to the Committee on Roads and Transportation then the Judiciary.

By Delegates Walters, Perdue, Householder, Perry, Canterbury, Storch, Reynolds, O’Neal, Kurcaba, Folk and Howell:

H. B. 4614 - “A Bill to amend and reenact §33-45-2 of the Code of West Virginia, 1931, as amended, relating to providing the medical loss ratio contained in any Medicaid managed care contract applicable to any Medicaid managed care organization may not be less than ninety percent”; to the Committee on Banking and Insurance then Health and Human Resources.

By Delegate Moffatt:

H. B. 4615 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-10-2c,

relating to permitting municipalities to collect unpaid utility bills, trash, refuse, demolition, landfill fees or other fees; establishing a procedure; setting forth a fee structure; creating the Municipal Fines and Fees Collection Fund and granting rule-making authority”; to the Committee on Finance.

By Delegate Moffatt:

H. B. 4616 - “A Bill to amend and reenact §7-7-9 of the Code of West Virginia, 1931, as amended, relating to permitting county commissions the option of paying the salaries of county officials and their employees on a bi-weekly basis”; to the Committee on Government Organization.

By Delegates Espinosa and Duke:

H. B. 4617 - “A Bill to amend and reenact §18B-17-2 of the Code of West Virginia, 1931, as amended, relating to authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program”; to the Committee on Education.

Special Calendar

Third Reading

Com. Sub. for H. B. 2904, Requiring the clerk of a county commission to maintain a county ordinance book; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 93**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2904) passed.

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

Com. Sub. for H. B. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 94**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4174) passed.

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

Com. Sub. for H. B. 4467, Including financial aid planning and completion of the Free Application for Federal Student Aid in secondary school instruction in personal finance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 95**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Blair, Moffatt, Sobonya and Waxman.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4467) passed.

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

Second Reading

Com. Sub. for S. B. 146, Establishing instruction standards for early childhood education; on second reading, coming up in regular

order, with amendment pending, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for S. B. 150, Authorizing Department of Transportation promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

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

“That article 8, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF
TRANSPORTATION TO PROMULGATE
LEGISLATIVE RULES.**

§64-8-1. Office of Administrative Hearings.

The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four-a, article five-c, chapter seventeen-c of this code, modified by the Office of Administrative Hearings to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Office of Administrative Hearings (appeal procedures, 105 CSR 1), is authorized with the following amendments:

On page 16, subsection 18.1, by striking the last sentence.

On page 16, subsection 18.5, by striking the remainder of the paragraph after the words “subsection 3 of this section.”

§64-8-2. Division of Highways.

The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section five, article seventeen-b,

chapter seventeen of this code, modified by the Division of Highways to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 30, 2015, relating to the Division of Highways (state transportation infrastructure fund program, 157 CSR 11), is authorized with the following amendments:

On page one, subsection 2.1, following the words “‘Board’ means the”, by striking out the words “board of directors of the fund” and inserting in lieu thereof the words “State Transportation Infrastructure Fund Advisory Board”;

On page three, subsection 3.1, line one, by striking out the words “A Board is hereby created” and inserting in lieu thereof the words “The State Transportation Infrastructure Fund Advisory Board is hereby created”;

And,

On page three, following subsection 3.3, by striking out all of subsection four and inserting in lieu thereof the following:

§157-11-4. Powers and Duties of the Commissioner.

4.1 The Commissioner, in consultation with the Board, shall adopt policies and procedures consistent with W.Va. Code §17-17B-1 *et seq.*, for the administration of the fund’s affairs and the implementation of the fund’s functions, including, but not limited to, the identification and selection of eligible borrowers, eligible costs, and eligible projects as well as the determination of the amount of initial assistance and the manner in which the fund shall be capitalized.

4.2 The Commissioner shall have the following powers:

4.2.a. Make loans to eligible borrowers to finance the eligible costs of eligible projects and to acquire, hold, and subordinate loan obligations in a manner as the Board determines advisable;

4.2.b. Provide eligible borrowers with other financial assistance necessary to defray eligible costs of an eligible project;

4.2.c. Enter into contracts, arrangements, and agreements with eligible borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted by W.Va. Code §17-17B-1 *et seq.*;

4.2.d. Enter into agreements with a government unit, private entity, department, agency, or instrumentality of the United States or of this State or another state for the purpose of planning and providing for the financing of eligible projects;

4.2.e. Establish policies and procedures for the making and administering of loans and other financial assistance and fiscal controls and accounting procedures to ensure proper accounting and reporting of the fund, government units, eligible borrowers, and private entities;

4.2.f. Collect or authorize the trustee under any trust indenture securing any bonds to collect amounts due under any loan obligations owned by it, including taking the action required to obtain payment of any sums in default;

4.2.g. Consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any loan obligations owned by it;

4.2.h. Expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the fund;

4.2.i. Expend funds credited to the fund as the Board determines necessary for the costs of administering the operations of the fund;

4.2.j. Procure insurance against losses in connection with its property, assets, or activities including insurance against liability for

its acts or the acts of its employees or agents or to establish cash reserves to enable it to act as a self-insurer against any and all such losses;

4.2.k. Collect fees and charges in connection with its loans or other financial assistance;

4.2.l. Apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of the fund;

4.2.m. Enter into contracts or agreements for the servicing and processing of financial agreements;

4.2.n. Enter into loan obligations and loans that may be secured or unsecured;

4.2.o. Accept notes and other forms of obligation to evidence any indebtedness as well as mortgages, liens, pledges, assignments or other security interests to secure such indebtedness;

4.2.p. Take all actions that are appropriate to protect security interests, ensure repayment of any indebtedness, and safeguard against losses of the fund, including, but not limited to, initiating foreclosures, default proceedings, and all other forms of redress, whether legal or equitable in nature;

4.2.q. Determine future capital needs of the fund. The future capital needs of the fund may be determined each year based on an actuarial valuation that reflects, among other things, anticipated revenues, project revenues, amounts in federal accounts and state accounts, fund costs, loan defaults and related risk exposure to the extent such valuation is consistent with the Actuarial Standards of Practice published by the Actuarial Standards Board.

4.2.r. Do all other things necessary or convenient to exercise powers granted or reasonably implied by W.Va. Code §17-17B-1 *et seq.*”

§64-8-3. Division of Public Transit.

The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section three, article sixteen-e, chapter seventeen of this code, modified by the Division of Public Transit to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 30, 2015, relating to the Division of Public Transit (rail fixed guideway systems state safety oversight, 225 CSR 1), is authorized with the following amendment:

On page 6, subsection 7.4, by striking the words “Todd Dorcas” and the comma.

The bill was then ordered to third reading.

Com. Sub. for S. B. 309, Relating to child-care center licensing and exempting county parks and recreation from licensure; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 369, Reducing legislative education reporting requirements; on second reading, coming up in regular order, was read a second time.

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

“That §18-2-5g of the Code of West Virginia, 1931, as amended, be repealed; that §18-2E-3g of said code be repealed; that §18B-5-8 of said code be repealed; that §18-2E-5 of said code be amended and reenacted; that §18-2I-5 of said code be amended and reenacted; that §18-3-12 of said code be amended and reenacted; that §18-5-44 of said code be amended and reenacted; that §18-20-5 and §18-20-8 of said code be amended and reenacted; that §18A-2-3 of said code be

amended and reenacted; that §18A-4-7a of said code be amended and reenacted; that §18A-5-1a of said code be amended and reenacted; that §18B-1-10 of said code be amended and reenacted; that §18B-1B-4 of said code be amended and reenacted; that §18B-1D-8 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1D-8a; that §18B-2C-3 of said code be amended and reenacted; that §18B-3D-2 of said code be amended and reenacted; that §18B-10-1 of said code be amended and reenacted; that §18B-13-5 of said code be amended and reenacted; that §18B-18-6 of said code be amended and reenacted; that §18C-3-4 of said code be amended and reenacted; that §18C-5-7 of said code be amended and reenacted; and that §18C-7-5 of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5. Process for improving education; education standards; statewide assessment program; accountability measures; Office of Education Performance Audits; school accreditation and school system approval; intervention to correct low performance.

(a) *Legislative findings, purpose and intent.* — The Legislature makes the following findings with respect to the process for improving education and its purpose and intent in the enactment of this section:

(1) The process for improving education includes four primary elements, these being:

(A) Standards which set forth the knowledge and skills that students should know and be able to perform as the result of a thorough and efficient education that prepares them for the twenty-first century, including measurable criteria to evaluate student performance and progress;

(B) Assessments of student performance and progress toward meeting the standards;

(C) A system of accountability for continuous improvement defined by high-quality standards for schools and school systems articulated by a rule promulgated by the state board and outlined in subsection (c) of this section that will build capacity in schools and districts to meet rigorous outcomes that assure student performance and progress toward obtaining the knowledge and skills intrinsic to a high-quality education rather than monitoring for compliance with specific laws and regulations; and

(D) A method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress;

(2) As the constitutional body charged with the general supervision of schools as provided by general law, the state board has the authority and the responsibility to establish the standards, assess the performance and progress of students against the standards, hold schools and school systems accountable and assist schools and school systems to build capacity and improve efficiency so that the standards are met, including, when necessary, seeking additional resources in consultation with the Legislature and the Governor;

(3) As the constitutional body charged with providing for a thorough and efficient system of schools, the Legislature has the authority and the responsibility to establish and be engaged constructively in the determination of the knowledge and skills that students should know and be able to do as the result of a thorough and efficient education. This determination is made by using the process for improving education to determine when school improvement is needed by evaluating the results and the efficiency of the system of schools, by ensuring accountability and by providing for the necessary capacity and its efficient use;

(4) In consideration of these findings, the purpose of this section is to establish a process for improving education that includes the four primary elements as set forth in subdivision (1) of this subsection to provide assurances that the high-quality standards are, at a minimum, being met and that a thorough and efficient system of schools is being provided for all West Virginia public school students on an equal education opportunity basis; and

(5) The intent of the Legislature in enacting this section and section five-c of this article is to establish a process through which the Legislature, the Governor and the state board can work in the spirit of cooperation and collaboration intended in the process for improving education, to consult and examine the performance and progress of students, schools and school systems and, when necessary, to consider alternative measures to ensure that all students continue to receive the thorough and efficient education to which they are entitled. However, nothing in this section requires any specific level of funding by the Legislature.

(b) *Electronic county and school strategic improvement plans.* — The state board shall promulgate a rule consistent with the provisions of this section and in accordance with article threeb, chapter twenty-nine-a of this code establishing an electronic county strategic improvement plan for each county board and an electronic school strategic improvement plan for each public school in this state. Each respective plan shall be for a period of no more than five years and shall include the mission and goals of the school or school system to improve student, school or school system performance and progress, as applicable. The strategic plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures. The plan shall be revised when required pursuant to this section to include each annual performance measure upon which the school or school system fails to meet the standard for performance and progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the

department and other education agencies to improve student, school or school system performance and progress to meet the annual performance measure.

The department shall make available to all public schools through its website or the West Virginia Education Information System an electronic school strategic improvement plan boilerplate designed for use by all schools to develop an electronic school strategic improvement plan which incorporates all required aspects and satisfies all improvement plan requirements of the No Child Left Behind Act.

(c) *High-quality education standards and efficiency standards.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and periodically review and update high-quality education standards for student, school and school system performance and processes in the following areas:

- (1) Curriculum;
- (2) Workplace readiness skills;
- (3) Finance;
- (4) Transportation;
- (5) Special education;
- (6) Facilities;
- (7) Administrative practices;
- (8) Training of county board members and administrators;
- (9) Personnel qualifications;
- (10) Professional development and evaluation;
- (11) Student performance, progress and attendance;

(12) Professional personnel, including principals and central office administrators, and service personnel attendance;

(13) School and school system performance and progress;

(14) A code of conduct for students and employees;

(15) Indicators of efficiency; and

(16) Any other areas determined by the state board.

(d) *Comprehensive statewide student assessment program.* — The state board shall establish a comprehensive statewide student assessment program to assess student performance and progress in grades three through twelve. The assessment program is subject to the following:

(1) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code establishing the comprehensive statewide student assessment program;

(2) Prior to the 2014-2015 school year, the state board shall align the comprehensive statewide student assessment for all grade levels in which the test is given with the college-readiness standards adopted pursuant to section thirty-nine, article two of this chapter or develop other aligned tests to be required at each grade level so that progress toward college readiness in English/language arts and math can be measured;

(3) The state board may require that student proficiencies be measured through the ACT EXPLORE and the ACT PLAN assessments or other comparable assessments, which are approved by the state board and provided by future vendors;

(4) The state board may require that student proficiencies be measured through the West Virginia writing assessment at any grade levels determined by the state board to be appropriate; and

(5) The state board may provide, through the statewide assessment program, other optional testing or assessment instruments applicable to grade levels kindergarten through grade twelve which may be used by each school to promote student achievement. The state board annually shall publish and make available, electronically or otherwise, to school curriculum teams and teacher collaborative processes the optional testing and assessment instruments.

(e) *State annual performance measures for school and school system accreditation.* —

The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual performance measures for state accreditation of schools and school systems. The state board also may establish performance incentives for schools and school systems as part of the state accreditation system. On or before December 1, 2013, the state board shall report to the Governor and to the Legislative Oversight Commission on Education Accountability the proposed rule for establishing the measures and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the state board shall provide an annual report to the Governor and to the Legislative Oversight Commission on Education Accountability on the impact and effectiveness of the accreditation system. The rule for school and school system accreditation proposed by the board may include, but is not limited to, the following measures:

(1) Student proficiency in English and language arts, math, science and other subjects determined by the board;

(2) Graduation and attendance rate;

(3) Students taking and passing AP tests;

(4) Students completing a career and technical education class;

(5) Closing achievement gaps within subgroups of a school's student population; and

(6) Students scoring at or above average attainment on SAT or ACT tests.

(f) *Indicators of efficiency.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt by rule and periodically review and update indicators of efficiency for use by the appropriate divisions within the department to ensure efficient management and use of resources in the public schools in the following areas:

(1) Curriculum delivery including, but not limited to, the use of distance learning;

(2) Transportation;

(3) Facilities;

(4) Administrative practices;

(5) Personnel;

(6) Use of regional educational service agency programs and services, including programs and services that may be established by their assigned regional educational service agency or other regional services that may be initiated between and among participating county boards; and

(7) Any other indicators as determined by the state board.

(g) *Assessment and accountability of school and school system performance and processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall establish by rule a system of education performance audits which measures the quality of education and the preparation of students based on the annual measures of student, school and school system performance and progress. The system of education performance audits shall provide information to the state board, the Legislature and the

Governor, upon which they may determine whether a thorough and efficient system of schools is being provided. The system of education performance audits shall include:

(1) The assessment of student, school and school system performance and progress based on the annual measures established pursuant to subsection (e) of this section;

(2) The evaluation of records, reports and other information collected by the Office of Education Performance Audits upon which the quality of education and compliance with statutes, policies and standards may be determined;

(3) The review of school and school system electronic strategic improvement plans; and

(4) The on-site review of the processes in place in schools and school systems to enable school and school system performance and progress and compliance with the standards.

(h) *Uses of school and school system assessment information.* — The state board shall use information from the system of education performance audits to assist it in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance and progress. Information from the system of education performance audits further shall be used by the state board for these purposes, including, but not limited to, the following:

(1) Determining school accreditation and school system approval status;

(2) Holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and

(3) Targeting additional resources when necessary to improve performance and progress.

The state board shall make accreditation information available to the Legislature, the Governor, the general public and to any individual who requests the information, subject to the provisions of any act or rule restricting the release of information.

(i) *Early detection and intervention programs.* — Based on the assessment of student, school and school system performance and progress, the state board shall establish early detection and intervention programs using the available resources of the Department of Education, the regional educational service agencies, the Center for Professional Development and the Principals Academy, or other resources as appropriate, to assist underachieving schools and school systems to improve performance before conditions become so grave as to warrant more substantive state intervention. Assistance shall include, but is not limited to, providing additional technical assistance and programmatic, professional staff development, providing monetary, staffing and other resources where appropriate.

(j) *Office of Education Performance Audits.* —

(1) To assist the state board in the operation of a system of education performance audits, the state board shall establish an Office of Education Performance Audits consistent with the provisions of this section. The Office of Education Performance Audits shall be operated under the direction of the state board independently of the functions and supervision of the State Department of Education and state superintendent. The Office of Education Performance Audits shall report directly to and be responsible to the state board in carrying out its duties under the provisions of this section.

(2) The office shall be headed by a director who shall be appointed by the state board and who serves at the will and pleasure of the state board. The annual salary of the director shall be set by the state board and may not exceed eighty percent of the salary of the State Superintendent of Schools.

(3) The state board shall organize and sufficiently staff the office to fulfill the duties assigned to it by law and by the state board. Employees of the State Department of Education who are transferred to the Office of Education Performance Audits shall retain their benefits and seniority status with the Department of Education.

(4) Under the direction of the state board, the Office of Education Performance Audits shall receive from the West Virginia education Information System staff research and analysis data on the performance and progress of students, schools and school systems, and shall receive assistance, as determined by the state board, from staff at the State Department of Education, the regional education service agencies, the Center for Professional Development, the Principals Academy and the School Building Authority to carry out the duties assigned to the office.

(5) In addition to other duties which may be assigned to it by the state board or by statute, the Office of Education Performance Audits also shall:

(A) Assure that all statewide assessments of student performance used as annual performance measures are secure as required in section one-a of this article;

(B) Administer all accountability measures as assigned by the state board, including, but not limited to, the following:

(i) Processes for the accreditation of schools and the approval of school systems; and

(ii) Recommendations to the state board on appropriate action, including, but not limited to, accreditation and approval action;

(C) Determine, in conjunction with the assessment and accountability processes, what capacity may be needed by schools and school systems to meet the standards established by the state board and recommend to the state board plans to establish those needed capacities;

(D) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity of schools and school systems to meet the standards established by the state board, including the identification of trends and the need for continuing improvements in education, and report those deficiencies and trends to the state board;

(E) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the state board and make recommendations to the state board, the Center for Professional Development, the regional educational service agencies, the Higher Education Policy Commission and the county boards;

(F) Identify, in conjunction with the assessment and accountability processes, school systems and best practices that improve student, school and school system performance and communicate those to the state board for promoting the use of best practices. The state board shall provide information on best practices to county school systems; and

(G) Develop reporting formats, such as check lists, which shall be used by the appropriate administrative personnel in schools and school systems to document compliance with applicable laws, policies and process standards as considered appropriate and approved by the state board, which may include, but is not limited to, the following:

(i) The use of a policy for the evaluation of all school personnel that meets the requirements of sections twelve and twelve-a, article two, chapter eighteen-a of this code;

(ii) The participation of students in appropriate physical assessments as determined by the state board, which assessment may not be used as a part of the assessment and accountability system;

(iii) The appropriate licensure of school personnel; and

(iv) The appropriate provision of multicultural activities.

Information contained in the reporting formats is subject to examination during an on-site review to determine compliance with laws, policies and standards. Intentional and grossly negligent reporting of false information are grounds for dismissal of any employee.

(k) *On-site reviews.* —

(1) The system of education performance audits shall include on-site reviews of schools and school systems which shall be conducted only at the specific direction of the state board upon its determination that circumstances exist that warrant an on-site review. Any discussion by the state board of schools to be subject to an on-site review or dates for which on-site reviews will be conducted may be held in executive session and is not subject to the provisions of article nine-a, chapter six of this code relating to open governmental proceedings. An on-site review shall be conducted by the Office of Education Performance Audits of a school or school system for the purpose of making recommendations to the school and school system, as appropriate, and to the state board on such measures as it considers necessary. The investigation may include, but is not limited to, the following:

(A) Verifying data reported by the school or county board;

(B) Examining compliance with the laws and policies affecting student, school and school system performance and progress;

(C) Evaluating the effectiveness and implementation status of school and school system electronic strategic improvement plans;

(D) Investigating official complaints submitted to the state board that allege serious impairments in the quality of education in schools or school systems;

(E) Investigating official complaints submitted to the state board that allege that a school or county board is in violation of policies or laws under which schools and county boards operate; and

(F) Determining and reporting whether required reviews and inspections have been conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the Health Department, the School Building Authority and the responsible divisions within the department of education, and whether noted deficiencies have been or are in the process of being corrected.

(2) The Director of the Office of Education Performance Audits shall notify the county superintendent of schools five schooldays prior to commencing an on-site review of the county school system and shall notify both the county superintendent and the principal five school days before commencing an on-site review of an individual school: *Provided*, That the state board may direct the Office of Education Performance Audits to conduct an unannounced on-site review of a school or school system if the state board believes circumstances warrant an unannounced on-site review.

(3) The Office of Education Performance Audits shall conduct on-site reviews which are limited in scope to specific areas in which performance and progress are persistently below standard as determined by the state board unless specifically directed by the state board to conduct a review which covers additional areas.

(4) The Office of Education Performance Audits shall reimburse a county board for the costs of substitutes required to replace county board employees who serve on a review team.

(5) At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be present for at least the portion of the conference pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and curriculum team of the school and the superintendent shall be provided the opportunity to be present. The purpose of the exit conference is to review the initial findings of the on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between the reviewers and the

school or school system to promote a better understanding of the findings.

(6) The Office of Education Performance Audits shall report the findings of an on-site review to the county superintendent and the principals whose schools were reviewed within thirty days following the conclusion of the on-site review. The Office of Education Performance Audits shall report the findings of the on-site review to the state board within forty-five days after the conclusion of the on-site review. A school or county that believes one or more findings of a review are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of education in the school or county or address issues unrelated to the health, safety and welfare of students and the quality of education, may appeal to the state board for removal of the findings. ~~The state board shall establish a process for it to receive, review and act upon the appeals. The state board shall report to the Legislative Oversight Commission on Education Accountability during its July interim meetings, or as soon thereafter as practical, on each appeal during the preceding school year.~~

(7)The Legislature finds that the accountability and oversight of some activities and programmatic areas in the public schools are controlled through other mechanisms and agencies and that additional accountability and oversight may be unnecessary, counterproductive and impair necessary resources for teaching and learning. Therefore, the Office of Education Performance Audits may rely on other agencies and mechanisms in its review of schools and school systems.

(1) *School accreditation.* —

(1) The state board shall establish levels of accreditation to be assigned to schools. The establishment of levels of accreditation and the levels shall be subject to the following:

(A) The levels will be designed to demonstrate school performance in all the areas outlined in this section and also those established by the state board;

(B) The state board shall promulgate legislative rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to establish the performance and standards required for a school to be assigned a particular level of accreditation; and

(C) The state board will establish the levels of accreditation in such a manner as to minimize the number of systems of school recognition, both state and federal, that are employed to recognize and accredit schools.

(2) The state board annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school a level of accreditation as designated and determined by the state board.

(3) The state board, in its exercise of general supervision of the schools and school systems of West Virginia, may exercise any or all of the following powers and actions:

(A) To require a school to revise its electronic strategic plan;

(B) To define extraordinary circumstances under which the state board may intervene directly or indirectly in the operation of a school;

(C) To appoint monitors to work with the principal and staff of a school where extraordinary circumstances are found to exist and to appoint monitors to assist the school principal after intervention in the operation of a school is completed;

(D) To direct a county board to target resources to assist a school where extraordinary circumstances are found to exist;

(E) To intervene directly in the operation of a school and declare the position of principal vacant and assign a principal for the school who will serve at the will and pleasure of the state board. If the principal who was removed elects not to remain an employee of the county board, then the principal assigned by the state board shall be

paid by the county board. If the principal who was removed elects to remain an employee of the county board, then the following procedure applies:

(i) The principal assigned by the state board shall be paid by the state board until the next school term, at which time the principal assigned by the state board shall be paid by the county board;

(ii) The principal who was removed is eligible for all positions in the county, including teaching positions, for which the principal is certified, by either being placed on the transfer list in accordance with section seven, article two, chapter eighteen-a of this code, or by being placed on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of this code; and

(iii) The principal who was removed shall be paid by the county board and may be assigned to administrative duties, without the county board being required to post that position until the end of the school term; and

(F) Other powers and actions the state board determines necessary to fulfill its duties of general supervision of the schools and school systems of West Virginia.

(4) The county board may take no action nor refuse any action if the effect would be to impair further the school in which the state board has intervened.

(M) *School system approval.* — The state board annually shall review the information submitted for each school system from the system of education performance audits and issue one of the following approval levels to each county board: Full approval, temporary approval, conditional approval or nonapproval.

(1) Full approval shall be given to a county board whose schools have all been given full, temporary or conditional accreditation status and which does not have any deficiencies which would endanger

student health or safety or other extraordinary circumstances as defined by the state board. A fully approved school system in which other deficiencies are discovered shall remain on full accreditation status for the remainder of the approval period and shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

(2) Temporary approval shall be given to a county board whose education system is below the level required for full approval. Whenever a county board is given temporary approval status, the county board shall revise its electronic county strategic improvement plan in accordance with subsection (b) of this section to increase the performance and progress of the school system to a full approval status level. The revised plan shall be submitted to the state board for approval.

(3) Conditional approval shall be given to a county board whose education system is below the level required for full approval, but whose electronic county strategic improvement plan meets the following criteria:

(A) The plan has been revised in accordance with subsection (b) of this section;

(B) The plan has been approved by the state board; and

(C) The county board is meeting the objectives and time line specified in the revised plan.

(4) Nonapproval status shall be given to a county board which fails to submit and gain approval for its electronic county strategic improvement plan or revised electronic county strategic improvement plan within a reasonable time period as defined by the state board or which fails to meet the objectives and time line of its revised electronic county strategic improvement plan or fails to achieve full approval by the date specified in the revised plan.

(A) The state board shall establish and adopt additional standards to identify school systems in which the program may be nonapproved and the state board may issue nonapproval status whenever extraordinary circumstances exist as defined by the state board.

(B) Whenever a county board has more than a casual deficit, as defined in section one, article one of this chapter, the county board shall submit a plan to the state board specifying the county board's strategy for eliminating the casual deficit. The state board either shall approve or reject the plan. If the plan is rejected, the state board shall communicate to the county board the reason or reasons for the rejection of the plan. The county board may resubmit the plan any number of times. However, any county board that fails to submit a plan and gain approval for the plan from the state board before the end of the fiscal year after a deficit greater than a casual deficit occurred or any county board which, in the opinion of the state board, fails to comply with an approved plan may be designated as having nonapproval status.

(C) Whenever nonapproval status is given to a school system, the state board shall declare a state of emergency in the school system and shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correcting the emergency. When the state board approves the recommendations, they shall be communicated to the county board. If progress in correcting the emergency, as determined by the state board, is not made within six months from the time the county board receives the recommendations, the state board shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, the following:

(i) Limiting the authority of the county superintendent and county board as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and rules and any other areas

designated by the state board by rule, which may include delegating decision-making authority regarding these matters to the state superintendent;

(ii) Declaring that the office of the county superintendent is vacant;

(iii) Declaring that the positions of personnel who serve at the will and pleasure of the county superintendent as provided in section one, article two, chapter eighteen-a of this code, are vacant, subject to application and reemployment;

(iv) Delegating to the state superintendent both the authority to conduct hearings on personnel matters and school closure or consolidation matters and, subsequently, to render the resulting decisions and the authority to appoint a designee for the limited purpose of conducting hearings while reserving to the state superintendent the authority to render the resulting decisions;

(v) Functioning in lieu of the county board of education in a transfer, sale, purchase or other transaction regarding real property; and

(vi) Taking any direct action necessary to correct the emergency including, but not limited to, the following:

(I) Delegating to the state superintendent the authority to replace administrators and principals in low performing schools and to transfer them into alternate professional positions within the county at his or her discretion; and

(II) Delegating to the state superintendent the authority to fill positions of administrators and principals with individuals determined by the state superintendent to be the most qualified for the positions. Any authority related to intervention in the operation of a county board granted under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this code.

(n) Notwithstanding any other provision of this section, the state board may intervene immediately in the operation of the county school

system with all the powers, duties and responsibilities contained in subsection (m) of this section, if the state board finds the following:

(1) That the conditions precedent to intervention exist as provided in this section; and that delaying intervention for any period of time would not be in the best interests of the students of the county school system; or

(2) That the conditions precedent to intervention exist as provided in this section and that the state board had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.

(o) *Capacity*. — The process for improving education includes a process for targeting resources strategically to improve the teaching and learning process. Development of electronic school and school system strategic improvement plans, pursuant to subsection (b) of this section, is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school and school system performance. When deficiencies are detected through the assessment and accountability processes, the revision and approval of school and school system electronic strategic improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies. When the state board determines that schools and school systems do not have the capacity to correct deficiencies, the state board shall take one or more of the following actions:

(1) Work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the Governor;

(2) Recommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making

determinations on recommendations, the state board shall include, but is not limited to, the following methods:

(A) Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;

(B) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance and progress of students or the deficiencies of the school or school system and requiring the school or school system to work collaboratively with the West Virginia Department of Education State System of Support to correct the deficiencies;

(C) Determining the areas of strength that appear to have contributed to exceptional student, school and school system performance and progress and promoting their emulation throughout the system;

(D) Requesting technical assistance from the School Building Authority in assessing or designing comprehensive educational facilities plans;

(E) Recommending priority funding from the School Building Authority based on identified needs;

(F) Requesting special staff development programs from the Center for Professional Development, the Principals Academy, higher education, regional educational service agencies and county boards based on identified needs;

(G) Submitting requests to the Legislature for appropriations to meet the identified needs for improving education;

(H) Directing county boards to target their funds strategically toward alleviating deficiencies;

(I) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

(J) Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

(K) Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

(p) *Building leadership capacity* — To help build the governance and leadership capacity of a county board during an intervention in the operation of its school system by the state board, and to help assure sustained success following return of control to the county board, the state board shall require the county board to establish goals and action plans, subject to approval of the state board, to improve performance sufficiently to end the intervention within a period of not more than five years. The state superintendent shall maintain oversight and provide assistance and feedback to the county board on development and implementation of the goals and action plans. At a minimum, the goals and action plans shall include:

(A) An analysis of the training and development activities needed by the county board and leadership of the school system and schools for effective governance and school improvement;

(B) Support for the training and development activities identified which may include those made available through the state superintendent, regional education service agencies, Center for Professional Development, West Virginia School Board Association, Office of Education Performance Audits, West Virginia Education Information System and other sources identified in the goals and action plans. Attendance at these activities included in the goals and action plans is mandatory as specified in the goals and action plans; and

(C) Active involvement by the county board in the improvement process, working in tandem with the county superintendent to gather,

analyze and interpret data, write time-specific goals to correct deficiencies, prepare and implement action plans and allocate or request from the State Board of Education the resources, including board development training and coaching, necessary to achieve approved goals and action plans and sustain system and school improvement.

At least once each year during the period of intervention, the Office of Education Performance Audits shall assess the readiness of the county board to accept the return of control of the system or school from the state board and sustain the improvements, and shall make a report and recommendations to the state board supported by documented evidence of the progress made on the goals and action plans. The state board may end the intervention or return any portion of control of the operations of the school system or school that was previously removed at its sole determination. If the state board determines at the fifth annual assessment that the county board is still not ready to accept return of control by the state board and sustain the improvements, the state board shall hold a public hearing in the affected county at which the attendance by all members of the county board is requested so that the reasons for continued intervention and the concerns of the citizens of the county may be heard. The state board may continue the intervention only after it holds the public hearing and may require revision of the goals and action plans.

Following the termination of an intervention in the operation of a school system and return of full control by the state board, the support for governance education and development shall continue as needed for up to three years. If at any time within this three years, the state board determines that intervention in the operation of the school system is again necessary, the state board shall again hold a public hearing in the affected county so that the reasons for the intervention and the concerns of the citizens of the county may be heard.

ARTICLE 2I. PROFESSIONAL DEVELOPMENT.

§18-2I-5. Strategic Staff Development Fund.

(a) There is created an account within the state board titled the Strategic Staff Development Fund. The allocation of balances which accrue in the General School Fund shall be transferred to the Strategic Staff Development Fund each year when the balances become available. Any remaining funds transferred to the Strategic Staff Development Fund during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the transfer of funds from the General School Fund for the next fiscal year.

(b) The money in the Strategic Staff Development Fund shall be used by the state board to provide staff development in schools, counties or both that the state board determines need additional resources. ~~The state board is required to report to the Legislative Oversight Commission on Education Accountability before December 1, annually, on the effectiveness of the staff development resulting from expenditures in this fund.~~

ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.**§18-3-12. Special Community Development School Pilot Program.**

(a) The state superintendent shall establish a Special Community Development School Pilot Program to be implemented in a neighborhood of at least five public schools, which shall include at least one elementary and middle school, for the duration of five years. The neighborhood of public schools designated by the state superintendent for the pilot shall have significant enrollments of disadvantaged, minority and underachieving students. The designated neighborhood of public schools under the direction of the county board and county superintendent shall work in collaboration with higher education, community organizations, Center for Professional Development, local community leaders, affected classroom teachers, affected parents and the state board to develop and implement

strategies that could be replicated in other public schools with significant enrollments of disadvantaged, minority and underachieving students to improve academic achievement. For purposes of this section ‘neighborhood’ means an area of no more than seven square miles.

~~(b) Beginning in January, 2014, on or before the first day of the regular session of the Legislature, and each year thereafter, the state superintendent, county superintendent for the county in which the schools are located and lead community-based organizations shall make a status report to the Legislative Oversight Commission on Education Accountability and to the state board. The report may include any recommendations based on the progress of the demonstration project that he or she considers either necessary for improving the operations of the demonstration project or prudent for improving student achievement in other public schools through replication of successful demonstration school programs.~~

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-44. Early childhood education programs.

(a) For the purposes of this section, ‘early childhood education’ means programs for children who have attained the age of four prior to September 1 of the school year in which the pupil enters the program created in this section.

(b) *Findings.* —

(1) Among other positive outcomes, early childhood education programs have been determined to:

- (A) Improve overall readiness when children enter school;
- (B) Decrease behavioral problems;
- (C) Improve student attendance;

(D) Increase scores on achievement tests;

(E) Decrease the percentage of students repeating a grade; and

(F) Decrease the number of students placed in special education programs;

(2) Quality early childhood education programs improve school performance and low-quality early childhood education programs may have negative effects, especially for at-risk children;

(3) West Virginia has the lowest percentage of its adult population twenty-five years of age or older with a bachelor's degree and the education level of parents is a strong indicator of how their children will perform in school;

(4) During the 2006-2007 school year, West Virginia ranked thirty-ninth among the fifty states in the percentage of schoolchildren eligible for free and reduced lunches and this percentage is a strong indicator of how the children will perform in school;

(5) For the school year 2008-2009, thirteen thousand one hundred thirty-five students were enrolled in prekindergarten, a number equal to approximately sixty-three percent of the number of students enrolled in kindergarten;

(6) Excluding projected increases due to increases in enrollment in the early childhood education program, projections indicate that total student enrollment in West Virginia will decline by one percent, or by approximately two thousand seven hundred four students, by the school year 2012-2013;

(7) In part, because of the dynamics of the state aid formula, county boards will continue to enroll four-year old students to offset the declining enrollments;

(8) West Virginia has a comprehensive kindergarten program for five-year olds, but the program was established in a manner that

resulted in unequal implementation among the counties which helped create deficit financial situations for several county boards;

(9) Expansion of current efforts to implement a comprehensive early childhood education program should avoid the problems encountered in kindergarten implementation;

(10) Because of the dynamics of the state aid formula, counties experiencing growth are at a disadvantage in implementing comprehensive early childhood education programs; and

(11) West Virginia citizens will benefit from the establishment of quality comprehensive early childhood education programs.

(c) Beginning no later than the school year 2012-2013, and continuing thereafter, county boards shall provide early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the early childhood education program. Beginning no later than the school year 2016-2017, and continuing thereafter, early childhood education programs that are full day and five days per week shall be available to all children meeting the age requirement set forth in the subsection.

(d) The program shall meet the following criteria:

(1) It shall be voluntary, except, upon enrollment, the provisions of section one, article eight of this chapter apply to an enrolled student, subject to subdivision (3) of this subsection;

(2) All children meeting the age requirement set forth in this section shall have the opportunity to enroll in a program that is full day and five days per week. The program may be for fewer than five days per week and may be less than full day based on family need if a sufficient number of families request such programs and the county board finds that such programs are in the best interest of the requesting families and students: *Provided*, That the ability of families to request programs that are fewer than five days a week or less than a full day

does not relieve the county of the obligation to provide all resident children with the opportunity to enroll in a full-day program; and

(3) A parent of a child enrolled in an early education program may withdraw a child from that program for good cause by notifying the district. Good cause includes, but is not limited to, enrollment of the child in another program or the immaturity of the child. A child withdrawn under this section is not subject to the attendance provisions of this chapter until that child again enrolls in a public school in this state.

(e) Enrollment of students in Head Start, in any other program approved by the state superintendent as provided in subsection (k) of this section may be counted toward satisfying the requirement of subsection (c) of this section.

(f) For the purposes of implementation financing, all counties are encouraged to make use of funds from existing sources, including:

(1) Federal funds provided under the Elementary and Secondary Education Act pursuant to 20 U. S. C. §6301, *et seq.*;

(2) Federal funds provided for Head Start pursuant to 42 U. S. C. §9831, *et seq.*;

(3) Federal funds for temporary assistance to needy families pursuant to 42 U. S. C. §601, *et seq.*;

(4) Funds provided by the School Building Authority pursuant to article nine-d of this chapter;

(5) In the case of counties with declining enrollments, funds from the state aid formula above the amount indicated for the number of students actually enrolled in any school year; and

(6) Any other public or private funds.

(g) Each county board shall develop a plan for implementing the program required by this section. The plan shall include the following elements:

(1) An analysis of the demographics of the county related to early childhood education program implementation;

(2) An analysis of facility and personnel needs;

(3) Financial requirements for implementation and potential sources of funding to assist implementation;

(4) Details of how the county board will cooperate and collaborate with other early childhood education programs including, but not limited to, Head Start, to maximize federal and other sources of revenue;

(5) Specific time lines for implementation; and

(6) Any other items the state board may require by policy.

(h) A county board shall submit its plan to the Secretary of the Department of Health and Human Resources. The secretary shall approve the plan if the following conditions are met:

(1) The county board has maximized the use of federal and other available funds for early childhood programs;

(2) The county board has provided for the maximum implementation of Head Start programs and other public and private programs approved by the state superintendent pursuant to the terms of subsection (k) of this section; and

(3) If the Secretary of the Department of Health and Human Resources finds that the county board has not met one or more of the requirements of this subsection, but that the county board has acted in good faith and the failure to comply was not the primary fault of the

county board, then the secretary shall approve the plan. Any denial by the secretary may be appealed to the circuit court of the county in which the county board is located.

(i) The county board shall submit its plan for approval to the state board. The state board shall approve the plan if the county board has complied substantially with the requirements of subsection (g) of this section and has obtained the approval required in subsection (h) of this section.

(j) Every county board shall submit its plan for reapproval by the Secretary of the Department of Health and Human Resources and by the state board at least every two years after the initial approval of the plan and until full implementation of the early childhood education program in the county. As part of the submission, the county board shall provide a detailed statement of the progress made in implementing its plan. The standards and procedures provided for the original approval of the plan apply to any reapproval.

(k) A county board may not increase the total number of students enrolled in the county in an early childhood program until its program is approved by the Secretary of the Department of Health and Human Resources and the state board.

(l) The state board annually may grant a county board a waiver for total or partial implementation if the state board finds that all of the following conditions exist:

(1) The county board is unable to comply either because:

(A) It does not have sufficient facilities available; or

(B) It does not and has not had available funds sufficient to implement the program;

(2) The county has not experienced a decline in enrollment at least equal to the total number of students to be enrolled; and

(3) Other agencies of government have not made sufficient funds or facilities available to assist in implementation.

Any county board seeking a waiver shall apply with the supporting data to meet the criteria for which they are eligible on or before March 25 for the following school year. The state superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

(m) The provisions of subsections (b), (c) and (d), section eighteen of this article relating to kindergarten apply to early childhood education programs in the same manner in which they apply to kindergarten programs.

~~(n) Annually, the state board shall report to the Legislative Oversight Commission on Education Accountability on the progress of implementation of this section.~~

~~(n)~~ (n) Except as required by federal law or regulation, no county board may enroll students who will be less than four years of age prior to September 1 for the year they enter school.

~~(p)~~ (o) Neither the state board nor the state department may provide any funds to any county board for the purpose of implementing this section unless the county board has a plan approved pursuant to subsections (h), (i) and (j) of this section.

~~(p)~~ (p) The state board shall promulgate a rule in accordance with the provisions of article threeb, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this section. The state board shall consult with the Secretary of the Department of Health and Human Resources in the preparation of the rule. The rule shall contain the following:

- (1) Standards for curriculum;
- (2) Standards for preparing students;
- (3) Attendance requirements;

(4) Standards for personnel; and

(5) Any other terms necessary to implement the provisions of this section.

(~~tr~~) (q) The rule shall include the following elements relating to curriculum standards:

(1) A requirement that the curriculum be designed to address the developmental needs of four year old children, consistent with prevailing research on how children learn;

(2) A requirement that the curriculum be designed to achieve long-range goals for the social, emotional, physical and academic development of young children;

(3) A method for including a broad range of content that is relevant, engaging and meaningful to young children;

(4) A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional strategies to respond to differences in prior experience, maturation rates and learning styles that young children bring to the classroom;

(5) A requirement that the curriculum be designed to build on what children already know in order to consolidate their learning and foster their acquisition of new concepts and skills;

(6) A requirement that the curriculum meet the recognized standards of the relevant subject matter disciplines;

(7) A requirement that the curriculum engage children actively in the learning process and provide them with opportunities to make meaningful choices;

(8) A requirement that the curriculum emphasize the development of thinking, reasoning, decision making and problem-solving skills;

(9) A set of clear guidelines for communicating with parents and involving them in decisions about the instructional needs of their children; and

(10) A systematic plan for evaluating program success in meeting the needs of young children and for helping them to be ready to succeed in school.

~~(s) The secretary and the state superintendent shall submit a report to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance which addresses, at a minimum, the following issues:~~

~~(1) A summary of the approved county plans for providing the early childhood education programs pursuant to this section;~~

~~(2) An analysis of the total cost to the state and county boards of implementing the plans;~~

~~(3) A separate analysis of the impact of the plans on counties with increasing enrollment; and~~

~~(4) An analysis of the effect of the programs on the maximization of the use of federal funds for early childhood programs.~~

~~The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible manner, make any necessary program improvements based on reported information prior to implementation of the early childhood education programs.~~

~~(t) (r) After the school year 2012-2013, on or before July 1 of each year, each county board shall report the following information to the Secretary of the Department of Health and Human Resources and the state superintendent:~~

(1) Documentation indicating the extent to which county boards are maximizing resources by using the existing capacity of

community-based programs, including, but not limited to, Head Start and child care; and

(2) For those county boards that are including eligible children attending approved, contracted community-based programs in their net enrollment for the purposes of calculating state aid pursuant to article nine-a of this chapter, documentation that the county board is equitably distributing funding for all children regardless of setting.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-5. Powers and duties of state superintendent.

(a) The State Superintendent of Schools shall organize, promote, administer and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing and maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher services.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, formula for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided*, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) ~~The state superintendent shall annually review the rules, policies and standards of the state and federal law for serving the needs of exceptional children enrolled in the public schools and shall report~~

~~to the Legislative Oversight commission on education accountability by December 1, or as soon thereafter as requested by the commission, 2008, and in each year thereafter, the findings of the review along with an accounting of the services provided and the costs thereof for exceptional children enrolled in the public schools of this state during the latest available school year. An appropriation shall be made to the Department of Education to be distributed to county boards to support children with high acuity needs that exceed the capacity of county to provide with funds available. Each county board shall apply to the state superintendent for receipt of this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be distributed to county boards for this purpose before any of the state appropriation is distributed. The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions of this subdivision relating to distributing the funds to the county boards. The rule at least shall include a definition for 'children with high acuity needs'.~~

(4) Receiving from county boards of education their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools and correctional facilities as provided in section thirteen-f, article two of this chapter receive an education in accordance with state and federal laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the State Board of Education, to the Legislative Oversight Commission on Education Accountability no later than December 1, 1995.

(b) Nothing contained in this section shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services out of funds available from local revenue.

§18-20-8. Interagency plan for exceptional children; advisory council.

(a) The state departments of health, human services and education shall enter into a collaborative agreement for the purpose of developing a statewide plan of coordinating comprehensive, multidisciplinary interagency programs providing appropriate early intervention services to all developmentally delayed and at-risk children, ages birth through five years, and their families to be phased in by the school year 1990-99.

This comprehensive, coordinated statewide plan shall include, at a minimum:

- (1) Specification of the population to be served;
- (2) The development of regulations and procedural safeguards;
- (3) The development of procedures for administration, supervision and monitoring;
- (4) The identification and coordination of all available resources; and
- (5) The development of formal interagency agreements that define the financial responsibility of each agency and all additional components necessary to ensure meaningful cooperation and coordination.

(b) To assist in the development of such a plan, an advisory council consisting of twelve members shall be created. The departments of health, human services and education shall each appoint four members, and each shall include in such appointments one parent of an exceptional child under the age of six; one public or private provider of early intervention services for developmentally delayed and at-risk children; one individual involved in the education training of personnel who work with preschool handicapped; and one other person.

The functions of the council shall include the following:

(1) Meet at least quarterly;

(2) Solicit information and opinions from concerned agencies, groups and individuals; and

(3) Advise and assist the departments of health, human services and education in the development of the statewide plan herein required. and

~~(4) Prepare and submit an annual report by December 1, of each year to the Governor, the joint committee on education, the Legislative commission on juvenile law, the Legislative Oversight commission on education accountability, and other agencies, as appropriate, which report shall recommend policies, procedures and legislation for effectively providing early intervention services and reports on the status of existing programs.~~

Following the submission of the advisory council's first annual report, the joint committee on education is authorized and empowered to disband the council or alter its functions as it deems advisable.

The members of the council may be reimbursed for actual and necessary expenses incurred in the performance of their official duties in accordance with state law from appropriations to the departments of health, human services and education or available federal funds.

CHAPTER 18A. SCHOOL PERSONNEL.**ARTICLE 2. SCHOOL PERSONNEL.****§18A-2-3. Employment of substitute teachers; employment of retired teachers as substitutes in areas of critical need and shortage; and employment of prospective employable professional personnel.**

(a) The county superintendent, subject to approval of the county board, may employ and assign substitute teachers to any of the following duties:

(1) Fill the temporary absence of any teacher or an unexpired school term made vacant by resignation, death, suspension or dismissal;

(2) Fill a teaching position of a regular teacher on leave of absence; and

(3) Perform the instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing the absence is approved by the board of education in accordance with the law.

The substitute shall be a duly certified teacher.

(b) Notwithstanding any other provision of this code to the contrary, a substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one half of a grading period and whose assignment remains in effect two weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation of lesson plans and monitoring student progress or has been approved to return to work by his or her physician. For the purposes of this section, teacher and

substitute teacher, in the singular or plural, mean professional educator as defined in section one, article one of this chapter.

(c) (1) The Legislature hereby finds and declares that due to a shortage of qualified substitute teachers, a compelling state interest exists in expanding the use of retired teachers to provide service as substitute teachers in areas of critical need and shortage. The Legislature further finds that diverse circumstances exist among the counties for the expanded use of retired teachers as substitutes. For the purposes of this subsection, “area of critical need and shortage for substitute teachers” means an area of certification and training in which the number of available substitute teachers in the county who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers.

(2) A person receiving retirement benefits under article seven-a, chapter eighteen of this code or who is entitled to retirement benefits during the fiscal year in which that person retired may accept employment as a critical needs substitute teacher for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled if the following conditions are satisfied:

(A) The county board adopts a policy recommended by the superintendent to address areas of critical need and shortage for substitute teachers;

(B) The policy sets forth the areas of critical need and shortage for substitute teachers in the county in accordance with the definition of area of critical need and shortage for substitute teachers set forth in subdivision (1) of this subsection;

(C) The policy provides for the employment of retired teachers as critical needs substitute teachers during the school year on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection;

(D) The policy provides that a retired teacher may be employed as a substitute teacher in an area of critical need and shortage for substitute teachers on an expanded basis as provided in this subsection only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment;

(E) The policy is effective for one school year only and is subject to annual renewal by the county board;

(F) The state board approves the policy and the use of retired teachers as substitute teachers on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection; and

(G) Prior to employment of a retired teacher as a critical needs substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the superintendent of the affected county submits to the state board in a form approved by the Consolidated Public Retirement Board and the state board, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the critical need and shortage area position filled by each person, the date that the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement. Upon verification of compliance with this section and the eligibility of the critical needs substitute teacher for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

(3) Any person who retires and begins work as a critical needs substitute teacher within the same employment term shall lose those retirement benefits attributed to the annuity reserve, effective from the

first day of employment as a retiree substitute in that employment term and ending with the month following the date the retiree ceases to perform service as a substitute.

(4) Retired teachers employed to perform expanded substitute service pursuant to this subsection are considered day-to-day, temporary, part-time employees. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and may not accrue seniority.

(5) A retired teacher is eligible to be employed as a critical needs substitute to fill a vacant position only if the retired teacher's retirement became effective at least twenty days before the beginning of the employment term during which he or she is employed as a substitute.

(6) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position.

(7) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the state board.

(8) Until this subsection is expired pursuant to subdivision (9) of this subsection, the state board, annually, shall report to the Joint Committee on Government and Finance prior to February 1 of each year. Additionally, a copy shall be provided to the Legislative Oversight Commission on Education Accountability. The report shall contain information indicating the effectiveness of the provisions of this subsection on reducing the critical need and shortage of substitute teachers including, but not limited to, the number of retired teachers, by critical need and shortage area position filled and by county, employed beyond the post-retirement employment limit established by

the Consolidated Public Retirement Board, the date that each person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement.

(9) The provisions of this subsection shall expire on June 30, 2017.

(d) (1) Notwithstanding any other provision of this code to the contrary, each year a county superintendent may employ prospective employable professional personnel on a reserve list at the county level subject to the following conditions:

(A) The county board adopts a policy to address areas of critical need and shortage as identified by the state board. The policy shall include authorization to employ prospective employable professional personnel;

(B) The county board posts a notice of the areas of critical need and shortage in the county in a conspicuous place in each school for at least ten working days; and

(C) There are not any potentially qualified applicants available and willing to fill the position.

(2) Prospective employable professional personnel may only be employed from candidates at a job fair who have or will graduate from college in the current school year or whose employment contract with a county board has or will be terminated due to a reduction in force in the current fiscal year.

(3) Prospective employable professional personnel employed are limited to three full-time prospective employable professional personnel per one hundred professional personnel employed in a county or twenty-five full-time prospective employable professional personnel in a county, whichever is less.

(4) Prospective employable professional personnel shall be granted benefits at a cost to the county board and as a condition of the employment contract as approved by the county board.

(5) Regular employment status for prospective employable professional personnel may be obtained only in accordance with the provisions of section seven-a, article four of this chapter.

~~(e) The state board annually shall review the status of employing personnel under the provisions of subsection (d) of this section and annually shall report to the Legislative Oversight Commission on Education Accountability on or before November 1 of each year. The report shall include, but not be limited to, the following:~~

~~(A) The counties that participated in the program;~~

~~(B) The number of personnel hired;~~

~~(C) The teaching fields in which personnel were hired;~~

~~(D) The venue from which personnel were employed;~~

~~(E) The place of residency of the individual hired; and~~

~~(F) The state board's recommendations on the prospective employable professional personnel program.~~

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-7a. Employment, promotion and transfer of professional personnel; seniority.

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: *Provided*, That the county superintendent shall be hired under separate criteria pursuant to section two, article four, chapter eighteen of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a classroom teaching position or the position of principal, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to the performance of the duties of the job;

(7) Past performance evaluations conducted pursuant to section twelve, article two of this chapter and section two, article three-c of this chapter or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of section five, article five-a, chapter eighteen of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) In considering the filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant 's qualifications: *Provided*, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.

(d) For a classroom teaching position, if the recommendations resulting from the operations of subdivisions (10) and (11), subsection (b) of this section are for the same applicant, and the superintendent concurs with that recommendation, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to implement and interpret the provisions of this section, including provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in making recommendations pursuant to this section for periods beyond his or her individual contract.

(f) Recommendations made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be made based on a determination as to which of the applicants is the highest qualified for the position: *Provided*, That nothing in this subsection shall require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the

employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) Upon completion of one hundred thirty-three days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

(i) Guidance counselors and all other professional employees, as defined in section one, article one of this chapter, except classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: *Provided*, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that that employee is employed in another professional area. For the purposes of accruing seniority under this paragraph, employment as principal, supervisor or central office administrator, as defined in section one, article one of this chapter, shall be considered one area of employment.

(j) Employment for a full employment term shall equal one year of seniority, but no employee may accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated. A random selection system established by the employees and approved by the board shall be used to determine the priority if two or more employees accumulate identical seniority: *Provided*, That when two or more principals have accumulated identical seniority, decisions on reductions in force shall be based on qualifications.

(k) Whenever a county board is required to reduce the number of professional personnel in its employment, the employee with the least amount of seniority shall be properly notified and released from employment pursuant to the provisions of section two, article two of this chapter. The provisions of this subsection are subject to the following:

(1) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release;

(2) Notwithstanding any provision of this code to the contrary, all employees subject to release shall be considered applicants for any vacancy in an established, existing or newly created position that, on or before February 15, is known to exist for the ensuing school year, and for which they are qualified, and, upon recommendation of the superintendent, the board shall appoint the successful applicant from among them before posting such vacancies for application by other persons;

(3) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employee's seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

(4) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employee's seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and

(5) If, prior to August 1 of the year a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(l) For the purpose of this article, all positions which meet the definition of 'classroom teacher' as defined in section one, article one of this chapter shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. ~~The board shall submit a copy of its policy to the state board within thirty days of adoption or any modification, and the state board shall compile a report and submit the report to the Legislative Oversight Commission on Education Accountability by December 31, 1993, and by that date in any succeeding year in which any county board submits a modification of its policy relating to lateral positions.~~ In adopting the policy, the board shall give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; certification, licensure or both; and days in the period of employment.

(m) After the twentieth day prior to the beginning of the instructional term, no person employed and assigned to a professional position may transfer to another professional position in the county during that instructional term unless the person holding that position does not have valid certification. The provisions of this subsection are subject to the following:

(1) The person may apply for any posted, vacant positions with the successful applicant assuming the position at the beginning of the next instructional term;

(2) Professional personnel who have been on an approved leave of absence may fill these vacancies upon their return from the approved leave of absence;

(3) The county board, upon recommendation of the superintendent may fill a position before the next instructional term when it is determined to be in the best interest of the students. The county superintendent shall notify the state board of each transfer of a person employed in a professional position to another professional position after the twentieth day prior to the beginning of the instructional term;

(4) The provisions of this subsection do not apply to the filling of a position vacated because of resignation or retirement that became effective on or before the twentieth day prior to the beginning of the instructional term, but not posted until after that date; and

(5) The Legislature finds that it is not in the best interest of the students, particularly in the elementary grades, to have multiple teachers for any one grade level or course during the instructional term. It is the intent of the Legislature that the filling of positions through transfers of personnel from one professional position to another after the twentieth day prior to the beginning of the instructional term should be kept to a minimum.

(n) All professional personnel whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of seniority if no regular, full-time professional personnel, or those returning from leaves of absence with greater seniority, are qualified, apply for and accept the position.

(o) Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee, and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both.

(p) Openings in established, existing or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may post an opening for a classroom teacher one additional time after the first posting in order to attract more qualified applicants only if fewer than three individuals apply during the first posting subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days;

(B) At least one notice shall be posted within twenty working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;

(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy shall be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board within thirty working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein shall prevent the county board of education from eliminating a position due to lack of need.

(q) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted: *Provided*, That the employee and the county board mutually agree to the reassignment.

(r) Reductions in classroom teaching positions in elementary schools shall be processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of seniority with the least senior classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least senior employee in the school is not in that grade level, the least senior classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least senior classroom teacher in the school without that position being posted: *Provided*, That the employee is certified, licensed or both and agrees to the reassignment.

(s) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

(t) The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.

(u) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

(v) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2013, and the provisions of this section immediately prior to those amendments remain in effect until July 1, 2013.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on

premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen, article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one, article one, chapter sixty-a of this code, on the premises of an educational facility, at a schoolsponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a student from school, or from transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances Act as described in chapter sixty-a of this code. If a student has been

suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(d) The actions of any student which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the student is enrolled. If the principal determines that the alleged actions of the student would be grounds for suspension, he or she shall conduct an informal hearing for the student immediately after the alleged actions

have occurred. The hearing shall be held before the student is suspended unless the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the student shall be suspended immediately and a hearing held as soon as practicable after the suspension.

The student and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the student as to whether he or she admits or denies the charges. If the student does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the student for a maximum of ten school days, including the time prior to the hearing, if any, for which the student has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the student by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

(e) Prior to a hearing before the county board, the county board shall cause a written notice which states the charges and the recommended disposition to be served upon the student and his or her parent(s), guardian(s) or custodian(s), as the case may be. The notice shall state clearly whether the board will attempt at hearing to establish the student as a dangerous student, as defined by section one, article one of this chapter. The notice also shall include any evidence upon which the board will rely in asserting its claim that the student is a

dangerous student. The notice shall set forth a date and time at which the hearing shall be held, which date shall be within the ten-day period of suspension imposed by the principal.

(f) The county board shall hold the scheduled hearing to determine if the student should be reinstated or should, under the provisions of this section, must be expelled from school. If the county board determines that the student should or must be expelled from school, it also may determine whether the student is a dangerous student pursuant to subsection (g) of this section. At this, or any hearing before a county board conducted pursuant to this section, the student may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross examine witnesses supporting the charge against him or her. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter. The hearing may be postponed for good cause shown by the student but he or she shall remain under suspension until after the hearing. The state board may adopt other supplementary rules of procedure to be followed in these hearings. At the conclusion of the hearing the county board shall either: (1) Order the student reinstated immediately at the end of his or her initial suspension; (2) suspend the student for a further designated number of days; or (3) expel the student from the public schools of the county.

(g) A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the student, but he or she remains under suspension until after the hearing.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student

is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

(h) The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his or her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a county board conducted pursuant to the provisions of this section. Upon the written request of any other party, the superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination before a county board. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code.

Any hearing conducted pursuant to this subsection may be postponed: (1) For good cause shown by the student; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when a delay in service of a subpoena hinders either

party's ability to provide sufficient notice to appear to a witness. A student remains under suspension until after the hearing in any case where a postponement occurs.

~~The county boards are directed to report the number of students determined to be dangerous students to the state board. The state board will compile the county boards' statistics and shall report its findings to the Legislative Oversight Commission on Education Accountability.~~

(i) Students may be expelled pursuant to this section for a period not to exceed one school year, except that if a student is determined to have violated the provisions of subsection (a) of this section the student shall be expelled for a period of not less than twelve consecutive months, subject to the following:

(1) The county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the student if the circumstances of the student's case demonstrably warrant;

(2) Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which the student was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

(A) The extent of the student's malicious intent;

(B) The outcome of the student's misconduct;

(C) The student's past behavior history;

(D) The likelihood of the student's repeated misconduct; and

(E) If applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court pursuant to section one-d of this section.

(j) In all hearings under this section, facts shall be found by a preponderance of the evidence.

(k) For purposes of this section, nothing herein may be construed to be in conflict with the federal provisions of the Individuals with Disabilities Education Act, 20 U. S. C. §1400, *et seq.*

(l) Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six, article two, chapter eighteen of this code.

(1) The principal of the school at which the student is enrolled shall create an electronic record within twenty-four hours of the imposition of the suspension or expulsion.

(2) Each record of a suspension or expulsion shall include the student's name and identification number, the reason for the suspension or expulsion and the beginning and ending dates of the suspension or expulsion.

(3) The state board shall collect and disseminate data so that any principal of a public school in West Virginia can review the complete history of disciplinary actions taken by West Virginia public schools against any student enrolled or seeking to enroll at that principal's school. The purposes of this provision are to allow every principal to fulfill his or her duty under subsection (b), section fifteenf, article five, chapter eighteen of this code to determine whether a student requesting to enroll at a public school in West Virginia is currently serving a suspension or expulsion from another public school in West Virginia and to allow principals to obtain general information about students' disciplinary histories.

(m) Principals may exercise any other authority and perform any other duties to discipline students consistent with state and federal law, including policies of the state board.

(n) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions.

(o) For the purpose of this section, ‘principal’ means the principal, assistant principal, vice principal or the administrative head of the school or a professional personnel designee of the principal or the administrative head of the school.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

§18B-1-10. Potomac branch of West Virginia University.

(a) Notwithstanding any other provision of this code to the contrary, by July 1, 2005, Potomac State College shall merge and consolidate with West Virginia University, and become a fully integrated division of the university. All administrative and academic units shall be consolidated with primary responsibility for direction and support assigned to West Virginia University. The advisory board previously appointed for Potomac State College shall be known as the board of visitors and shall provide guidance to the division in carrying out its mission.

(b) Operational costs for the Potomac campus may not exceed by more than ten percent the average cost per full-time equivalent student for freestanding community and technical colleges or the southern regional education board average expenditures for two-year institutions. West Virginia University shall reduce these costs to the mandated level within four years.

(c) Auxiliary enterprises shall be incorporated into the West Virginia University auxiliary enterprise system. The West Virginia University Board of Governors shall determine if operations at the Potomac campus can be operated on a self-sufficient basis when establishing rates for auxiliary services and products.

(d) Potomac State College has a strong reputation in agriculture and forestry instruction, preprofessional programs in business, computer science and education, and basic liberal arts instruction. These programs shall be further cultivated and emphasized as the sustaining mission of the Potomac campus over the next decade, except that the Higher Education Policy Commission may change the mission of the Potomac campus at any time the commission determines appropriate. In order to focus its resources on these programs, the campus shall contract through Eastern West Virginia Community and Technical College to provide work force development training, literacy education and technical education programs which are most efficiently offered within a flexible community and technical college curriculum. This collaborative relationship shall serve to strengthen both institutions and generate a model relationship between traditional and community and technical college education for institutions throughout the state.

~~(e) Beginning November 1, 2003, and annually thereafter, Potomac state college and eastern West Virginia community and technical college shall report to the Higher Education Policy Commission on plans, accomplishments and recommendations in implementing the cooperative relationship authorized in subsection (d) of this section. The commission shall report to the Legislative Oversight commission on education accountability on the cooperative activities, results and recommendations for changes by December 15, 2003, and annually thereafter.~~

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-4. Powers and duties of Higher Education Policy Commission.

(a) The primary responsibility of the commission is to develop, establish and implement policy that will achieve the goals, objectives and priorities found in section one-a, article one and article one d of this chapter. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards. To that end, the commission has the following powers and duties relating to the governing boards under its jurisdiction:

(1) Develop, oversee and advance the public policy agenda pursuant to article one-d of this chapter to address major challenges facing the state, including, but not limited to, the following:

(A) The goals, objectives and priorities established in this chapter including specifically those goals, objectives and priorities pertaining to the compacts created pursuant to section seven, article one-d of this chapter; and

(B) Development and implementation of the master plan described in section five, article one-d of this chapter for the purpose of accomplishing the mandates of this section;

(2) Develop, oversee and advance the promulgation and implementation of a financing rule for state institutions of higher education under its jurisdiction. The rule shall meet the following criteria:

(A) Provide for an adequate level of educational and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and eliminating deferred maintenance; and

(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but not limited to, those found in section one-a, article one and article one-d of this chapter;

(3) In collaboration with the council, create a policy leadership structure capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature and the Governor and specifically from the state Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding the governing boards and the higher education systems as a whole accountable for accomplishing their missions and implementing their compacts;

(4) Develop and adopt each compact for the governing boards under its jurisdiction;

(5) Review and adopt the annual updates of the institutional compacts;

(6) Serve as the accountability point to state policymakers;

(A) The Governor for implementation of the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(7) Jointly with the council, promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;

(8) Establish and implement a peer group for each institution as described in section three, article one-a of this chapter;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional progress in achieving state policy priorities and institutional missions pursuant to section seven, article one-d of this chapter;

~~(10) Report to the Legislature and to the Legislative Oversight Commission on Education Accountability annually during the January interim meeting period on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates. The report shall address at least the following:~~

~~(A) The performance of its system of higher education during the previous fiscal year, including, but not limited to, progress in meeting the goals, objectives and priorities set forth in section one-a, article one and article one-d of this chapter and in the commission's master plan and institutional compacts;~~

~~(B) The commission's priorities for new operating and capital investments and the justification for the priority;~~

~~(C) Recommendations of the commission for statutory changes necessary or expedient to achieve state goals, objectives and priorities;~~

~~(11)~~(10) Establish a formal process for identifying capital investment needs and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process pursuant to article nineteen of this chapter;

~~(12)~~(11) Develop standards and evaluate governing board requests for capital project financing in accordance with article nineteen of this chapter;

~~(13)~~(12) Ensure that governing boards manage capital projects and facilities needs effectively, including review and approval or disapproval of capital projects, in accordance with article nineteen of this chapter;

~~(14)~~(13) Acquire legal services as considered necessary, including representation of the commission, its governing boards, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

~~(15)~~(14) Employ a Chancellor for Higher Education pursuant to section five of this article;

~~(16)~~(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with article four of this chapter;

~~(17)~~(16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors and other staff;

~~(18)~~(17) Advise and consent in the appointment of the presidents of the institutions of higher education under its jurisdiction pursuant to section six of this article. The role of the commission in approving an institutional president is to assure through personal interview that the

person selected understands and is committed to achieving the goals, objectives and priorities set forth in the compact, in section one-a, article one and article one-d of this chapter;

~~(19)~~(18) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, as proposed by the governing boards. The governing boards must obtain approval from the commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package;

~~(20)~~(19) Establish and implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

~~(21)~~(20) Approve and implement a uniform standard jointly with the council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the State Superintendent of Schools;

~~(22)~~(21) Jointly with the council, develop and implement an oversight plan to manage systemwide technology including, but not limited to, the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission and governing boards are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

~~(23)~~(22) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a bachelor's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

~~(24)~~(23) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

~~(25)~~(24) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as are consistent with sound academic policy;

~~(26)~~(25) Establish and implement policies and programs, in cooperation with the council and the governing boards, through which a student who has gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that he or she has the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate's degree or a bachelor's degree at a state institution of higher education;

~~(27)~~(26) Seek out and attend regional, national and international meetings and forums on education and workforce development-related

topics as, in the commission's discretion, are critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals, objectives and priorities pursuant to section one-a, article one and article one-d of this chapter;

~~(28)~~(27) Promulgate and implement a rule for higher education governing boards and institutions to follow when considering capital projects pursuant to article nineteen of this chapter;

~~(29)~~(28) Consider and submit to the appropriate agencies of the executive and legislative branches of state government an appropriation request that reflects recommended appropriations for the commission and the governing boards under its jurisdiction. The commission shall submit as part of its appropriation request the separate recommended appropriation request it received from the council, both for the council and for the governing boards under the council's jurisdiction. The commission annually shall submit the proposed allocations based on each institution's progress toward meeting the goals of its compact;

~~(30)~~(29) The commission may assess institutions under its jurisdiction, including Marshall University and West Virginia University, for the payment of expenses of the commission or for the funding of statewide higher education services, obligations or initiatives related to the goals set forth for the provision of public higher education in the state;

~~(31)~~(30) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to governing boards for qualifying noncapital expenditures incurred in providing services to students with physical, learning or severe sensory disabilities;

~~(32)~~(31) Make appointments to boards and commissions where this code requires appointments from the State College System Board of

Directors or the University of West Virginia System Board of Trustees which were abolished effective June 30, 2000, except in those cases where the required appointment has a specific and direct connection to the provision of community and technical college education, the appointment shall be made by the council. Notwithstanding any provisions of this code to the contrary, the commission or the council may appoint one of its own members or any other citizen of the state as its designee. The commission and council shall appoint the total number of persons in the aggregate required to be appointed by these previous governing boards;

~~(33)~~(32) Pursuant to article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules necessary or expedient to fulfill the purposes of this chapter. The commission and the council shall promulgate a uniform joint legislative rule for the purposes of standardizing, as much as possible, the administration of personnel matters among the state institutions of higher education and implementing the provisions of articles seven, eight, nine and nine-a of this chapter;

~~(34)~~(33) Determine when a joint rule among the governing boards under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards under its jurisdiction, promulgate the joint rule;

~~(35)~~(34) Promulgate and implement a rule jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

~~(36)~~(35) By October 1, 2011, promulgate a rule pursuant to section one, article ten of this chapter, establishing tuition and fee policy for all governing boards under the jurisdiction of the commission, including Marshall University and West Virginia University. The rule shall include, but is not limited to, the following:

- (A) Comparisons with peer institutions;
- (B) Differences among institutional missions;
- (C) Strategies for promoting student access;
- (D) Consideration of charges to out-of-state students; and
- (E) Such other policies as the commission and council consider appropriate;

~~(37)~~(36) Implement general disease awareness initiatives to educate parents and students, particularly dormitory residents, about meningococcal meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and activities that can increase risks; measures that can be taken to prevent contact or infection; and potential benefits of vaccination. The commission shall encourage governing boards that provide medical care to students to provide access to the vaccine for those who wish to receive it; and

~~(38)~~(37) Notwithstanding any other provision of this code to the contrary sell, lease, convey or otherwise dispose of all or part of any real property that it owns, in accordance with article nineteen of this chapter.

(b) In addition to the powers and duties listed in subsection (a) of this section, the commission has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda:

(1) Planning and policy leadership, including a distinct and visible role in setting the state's policy agenda and in serving as an agent of change;

(2) Policy analysis and research focused on issues affecting the system as a whole or a geographical region thereof;

(3) Development and implementation of institutional mission definitions, including use of incentive funds to influence institutional behavior in ways that are consistent with public priorities;

(4) Academic program review and approval for governing boards under its jurisdiction. The review and approval includes use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes.

(A) The commission's authority to review and approve academic programs for either Marshall University or West Virginia University is limited to programs that are proposed to be offered at a new location not presently served by that institution;

(B) The commission shall approve or disapprove proposed academic degree programs in those instances where approval is required as soon as practicable, but in any case not later than six months from the date the governing board makes an official request. The commission may not withhold approval unreasonably.

(5) Distribution of funds appropriated to the commission, including incentive and performance-based funds;

(6) Administration of state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of rules necessary to administer those programs;

(7) Serving as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(8) Developing, establishing and implementing information, assessment, accountability and personnel systems, including maintaining statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(9) Jointly with the council, promulgating and implementing rules for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide postsecondary education courses or programs in the state. The council has authority and responsibility for approval of all post-secondary courses or programs providing community and technical college education as defined in section two, article one of this chapter

(10) Developing, implementing and overseeing statewide and regional projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funds from any source;

(11) Quality assurance that intersects with all other duties of the commission particularly in the areas of research, data collection and analysis, personnel administration, planning, policy analysis, program review and approval, budgeting and information and accountability systems; and

(12) Developing budgets and allocating resources for governing boards under its jurisdiction:

(A) For all governing boards under its jurisdiction, except the governing boards of Marshall University and West Virginia University, the commission shall review institutional operating budgets, review and approve capital budgets, and distribute incentive and performance-based funds;

(B) For the governing boards of Marshall University and West Virginia University, the commission shall distribute incentive and performance-based funds and may review and comment upon the institutional operating budgets and capital budgets. The commission's comments, if any, shall be made part of the governing board's minute record.

(c) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties assigned to it by law, the commission has other powers and duties necessary or expedient to accomplish the purposes of this article.

(d) The commission may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years, if the commission determines that any of the following conditions exist:

(1) The governing board has failed for two consecutive years to develop or implement an institutional compact as required in article one-d of this chapter;

(2) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the governing board according to state law; or

(3) Other circumstances which, in the view of the commission, severely limit the capacity of the governing board to exercise its powers or carry out its duties and responsibilities.

The commission may not withdraw specific powers for a period exceeding two years. During the withdrawal period, the commission shall take all steps necessary to reestablish sound, stable and responsible institutional governance.

ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.

§18B-1D-8. Institutional and system report cards.

(a) The purpose of the institutional and statewide report cards is to make information available to parents, students, faculty, staff, state policymakers and the general public on the quality and performance of public higher education. The focus of the report cards is to determine annual progress of the commission, the council and institutions under their respective jurisdictions toward achieving state goals and objectives identified in this article and section one-a, article one of this

chapter and system goals and objectives contained in the statewide master plans of the commission and council created pursuant to section five of this article.

(b) The information contained in the report cards shall be consistent and comparable between and among state institutions of higher education. If applicable, the information shall allow for easy comparison with higher education-related data collected and disseminated by the Southern Regional Education Board, the United States Department of Education and other education data-gathering and data-disseminating organizations upon which state policymakers frequently rely in setting policy.

(c) The rules required by subsection (c), section one of this article shall provide for the collection, analysis and dissemination of information on the performance of the state institutions of higher education, including health sciences education, in relation to the findings, goals and objectives set forth in this article and section one-a, article one of this chapter and those contained in the statewide master plans of the commission and council developed pursuant to section five of this article.

(1) The objective of this portion of the rule is to ensure that the Legislative Oversight Commission on Education Accountability and others identified in subsection (a) of this section are provided with full and accurate information while minimizing the institutional burden of recordkeeping and reporting.

(2) This portion of the rule shall identify various indicators of student and institutional performance that, at a minimum, must be reported annually, set forth general guidelines for the collection and reporting of data and provide for the preparation, printing and distribution of report cards under this section.

(d) The report cards shall be analysis-driven, rather than simply data-driven, and shall present information in a format that can inform

education policymaking. They shall include an executive summary which outlines significant trends, identifies major areas of concern and discusses progress toward meeting state and system goals and objectives. They shall be brief and concise, reporting required information in nontechnical language. Any technical or supporting material to be included shall be contained in a separate appendix.

(e) The statewide report card shall include the data for each separately listed, applicable indicator identified in the rule promulgated pursuant to subsection (c) of this section and the aggregate of the data for all public institutions of higher education.

(f) The statewide report card shall be prepared using actual institutional, state, regional and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards and the state systems of higher education. Statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case the year shall be clearly noted.

(g) The president or chief executive officer of each state institution of higher education shall prepare and submit annually all requested data to the commission at the times established by the commission.

(h) The higher education central office staff, under the direction of the Vice Chancellor for Administration, shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide report card from information submitted by each governing board.

(1) The statewide report card shall be completed and disseminated with copies to the Legislative Oversight Commission on Education Accountability prior to January 1, of each year and the staff of the commission and the council shall prepare a report highlighting specifically the trends, progress toward meeting goals and objectives and major areas of concern for public higher education, including

medical education, for presentation to the Legislative Oversight Commission on Education Accountability at the interim meetings in January, 2009, and annually thereafter.

~~(j) Notwithstanding any other provisions of this code to the contrary, the following statutorily mandated reports are not required to be prepared and submitted annually unless a member of the Legislature makes a specific request for a particular report:~~

~~(1) An annual report, pursuant to subsection (a), section forty-eight, article three, chapter five-a of this code, on vehicle fleets;~~

~~(2) An annual report, pursuant to subsection (e), section ten, article one of this chapter, on plans, accomplishments and recommendations in implementing a cooperative relationship between Potomac State College and Eastern West Virginia Community and Technical College;~~

~~(3) An annual report, pursuant to paragraphs (A) and (B), subdivision (10), subsection (a), section four, article one-b of this chapter, concerning higher education performance and enrollment data;~~

~~(4) An annual report, pursuant to paragraph (A), subdivision (11), subsection (b), section six, article two-b of this chapter, concerning community and technical college performance;~~

~~(5) An annual report, pursuant to subsection (b), section seven, article five of this chapter, on all sales of obsolete, unusable or surplus commodities;~~

~~(6) An annual report, pursuant to section eight, article five of this chapter, on purchases from West Virginia businesses;~~

~~(7) An annual report, pursuant to subsection (j), section one, article ten of this chapter, on the amount of auxiliary fees collected to replace state funds subsidizing auxiliary services;~~

~~(8) An annual report, pursuant to subsection (c), section five, article thirteen of this chapter, on technical assistance provided to~~

qualified businesses within approved research parks, research zones or technology centers;

~~(9) An annual report, pursuant to subsection (e), section six, article eighteen of this chapter, on the status of the Eminent Scholars Endowment Trust Fund; and~~

~~(10) An annual report, pursuant to subsection (e), section one, article three, chapter eighteen-c of this code, relevant to the health education loan program.~~

~~(k) (j)~~ For a reasonable fee, the Vice Chancellor for Administration shall make copies of the report cards, including any appendices of supporting material, available to any individual requesting them.

§18B-1D-8a. Modification to reporting requirements to the Legislative Oversight Commission on Education Accountability.

(a) Notwithstanding any other provisions of this code to the contrary, the following statutorily mandated reports are not required to be prepared and submitted annually to the Legislature but this information and data previously contained therein shall be combined with other reports in a manner that reduces the cost and increases the efficacy of those reports. This includes:

(1) All personnel, classification, compensation and human resources reports set out in section four, article one-b of this chapter, section six, article two-b of this chapter and article nine-a of this chapter;

(2) All capital appropriation requests, priorities and campus and state capital development plans set out in section four, article one-b of this chapter, section six, article two-b of this chapter and article nineteen of this chapter;

(3) All academic related matters and reports including those detailing institutional reauthorization at section seven, article four of this chapter; training of institutional Boards of Governors set out in section nine, article one-d of this chapter and section one, article ten of this chapter dealing with institutional compliance with tuition and fee increases;

(4) All financial aid reports including PROMISE, HEAPS, the Higher Education Grant Program, the Nursing Scholarship Program, the Underwood-Smith Teacher Scholarship Program and others set out in chapter eighteen-c of this code.

(b) In order to create more efficiency, reporting deadlines of statutorily or rule mandated reports may be altered, as needed by the Commission without a statutory or rule-making change: *Provided*, That the reports are always provided within any given calendar year.

ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION.

§18B-2B-6. Powers and duties of the council.

(a) The council is the sole agency responsible for administration of vocational-technical occupational education and community and technical college education in the state. The council has jurisdiction and authority over the community and technical colleges and the statewide network of independently accredited community and technical colleges as a whole, including community and technical college education programs as defined in section two, article one of this chapter.

(b) The council shall propose rules pursuant to section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code to implement the provisions of this section and applicable provisions of article one-d of this chapter:

(1) To implement the provisions of article one-d of this chapter relevant to community and technical colleges, the council may propose

rules jointly with the commission or separately and may choose to address all components of the accountability system in a single rule or may propose additional rules to cover specific components;

(2) The rules pertaining to financing policy and benchmarks and indicators required by this section shall be filed with the Legislative Oversight Commission on Education Accountability by October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless such rules are rescinded, revised, altered or amended; and

(3) The Legislature finds that an emergency exists and, therefore, the council shall propose an emergency rule or rules to implement the provisions of this section relating to the financing policy and benchmarks and indicators in accordance with section six, article one of this chapter and article threea, chapter twenty-nine-a of this code by October 1, 2008. The emergency rule or rules may not be implemented without prior approval of the Legislative Oversight Commission on Education Accountability.

(c) The council has the following powers and duties relating to the authority established in subsection (a) of this section:

(1) Develop, oversee and advance the public policy agenda for community and technical college education for the purpose of accomplishing the mandates of this section, including, but not limited to, the following:

(A) Achieving the goals and objectives established in articles one and one-d of this chapter;

(B) Addressing the goals and objectives contained in the institutional compacts created pursuant to section seven, article one-d of this chapter; and

(C) Developing and implementing the master plan described in section five, article one-d of this chapter;

(2) Propose a legislative rule pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code to develop and implement a financing policy for community and technical college education in West Virginia. The rule shall meet the following criteria:

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance;

(C) Establish a plan for strategic funding to strengthen capacity for support of community and technical college education; and

(D) Establish a plan that measures progress and provides performance-based funding to institutions which make significant progress in the following specific areas:

(i) Achieving the objectives and priorities established in article one-d of this chapter;

(ii) Serving targeted populations, especially working age adults twenty-five years of age and over;

(iii) Providing access to high-cost, high-demand technical programs in every region of the state;

(iv) Increasing the percentage of functionally literate adults in every region of the state; and

(v) Providing high quality community and technical college education services to residents of every region of the state.

(3) Create a policy leadership structure relating to community and technical college education capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long -range public policy agenda. In developing the

agenda, the council shall seek input from the Legislature and the Governor and specifically from the State Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards of the institutions under the council's jurisdiction carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding each community and technical college and the statewide network of independently accredited community and technical colleges as a whole accountable for accomplishing their missions and achieving the goals and objectives established in articles one, one-d, and three-c of this chapter;

(4) Develop for inclusion in the statewide public agenda, a plan for raising education attainment, increasing adult literacy, promoting workforce and economic development and ensuring access to advanced education for the citizens of West Virginia;

(5) Provide statewide leadership, coordination, support, and technical assistance to the community and technical colleges and to provide a focal point for visible and effective advocacy for their work and for the public policy agendas approved by the commission and council;

(6) Review and adopt annually all institutional compacts for the community and technical colleges pursuant to the provisions of section seven, article one-d of this chapter;

(7) Fulfill the mandates of the accountability system established in article one-d of this chapter and report on progress in meeting established goals, objectives, and priorities to the elected leadership of the state;

(8) Propose a legislative rule pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code to establish benchmarks and indicators in accordance with the provisions of this subsection;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional progress:

(A) In meeting state goals, objectives, and priorities established in articles one and one-d of this chapter;

(B) In carrying out institutional missions; and

(C) In meeting the essential conditions established in article three-c of this chapter;

~~(10) Collect and analyze data relating to the performance of community and technical colleges in every region of West Virginia and report periodically or as directed to the Legislative Oversight Commission on Education Accountability on the progress in meeting the goals and objectives established in articles one and one-d of this chapter.~~

~~Additionally, the council shall report annually during the January interim meetings on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates.~~

~~The annual report shall address at least the following:~~

~~(A) The performance of the community and technical college network during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the network as a whole in meeting the goals and objectives established in articles one and one-d of this chapter;~~

~~(B) The priorities established for capital investment needs pursuant to subdivision (11) of this subsection and the justification for such priority; and~~

~~(C) Recommendations of the council for statutory changes necessary or expedient to achieve established state goals and objectives.~~

~~(11)~~(10) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. Notwithstanding the language in subdivision (11), subsection (a), section four, article one-b of this chapter, the commission is not a part of the process for identifying needs for capital investments for the statewide network of independently accredited community and technical colleges;

~~(12)~~(11) Draw upon the expertise available within the Governor's Workforce Investment Office and the West Virginia Development Office as a resource in the area of workforce development and training;

~~(13)~~(12) Acquire legal services that are considered necessary, including representation of the council, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the council may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

~~(14)~~(13) Employ a chancellor for community and technical college education pursuant to section three of this article;

~~(15)~~(14) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the council consistent with the provisions of section two, article four of this chapter;

~~(16)~~(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the council who are employed solely by the council;

~~(17)~~(16) Provide suitable offices in Charleston for the chancellor and other staff: *Provided*, That the offices may be located outside of

Charleston at a technology and research center: *Provided, however,* That the current employees of WVNET shall not be moved from Monongalia County without legislative approval;

~~(18)~~(17) Approve the total compensation package from all sources for presidents of community and technical colleges, as proposed by the governing boards. The governing boards must obtain approval from the council of the total compensation package both when presidents are employed initially and subsequently when any change is made in the amount of the total compensation package;

~~(19)~~(18) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

~~(20)~~(19) Establish and implement policies and programs, jointly with the community and technical colleges, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

~~(21)~~(20) Seek out and attend regional and national meetings and forums on education and workforce development-related topics, as council members consider critical for the performance of their duties. The council shall keep abreast of national and regional community and technical college education trends and policies to aid members in developing the policies for this state that meet the education goals and objectives established in articles one and one-d of this chapter;

~~(22)~~(21) Assess community and technical colleges for the payment of expenses of the council or for the funding of statewide services, obligations or initiatives related specifically to the provision of community and technical college education;

~~(23)~~(22) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to community and technical colleges for qualifying noncapital expenditures incurred in the provision of services to students with physical, learning or severe sensory disabilities;

~~(24)~~(23) Assume the prior authority of the commission in examining and approving tuition and fee increase proposals submitted by community and technical college governing boards as provided in section one, article ten of this chapter;

~~(25)~~(24) Develop and submit to the commission, a single budget for community and technical college education that reflects recommended appropriations for community and technical colleges and that meets the following conditions:

(A) Incorporates the provisions of the financing rule mandated by this section to measure and provide performance funding to institutions which achieve or make significant progress toward achieving established state objectives and priorities;

(B) Considers the progress of each institution toward meeting the essential conditions set forth in section three, article three-c of this chapter, including independent accreditation; and

(C) Considers the progress of each institution toward meeting the goals, objectives, and priorities established in article one-d of this chapter and its approved institutional compact.

~~(26)~~(25) Administer and distribute the independently accredited community and technical college development account;

~~(27)~~(26) Establish a plan of strategic funding to strengthen capacity for support and assure delivery of high quality community and technical college education in all regions of the state;

~~(28)~~(27) Foster coordination among all state-level, regional and local entities providing postsecondary vocational education or workforce development and coordinate all public institutions and entities that have a community and technical college mission;

~~(29)~~(28) Assume the principal responsibility for oversight of those community and technical colleges seeking independent accreditation and for holding governing boards accountable for meeting the essential conditions pursuant to article three-c of this chapter;

~~(30)~~(29) Advise and consent in the appointment of the presidents of the community and technical colleges pursuant to section six, article one-b of this chapter. The role of the council in approving a president is to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives established in the institutional compact and in articles one, one-d and three-c of this chapter;

~~(31)~~(30) Provide a single, statewide link for current and prospective employers whose needs extend beyond one locality;

~~(32)~~(31) Provide a mechanism capable of serving two or more institutions to facilitate joint problem-solving in areas including, but not limited to the following:

(A) Defining faculty roles and personnel policies;

(B) Delivering high-cost technical education programs across the state;

(C) Providing one-stop service for workforce training to be delivered by multiple institutions; and

(D) Providing opportunities for resource-sharing and collaborative ventures;

~~(33)~~(32) Provide support and technical assistance to develop, coordinate, and deliver effective and efficient community and technical college education programs and services in all regions of the state;

~~(34)~~(33) Assist the community and technical colleges in establishing and promoting links with business, industry and labor in the geographic areas for which each community and technical college is responsible;

~~(35)~~(34) Develop alliances among the community and technical colleges for resource sharing, joint development of courses and courseware, and sharing of expertise and staff development;

~~(36)~~(35) Serve aggressively as an advocate for development of a seamless curriculum;

~~(37)~~(36) Cooperate with all providers of education services in the state to remove barriers relating to a seamless system of public and higher education and to transfer and articulation articulate between and among community and technical colleges, state colleges and universities and public education, preschool through grade twelve;

~~(38)~~(37) Encourage the most efficient use of available resources;

~~(39)~~(38) Coordinate with the commission in informing public school students, their parents and teachers of the academic preparation that students need in order to be prepared adequately to succeed in their selected fields of study and career plans, including presentation of academic career fairs;

~~(40)~~(39) Jointly with the commission, approve and implement a uniform standard, as developed by the chancellors, to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment

tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which the governing boards shall communicate to the State Board of Education and the State Superintendent of Schools;

~~(41)~~(40) Develop and implement strategies and curriculum for providing developmental education which shall be applied by any state institution of higher education providing developmental education;

~~(42)~~(41) Develop a statewide system of community and technical college programs and services in every region of West Virginia for competency-based certification of knowledge and skills, including a statewide competency-based associate degree program;

~~(43)~~(42) Review and approve all institutional master plans for the community and technical colleges pursuant to section four, article two-a of this chapter;

~~(44)~~(43) Propose rules for promulgation pursuant to subsection (b) of this section and article three-a, chapter twenty-nine-a of this code that are necessary or expedient for the effective and efficient performance of community and technical colleges in the state;

~~(45)~~(44) In its sole discretion, transfer any rule under its jurisdiction, other than a legislative rule, to the jurisdiction of the governing boards who may rescind, revise, alter or amend any rule transferred pursuant to rules adopted by the council and provide technical assistance to the institutions under its jurisdiction to aid them in promulgating rules;

~~(46)~~(45) Develop for inclusion in the higher education report card, as defined in section eight, article one-d of this chapter, a separate section on community and technical colleges. This section shall include, but is not limited to, evaluation of the institutions based upon the benchmarks and indicators developed in subdivision (9) of this subsection;

~~(47)~~(46) Facilitate continuation of the Advantage Valley Community College Network under the leadership and direction of Marshall Community and Technical College;

~~(48)~~(47) Initiate and facilitate creation of other regional networks of affiliated community and technical colleges that the council finds to be appropriate and in the best interests of the citizens to be served;

~~(49)~~(48) Develop with the State Board of Education plans for secondary and post-secondary vocational-technical-occupational and adult basic education, including, but not limited to the following:

(A) Policies to strengthen vocational-technical-occupational and adult basic education; and

(B) Programs and methods to assist in the improvement, modernization and expanded delivery of vocational-technical-occupational and adult basic education programs;

~~(50)~~(49) Distribute federal vocational education funding provided under the Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing financial assistance among secondary and post-secondary vocational-technical-occupational and adult basic education programs to help meet the public policy agenda.

In distributing funds the council shall use the following guidelines:

(A) The State Board of Education shall continue to be the fiscal agent for federal vocational education funding;

(B) The percentage split between the State Board of Education and the council shall be determined by rule promulgated by the council under the provisions of article three-a, chapter twenty-nine-a of this code. The council shall first obtain the approval of the State Board of Education before proposing a rule;

~~(51)~~(50) Collaborate, cooperate and interact with all secondary and post-secondary vocational technical-occupational and adult basic education programs in the state, including the programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105332, and the Workforce Investment Act of 1998, to promote the development of seamless curriculum and the elimination of duplicative programs;

~~(52)~~(51) Coordinate the delivery of vocational-technical-occupational and adult basic education in a manner designed to make the most effective use of available public funds to increase accessibility for students;

~~(53)~~(52) Analyze and report to the State Board of Education on the distribution of spending for vocational-technical-occupational and adult basic education in the state and on the availability of vocational-technical-occupational and adult basic education activities and services within the state;

~~(54)~~(53) Promote the delivery of vocational-technical-occupational education, adult basic education and community and technical college education programs in the state which emphasize the involvement of business, industry and labor organizations;

~~(55)~~(54) Promote public participation in the provision of vocational-technical-occupational education, adult basic education and community and technical education at the local level, emphasizing programs which involve the participation of local employers and labor organizations;

~~(56)~~(55) Promote equal access to quality vocational-technical-occupational education, adult basic education and community and technical college education programs to handicapped and disadvantaged individuals, adults in need of training and retraining, single parents, homemakers, participants in programs designed to eliminate sexual bias and stereotyping and criminal offenders serving in correctional institutions;

~~(57)~~(56) Meet annually between the months of October and December with the Advisory Committee of Community and Technical College Presidents created pursuant to section eight of this article to discuss those matters relating to community and technical college education in which advisory committee members or the council may have an interest;

~~(58)~~(57) Accept and expend any gift, grant, contribution, bequest, endowment or other money for the purposes of this article;

~~(59)~~(58) Assume the powers set out in section nine of this article. The rules previously promulgated by the State College System Board of Directors pursuant to that section and transferred to the commission are hereby transferred to the council and shall continue in effect until rescinded, revised, altered or amended by the council;

~~(60)~~(59) Pursuant to the provisions of subsection (b) of this section and article three-a, chapter twenty-nine-a of this code, promulgate a uniform joint legislative rule with the commission for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

~~(61)~~(60) Determine when a joint rule among the governing boards of the community and technical colleges is necessary or required by law and, in those instances and in consultation with the governing boards, promulgate the joint rule;

~~(62)~~(61) Promulgate a joint rule with the commission establishing tuition and fee policy for all institutions of higher education. The rule shall include, but is not limited to, the following:

- (A) Comparisons with peer institutions;
- (B) Differences among institutional missions;
- (C) Strategies for promoting student access;
- (D) Consideration of charges to out-of-state students; and

(E) Any other policies the commission and council consider appropriate;

~~(63)~~(62) In cooperation with the West Virginia Division of Highways, study a method for increasing the signage signifying community and technical college locations along the state interstate highways, and report to the Legislative Oversight Commission on Education Accountability regarding any recommendations and required costs; and

~~(64)~~(63) Implement a policy jointly with the commission whereby any course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement.

(d) In addition to the powers and duties listed in subsections (a), (b) and (c) of this section, the council has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda for community and technical colleges:

(1) Planning and policy leadership including a distinct and visible role in setting the state's policy agenda for the delivery of community and technical college education and in serving as an agent of change;

(2) Policy analysis and research focused on issues affecting the community and technical college network as a whole or a geographical region thereof;

(3) Development and implementation of each community and technical college mission definition including use of incentive and performance funds to influence institutional behavior in ways that are consistent with achieving established state goals, objectives, and priorities;

(4) Academic program review and approval for the institutions under its jurisdiction, including the use of institutional missions as a

template to judge the appropriateness of both new and existing programs and the authority to implement needed changes;

(5) Development of budget and allocation of resources for institutions delivering community and technical college education, including reviewing and approving institutional operating and capital budgets and distributing incentive and performance-based funding;

(6) Acting as the agent to receive and disburse public funds related to community and technical college education when a governmental entity requires designation of a statewide higher education agency for this purpose;

(7) Development, establishment and implementation of information, assessment and internal accountability systems, including maintenance of statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators for community and technical colleges;

(8) Jointly with the commission, development, establishment and implementation of policies for licensing and oversight of both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs;

(9) Development, implementation and oversight of statewide and regionwide projects and initiatives related specifically to providing community and technical college education such as those using funds from federal categorical programs or those using incentive and performance-based funding from any source; and

(10) Quality assurance that intersects with all other duties of the council particularly in the areas of planning, policy analysis, program review and approval, budgeting and information and accountability systems.

(e) The council may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years if the

council makes a determination that any of the following conditions exist:

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in section seven, article one-d of this chapter;

(2) The council has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the board of governors according to state law; or

(3) Other circumstances which, in the view of the council, severely limit the capacity of the board of governors to carry out its duties and responsibilities.

The period of withdrawal of specific powers may not exceed two years during which time the council is authorized to take steps necessary to reestablish the conditions for restoration of sound, stable and responsible institutional governance.

(f) In addition to the powers and duties provided for in subsections (a), (b), (c) and (d) of this section and any others assigned to it by law, the council has those powers and duties necessary or expedient to accomplish the purposes of this article; and

(g) When the council and commission, each, is required to consent, cooperate, collaborate or provide input into the actions of the other the following conditions apply:

(1) The body acting first shall convey its decision in the matter to the other body with a request for concurrence in the action;

(2) The commission or the council, as the receiving body, shall place the proposal on its agenda and shall take final action within sixty days of the date when the request for concurrence is received; and

(3) If the receiving body fails to take final action within sixty days, the original proposal stands and is binding on both the commission and the council.

ARTICLE 2C. WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE.

§18B-2C-3. Authority and duty of council to determine progress of community and technical colleges; conditions; authority to create West Virginia Community and Technical College.

(a) The council annually shall review and analyze all the state community and technical colleges, and any branches, centers, regional centers or other delivery sites with a community and technical college mission, to determine their progress toward meeting the goals, objectives, priorities, and essential conditions established in articles one, one-d and three-c of this chapter.

(b) The analysis required in subsection (a) of this section shall be based, in whole or in part, upon the findings made pursuant to the rule establishing benchmarks and indicators promulgated by the council pursuant to section six, article two-b of this chapter.

(c) Based upon their analysis in subsections (a) and (b) of this section, the council shall make a determination whether any one or more of the following conditions exists:

(1) A community and technical college required to do so has not achieved or is not making sufficient, satisfactory progress toward achieving the essential conditions, including independent accreditation;

(2) One or more of the public community and technical colleges, branches, centers, regional centers and other delivery sites with a community and technical college mission requires financial assistance or other support to meet the goals and essential conditions set forth in this chapter;

(3) It is in the best interests of the people of the state or a region within the state to have a single, accredited institution which can provide an umbrella of statewide accreditation;

(4) One or more of the state community and technical colleges, branches, centers, regional centers or other delivery sites with a community and technical college mission requests from the council the type of assistance which can best be delivered through implementation of the provisions of section four of this article. Institutional requests that may be considered by the council include, but are not limited to, assistance in seeking and/or attaining independent accreditation, in meeting the goals, priorities and essential conditions established in articles one, one-d and three-c of this chapter, or in establishing and implementing regional networks;

(5) One or more state community and technical colleges, branches, centers, regional centers or other delivery sites with a community and technical college mission has not achieved, or is not making sufficient, satisfactory progress toward achieving, the goals, objectives and essential conditions established in articles one, one-d and three-c of this chapter; and

(6) The council determines that it is in the best interests of the people of the state or a region of the state to create a statewide, independently accredited community and technical college.

(d) The council may not make a determination subject to the provisions of this section that a condition does not exist based upon a finding that the higher education entity lacks sufficient funds to make sufficient, satisfactory progress.

~~(e) By December 1, annually, the council shall prepare and file with the Legislative Oversight Commission on Education Accountability a written report on the findings and determinations required by this section, together with a detailed history of any actions taken by the council under the authority of this article.~~

ARTICLE 3D. WORKFORCE DEVELOPMENT INITIATIVE.**§18B-3D-2. Workforce Development Initiative Program continued; purpose; program administration; rule required.**

(a) The Workforce Development Initiative Program is continued under the supervision of the council. The purpose of the program is to administer and oversee grants to community and technical colleges to implement the provisions of this article in accordance with legislative intent.

(b) It is the responsibility of the council to administer the state fund for community and technical college and workforce development, including setting criteria for grant applications, receiving applications for grants, making determinations on distribution of funds and evaluating the performance of workforce development initiatives.

(c) The chancellor, under the direction of the council, shall review and approve the expenditure of all grant funds, including development of application criteria, the review and selection of applicants for funding and the annual review and justification of applicants for grant renewal.

(1) To aid in decisionmaking, the Chancellor appoints an advisory committee consisting of the Executive Director of the West Virginia Development Office or designee; the Secretary of Education and the Arts or designee; the Assistant State Superintendent for Technical and Adult Education; the Chair of the West Virginia Council for Community and Technical College Education; the Chair of the West Virginia Workforce Investment Council; the Executive Director of Workforce West Virginia; two members representing business and industry; and one member representing labor. The advisory committee shall review all applications for workforce development initiative grants and make recommendations for distributing grant funds to the council. The advisory committee also shall make recommendations on

methods to share among the community and technical colleges any curricula developed as a result of a workforce development initiative grant.

(2) When determining which grant proposals will be funded, the council shall give special consideration to proposals by community and technical colleges that involve businesses with fewer than fifty employees.

(3) The council shall weigh each proposal to avoid awarding grants which will have the ultimate effect of providing unfair advantage to employers new to the state who will be in direct competition with established local businesses.

(d) The council may allocate a reasonable amount, not to exceed five percent up to a maximum of \$50,000 of the funds available for grants on an annual basis, for general program administration.

~~(e) The council shall report to the Legislative Oversight Commission on Education Accountability and the Legislative Oversight Commission on Workforce Investment for Economic Development on the status of the Workforce Development Initiative Program annually by December 1,.~~

~~(f)~~(e) Moneys appropriated or otherwise available for the Workforce Development Initiative Program shall be allocated by line item to an appropriate account. Any moneys remaining in the fund at the close of a fiscal year are carried forward for use in the next fiscal year.

~~(g)~~(f) Nothing in this article requires a specific level of appropriation by the Legislature.

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT
STATE INSTITUTIONS OF HIGHER
EDUCATION.**

§18B-10-1. Enrollment, tuition and other fees at education institutions; refund of fees.

(a) Each governing board shall fix tuition and other fees for each academic term for the different classes or categories of students enrolling at the state institution of higher education under its jurisdiction and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

- (1) Tuition and required educational and general fees;
- (2) Auxiliary and auxiliary capital fees; and
- (3) Required educational and general capital fees.

(b) A governing board may establish a single special revenue account for each of the following classifications of fees:

- (1) All tuition and required educational and general fees collected;
- (2) All auxiliary and auxiliary capital fees collected; and
- (3) All required educational and general capital fees collected to support existing systemwide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.

(4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from the accounts, a governing board may expend funds from each special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.

(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition

and fees may be used to finance a ~~students'~~ student's attorney to perform legal services for students in civil matters at the institutions. The legal services are limited to those types of cases, programs or services approved by the president of the institution where the legal services are to be performed.

(d) By October 1, 2011, the commission and council each shall propose a rule for legislative approval in accordance with article three-a, chapter twenty-nine-a of this code to govern the fixing, collection and expenditure of tuition and other fees by the governing boards under their respective jurisdictions.

(e) The schedule of all tuition and fees, and any changes in the schedule, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of the schedule and changes.

(f) The governing boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term.

(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

(2) Fees for students enrolled in summer terms or other nontraditional time periods shall be prorated based upon the number of credit hours for which the student enrolls in accordance with this subsection.

(g) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:

(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term. All fees shall be paid prior to awarding course credit at the end of the academic term.

(2) The governing boards also shall authorize the acceptance of credit cards or other payment methods which may be generally available to students for the payment of fees. The governing boards may charge the students for the reasonable and customary charges incurred in accepting credit cards and other methods of payment.

(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis whether the finances of a student are affected adversely.

(4) The commission and council jointly shall propose a rule in accordance with article three-a, chapter twenty-nine-a of this code defining conditions under which a governing board may offer tuition and fee deferred payment plans itself or through third parties.

(5) A governing board may charge interest or fees for any deferred or installment payment plans.

(h) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

(i) Governing boards shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rules proposed by the commission and council pursuant to this section. The tuition rules shall address the following areas:

(1) Providing a basis for establishing nonresident tuition and fees;

(2) Allowing governing boards to charge different tuition and fees for different programs;

(3) Authorizing a governing board to propose to the commission, council or both, as appropriate, a mandatory auxiliary fee under the following conditions:

(A) The fee shall be approved by the commission, council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

(B) Increases may not exceed previous state subsidies by more than ten percent;

(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee is implemented;

~~(E) The commission or council or both, as appropriate, shall certify to the Legislature annually by October 1 the amount of fees collected for each of the five years;~~

(4) Establishing methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for students in all community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

(j) A penalty may not be imposed by the commission or council upon any governing board based upon the number of nonresidents who attend the institution unless the commission or council determines that

admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The governing boards shall report annually to the commission or council on the numbers of nonresidents and any other enrollment information the commission or council may request.

(k) Tuition and fee increases of the governing boards, including the governing boards of Marshall University and West Virginia University, are subject to rules adopted by the commission and council pursuant to this section and in accordance with article three-a, chapter twenty-nine-a of this code. The commission or council, as appropriate, shall examine individually each request from a governing board for an increase and make its determinations as follows:

(1) A tuition and fee increase greater than five percent for resident students proposed by a governing board requires the approval of the commission or council, as appropriate.

(2) A fee used solely for the purpose of complying with the athletic provisions of 20 U. S. C. §1681, *et seq.*, known as Title IX of the Education Amendment of 1972, is exempt from the limitations on fee increases set forth in this subsection for three years from the effective date of the section.

(3) In determining whether to approve or deny a governing board's request for a tuition and/or fee increase for resident students greater than the increases granted pursuant to subdivision (1) of this subsection, the commission or council shall determine the progress the governing board has made toward meeting the conditions outlined in this subsection and shall make this determination the predominate factor in its decision. The commission or council shall consider the degree to which each governing board has met the following conditions:

(A) Maximizes resources available through nonresident tuition and fee charges to the satisfaction of the commission or council;

(B) Consistently achieves the benchmarks established in the compact pursuant to article one-d of this chapter;

(C) Continuously pursues the statewide goals for post-secondary education and the statewide compact established in this chapter;

(D) Demonstrates to the satisfaction of the commission or council that an increase will be used to maintain high-quality programs at the institution;

(E) Demonstrates to the satisfaction of the commission or council that the governing board is making adequate progress toward achieving the goals for education established by the southern regional education board;

(F) Demonstrates to the satisfaction of the commission or council that the governing board has considered the average per capita income of West Virginia families and their ability to pay for any increases; and

(G) Demonstrates to the satisfaction of the commission or council that base appropriation increases have not kept pace with recognized nation-wide inflationary benchmarks;

(4) This section does not require equal increases among governing boards nor does it require any level of increase by a governing board.

(5) The commission and council shall report to the Legislative Oversight Commission on Education Accountability regarding the basis for approving or denying each request as determined using the criteria established in this subsection.

ARTICLE 13. HIGHER EDUCATION – INDUSTRY PARTNERSHIPS.

§18B-13-5. Use of state property and equipment; faculty.

(a) The governing boards are authorized to provide for the low cost and economical use and sharing of state property and equipment, including computers, research labs and other scientific and necessary

equipment to assist any qualified business within an approved research park or zone or technology center. The Commission shall approve a schedule of nominal or reduced-cost reimbursements to the state for such use.

(b) The governing boards shall develop and provide for a program of release time, sabbaticals or other forms of faculty involvement or participation with any qualifying business.

(c) The Legislature finds that cooperation, communication and coordination are integral components of higher education's involvement in economic development. In order to proceed in a manner that is cost effective and time efficient, it is the duty of the Commission to review and coordinate such aspects of the programs administered by the governing boards. The review and coordination may not operate to affect adversely sources of funding or any statutory characterization of any program as an independent entity. ~~The Commission shall report annually to the Legislature and the Governor. The report shall contain the following information:~~

~~(1) The number of seminars and workshops conducted;~~

~~(2) The subject matter addressed in each seminar and workshop;~~

~~(3) The number of feasibility studies conducted and the subject matter contained in each study;~~

~~(4) An accounting of the cost of all travel expenses, seminars, workshops and feasibility studies; and~~

~~(5) The extent to which the authority provided for in subsection (b) of this section has been exercised, stating specifically the names of the institutions and faculty members involved in the program.~~

ARTICLE 18. EMINENT SCHOLARS ENDOWMENT TRUST FUND ACT.

§18B-18-6. Duties of Higher Education Policy Commission.

The Higher Education Policy Commission shall:

(a) Establish documentation standards and review procedures to determine the eligibility of donor gifts to participate in the eminent scholars program when the gift is initially received or whenever the terms are significantly changed;

(b) Require that each participating institution report on total gifts received, investment earnings realized and anticipated expenditures in its annual operating budget request;

(c) Annually develop and submit a consolidated budget request for the eminent scholars program to the Governor for the fiscal year beginning on July 1, 2003. The budget request shall include a request for an appropriation by the Legislature to each institutional account each fiscal year in an amount equal to the investment earnings in the previous fiscal year which are intended for use in the fiscal year to supplement the salaries of eminent scholars;

(d) Allocate any funds appropriated by the Legislature among the participating institutions in equal installments at the beginning of each quarter; ~~and.~~

~~(e) Submit to the Legislature no later than December 1, of each year an annual report on the status of the programs, the qualifications and accomplishments of the eminent scholars, the value of endowment holdings, the investment earnings realized and salary supplements paid.~~

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN PROGRAM.

§18C-3-4. Nursing Scholarship Program; Center for Nursing Fund; administration; scholarship awards; service requirements.

(a) There is continued in the State Treasury a special revenue account known as the 'Center for Nursing Fund' to be administered by the commission to implement the provisions of this section and article seven-b, chapter thirty of this code. Any moneys in the account on the effective date of this section are transferred to the commission's administrative authority. Balances remaining in the fund at the end of the fiscal year do not expire or revert to the general revenue. All costs associated with the administration of this section and article seven-b, chapter thirty of this code shall be paid from the Center for Nursing Fund under the direction of the Vice Chancellor for Administration. Administrative costs are to be minimized and the maximum amount feasible is to be used to fund awards for students in nursing programs.

(b) The account is funded from the following sources:

(1) A supplemental licensure fee, not to exceed \$10 per year, to be paid by all nurses licensed by the Board of Examiners for Registered Professional Nurses, pursuant to section eight-a, article seven, chapter thirty of this code, and the Board of Examiners for Licensed Practical Nurses, pursuant to section seven-a, article seven-a, chapter thirty of this code;

(2) Repayments, including interest as set by the Vice Chancellor for Administration, collected from recipients who fail to practice or teach in West Virginia under the terms of the scholarship agreement; and

(3) Any other funds from any source as may be added to the account.

(c) In consultation with the board of directors of the West Virginia Center for Nursing, established pursuant to article seven-b, chapter thirty of this code, the commission shall administer a scholarship, designated the Nursing Scholarship Program, designed to benefit nurses who practice in hospitals and other health care institutions or teach in state nursing programs.

(1) Awards are available for students enrolled in accredited nursing programs in West Virginia. A recipient shall execute an agreement to fulfill a service requirement or repay the amount of any award received.

(2) Awards are made as follows, subject to the rule required by this section:

(A) An award for any student may not exceed the full cost of education for program completion.

(B) An award of up to \$3,000 is available for a student in a licensed practical nurse education program. A recipient is required to practice nursing in West Virginia for one year following program completion.

(C) An award of up to \$7,500 is available for a student who has completed one-half of a registered nurse education program. A recipient is required to teach or practice nursing in West Virginia for two years following program completion.

(D) An award of up to \$15,000 is available to a student in a nursing master's degree program or a doctoral nursing or education program. A recipient is required to teach in West Virginia for two years following program completion.

(E) An award of up to \$1,000 per year is available for a student obtaining a licensed practical nurse teaching certificate. A recipient is required to teach in West Virginia for one year per award received.

(d) An award recipient shall satisfy one of the following conditions:

(1) Fulfill the service requirement pursuant to this section and the legislative rule; or

(2) Repay the commission for the amount awarded, together with accrued interest as stipulated in the service agreement.

(e) The commission shall promulgate a rule for legislative approval pursuant to article three-a, chapter twenty-nine-a of this code to implement and administer this section. The rule shall provide for the following:

- (1) Eligibility and selection criteria for program participation;
- (2) Terms of a service agreement which a recipient shall execute as a condition of receiving an award;
- (3) Repayment provisions for a recipient who fails to fulfill the service requirement;
- (4) Forgiveness options for death or disability of a recipient;
- (5) An appeal process for students denied participation or ordered to repay awards; and
- (6) Additional provisions as necessary to implement this section.

~~(f) The commission shall report annually by December 1, to the Legislative Oversight Commission on Health and Human Resources Accountability and the Legislative Oversight Commission on Education Accountability on the number of award recipients and all other matters relevant to the provisions of this section.~~

ARTICLE 5. HIGHER EDUCATION GRANT PROGRAM.

§18C-5-7. Higher education adult part-time student grant program.

(a) There is established the higher education adult part-time student grant program, referred to in this section as the HEAPS grant program. The grant program established and authorized by this section is administered by the vice chancellor for administration. Moneys appropriated or otherwise available for the grant program shall be allocated by line item to an appropriate account. Any moneys

remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year.

(b) As used in this section, the following terms have the meanings ascribed to them:

(1) ‘Approved distance education’ means a course of study offered via electronic access that has been approved for inclusion in the applicant’s program of study by the eligible institution of higher education at which the applicant is enrolled or has been accepted for enrollment;

(2) ‘Part-time’ means enrollment for not less than three nor more than eleven semester or term hours: *Provided*, That in the case of enrollment in postsecondary certificate, industry recognized credential and other skill development programs in demand occupations in this state, ‘part-time’ means enrollment on such basis as is established for the program in which enrolled;

(3) ‘Satisfactory academic progress’ means maintaining a cumulative grade point average of at least 2.0 on a 4.0 grading scale with a goal of obtaining a certificate, associate degree or bachelor’s degree. In the case of postsecondary certificate, industry recognized credential and other skill development programs, satisfactory academic progress means continuous advancement toward completion of the program on the normal schedule established for the program in which enrolled;

(4) ‘Eligible institution’ means:

(A) Any community college; community and technical college; adult technical preparatory education program or training;

(B) Any state college or university, as those terms are defined in section two, article one, chapter eighteen-b of this code;

(C) Any approved institution of higher education as that term is defined in section two of this article; and

(D) Any approved distance education, including world wide web based courses;

(5) 'Eligible program or programs' or 'eligible course or courses' means, in addition to programs and courses offered by eligible institutions as defined in subdivision (4) of this subsection:

(A) Programs and courses offered by any nationally accredited degree granting institution of higher learning permitted pursuant to section five, article three, chapter eighteen-b of this code and approved by the joint commission for vocational-technical-occupational education; and

(B) Any postsecondary certificate, industry recognized credential and other skill development programs of study as defined in this section in a demand occupation in this state;

(6) 'State resident' means a student who has lived in West Virginia continuously for a minimum of twelve months immediately preceding the date of application for a HEAPS grant or renewal of a grant;

(7) 'Postsecondary certificate program' means an organized program of study, approved by the joint commission for vocational-technical-occupational education, with defined competencies or skill sets that may be offered for credit or noncredit and which culminates in the awarding of a certificate: *Provided*, That postsecondary certificate programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the joint commission for vocational-technical-occupational education;

(8) 'Demand occupation' means any occupation having documented verification from employers that job opportunities in that occupation are currently available or are projected to be available within a year within the state or regions of the state. The joint

commission for vocational-technical-occupational education shall prepare and update annually a list of occupations that they determine meet the requirements of this definition;

(9) 'Industry-recognized credential program' means an organized program that meets nationally recognized standards in a particular industry, is approved by the joint commission for vocational-technical-occupational education and which culminates in the awarding of a certification or other credential commonly recognized in that industry: *Provided*, That industry recognized credential programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the joint commission for vocational-technical-occupational education; and

(10) 'Skill development program' means a structured sequence or set of courses, approved by the joint commission for vocational-technical-occupational education, with defined competencies that are designed to meet the specific skill requirements of an occupation and which culminates in the awarding of a certificate of completion that specifically lists the competencies or skills mastered: *Provided*, That skill development programs offered by eligible institutions as defined in subdivision (4) of this subsection do not require the approval of the joint commission.

(c) A person is eligible for consideration for a HEAPS grant if the person:

(1) Demonstrates that he or she has applied for, accepted, or both, other student financial assistance in compliance with federal financial aid rules, including the federal Pell grant;

(2) Demonstrates financial need for funds, as defined by legislative rule;

(3) Is a state resident and may not be considered a resident of any other state;

(4) Is a United States citizen or permanent resident thereof;

(5) Is not incarcerated in a correctional facility;

(6) Is not in default on a higher education loan; and

(7) Is enrolled in a program of study at less than the graduate level on a part-time basis in an eligible institution or program of study and is making satisfactory academic progress at the time of application: *Provided*, That the requirement that the student be making satisfactory academic progress may not preclude a HEAPS grant award to a student who has been accepted for enrollment in an eligible institution or program of study but has not yet been enrolled.

(d) Each HEAPS grant award is eligible for renewal until the course of study is completed, but not to exceed an additional nine years beyond the first year of the award.

(e) The Higher Education Policy Commission shall propose a legislative rule pursuant to article three-a, chapter twenty-nine-a of this code to implement the provisions of this section which shall be filed with the Legislative Oversight Commission on Education Accountability by September 1, 2003. The Legislature hereby declares that an emergency situation exists and, therefore, the policy commission may establish, by emergency rule, under the procedures of article three-a, chapter twenty-nine-a of this code, a rule to implement the provisions of this section, after approval by the Legislative Oversight Commission on Education Accountability.

(f) The legislative rule shall provide at least the following:

(1) That consideration of financial need, as required by subdivision (3), subsection (c) of this section, include the following factors:

(A) Whether the applicant has dependents as defined by federal law;

(B) Whether the applicant has any personal hardship as determined at the discretion of the vice chancellor for administration; and

(C) Whether the applicant will receive any other source of student financial aid during the award period.

(2) That an appropriate allocation process be provided for distribution of funds directly to the eligible institutions or programs based on the part-time enrollment figures of the prior year;

(3) That not less than twenty-five percent of the funds appropriated in any one fiscal year be used to make grants to students enrolled in postsecondary certificate, industry recognized credential and other skill development programs of study: *Provided*, That after giving written notice to the Legislative Oversight Commission on Education Accountability, the vice chancellor for administration may allocate less than twenty-five percent of the funds for such grants;

(4) That ten percent of the funds appropriated in any one fiscal year shall be granted to state community and technical colleges by the council for community and technical college education in accordance with a process specified in the rule for noncredit and customized training programs which further the economic development goals of the state, help meet the training and skill upgrade needs of employers in the state, and for which funds are not available from other sources;

(5) That any funds not expended by an eligible institution or program at the end of each fiscal year shall be returned to the vice chancellor for administration for distribution under the provisions of this section;

(6) That grants under this section shall be available for approved distance education throughout the calendar year, subject only to the availability of funds; and

(7) That the amount of each HEAPS grant award be determined using the following guidelines:

(A) The amount of any HEAPS grant awarded to a student per semester, term hour or program for those students who are enrolled in eligible institutions or programs operated under the jurisdiction of an agency of the state or a political subdivision thereof shall be based upon the following:

(i) Actual cost of tuition and fees;

(ii) The portion of the costs determined to be appropriate by the commission; and

(iii) In addition to factors (i) and (ii) above, in determining the amount of the award, the vice chancellor may consider the demand for the program pursuant to subdivision (8), subsection (b) of this section; and

(B) The amount of any HEAPS grant awarded to a student who is enrolled in any other eligible institution, program or course shall be no greater than the average amount for comparable programs or courses as determined pursuant to the provisions of paragraph (A) above.

~~(g) The vice chancellor for administration shall report annually, by December 1, on the status of the HEAPS grant program to the Legislative Oversight commission on education accountability.~~

~~(h)~~(g) The HEAPS grant program is subject to any provision of this article not inconsistent with the provisions of this section.

ARTICLE 7. WEST VIRGINIA PROVIDING REAL OPPORTUNITIES FOR MAXIMIZING IN-STATE STUDENT EXCELLENCE SCHOLARSHIP PROGRAM.

§18C-7-5. Powers and duties of the West Virginia Higher Education Policy Commission regarding the PROMISE Scholarship.

(a) *Powers of commission.* — In addition to the powers granted by any other provision of this code, the commission has the powers

necessary or convenient to carry out the purposes and provisions of this article including, but not limited to, the following express powers:

(1) To promulgate legislative rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to effectuate the purposes of this article;

(2) To invest any of the funds of the West Virginia PROMISE Scholarship Fund established in section seven of this article with the West Virginia Investment Management Board in accordance with the provisions of article six, chapter twelve of this code. Any investments made pursuant to this article shall be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in conducting an enterprise of a like character and with like aims. Fiduciaries shall diversify plan investments to the extent permitted by law to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so;

(3) To execute contracts and other necessary instruments;

(4) To impose reasonable requirements for residency for students applying for the PROMISE scholarship. Except as provided in section four, article one of this chapter, a student shall have met the following requirements to be eligible:

(A) Completed at least one half of the credits required for high school graduation in a public or private high school in this state; or

(B) Received instruction in the home or other approved place pursuant to subsection (c), section one, article eight, chapter eighteen of this code for the two years immediately preceding application;

(C) This subsection does not establish residency requirements for matriculation or fee payment purposes at state institutions of higher education;

(5) To contract for necessary goods and services, to employ necessary personnel and to engage the services of private persons for administrative and technical assistance in carrying out the responsibilities of the scholarship program. Any services provided or secured to implement or administer the provisions of this section remain under the direction and authority of the Vice Chancellor for Administration;

(6) To solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition, grants, loans and other aid from any source and to participate in any federal, state or local governmental programs in carrying out the purposes of this article;

(7) To define the terms and conditions under which scholarships are awarded with the minimum requirements being set forth in section six of this article; and

(8) To establish other policies, procedures and criteria necessary to implement and administer the provisions of this article.

(b) Duties of commission. — In addition to any duty required by any other provision of this code, the commission has the following responsibilities:

(1) To operate the program in a fiscally responsible manner and within the limits of available funds;

(2) To operate the program as a merit-based program;

(3) To adjust academic eligibility requirements should projections indicate that available funds will not be sufficient to cover future costs; and

(4) To maintain contact with graduates who have received PROMISE scholarships and to provide a written statement of intent to recipients who are selected to receive a PROMISE scholarship

notifying them that acceptance of the scholarship entails a responsibility to supply the following:

(A) Information requested by the commission to determine the number and percentage of recipients who shall:

(i) Continue to live in West Virginia after graduation;

(ii) Obtain employment in West Virginia after graduation; and (iii) Enroll in post-graduate education programs;

(B) For PROMISE scholars who enroll in post-graduate education programs, the name of the state in which each post-graduate institution is located; and

(C) Any other relevant information the commission reasonably requests to implement the provisions of this subdivision.

~~(5) To analyze and use the data collected pursuant to subdivision (4) of this subsection to:~~

~~(A) Report the findings annually to the Legislative Oversight Commission on Education Accountability; and~~

~~(B) Make annual recommendations to the Legislative Oversight Commission on Education Accountability regarding any actions the commission considers necessary or expedient to encourage PROMISE recipients to live and work in the state after graduation.”~~

The bill was then ordered to third reading.

Com. Sub. for H. B. 2474, Relating to the compensation of personnel employed at the West Virginia Schools for the Deaf and the Blind; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2852, Relating to legalizing and regulating the sale and use of fireworks; on second reading, coming up in regular order, was read a second time.

An amendment to the bill, offered by Delegate Sponaugle, was reported by the Clerk.

Whereupon,

Delegate Sponaugle asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate E. Nelson, the bill was amended on page four, section two, line fifty-eight, after the word “of”, by striking out the word “consumer”.

On page five, section four, following line eighteen, after the letter (f), by inserting subsections (g) and (h) to read as follows:

“(g) A retailer who sells consumer fireworks shall comply with all regulations provided in 24 NFPA 1124. The State Fire Marshal may by legislative rule, promulgate rules to supplement 25 those rules established in NFPA 1124. 26

(h) A retailer shall sell the consumer fireworks only from a permanent building or structure 27 that meets the specifications in NFPA 1124 or a temporary facility or structure that meets the 28 specifications of NFPA 1124.7.3.5. and relettering the remaining subsection accordingly.”

On page six, section five, line twenty-three, by striking out subsections (g) and (h) in their entirety and relettering the remaining subsection accordingly.

And,

On page nine, section nine, line two, after the word “possession”, by striking out the comma and the word “sale”.

On motion of Delegates E. Nelson, J. Nelson, Sponaugle, Hamrick and Moffatt the bill was amended on page seven, section six, line

seventeen, by striking out subsection (d) and inserting in lieu thereof a new subsection (d), to read as follows:

“(d) All moneys so remitted, net of refunds and adjustments, shall be deposited and the amount thereof shall be distributed and paid quarterly on the first day of the months of January, April, July and October, into the funds and to the distributees as follows:

(1) Two-thirds shall be deposited in the West Virginia Veterans’ Facilities Support Fund established by the provisions of section eleven-b, article one, chapter nine-a of this code.

(2) One-third shall be deposited in the Fire Protection Fund established in section thirty-three, article three, chapter thirty-three, of this code, and distributed to each volunteer fire company or department on an equal share basis by the State Treasurer.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4013, Requiring a person desiring to vote to present documentation identifying the voter; on second reading, coming up in regular order, was read a second time.

Delegate Marcum moved to amend the bill on page seven, section thirty-four, line one hundred fifty-five, following the words “write-in candidate” and the semicolon, by inserting “or a family member of a candidate or official write-in candidate who also works as an employee in the circuit clerk’s office. That same employee shall be removed from assisting in the election process during that election year. The circuit clerk shall establish standards to provide integrity in the voting process by keeping employees of his or her office away from the election process when an immediate family member is up for election” and a semicolon.

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

The yeas and nays having been ordered, they were taken (**Roll No. 96**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Blair, Boggs, Border, Byrd, Campbell, Caputo, Eldridge, Faircloth, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Moye, J. Nelson, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Rowe, Shaffer, Skinner, P. Smith, Sponaule, Trecost, Upson and P. White.

Absent and Not Voting: Deem, Moore and Weld.

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

Delegates Fluharty and Pushkin moved to amend the bill on page fourteen, section one, line thirteen, following the period, by inserting a new subsection (c) to read as follows:

“(c) When a person applies for issuance or renewal of a license, department personnel shall ask the applicant whether the applicant, if eligible, is registered to vote at the applicant’s current address and if not, shall assist the applicant in registering to vote unless the applicant declines the opportunity to be registered. The department shall deliver in a timely manner all completed voter registration cards to the county clerk or elections officer of the county in which the applicant’s residence is located.”

And,

By relettering the subsequent subsections accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 97**), and there were—yeas 38, nays 60, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, McCuskey, Miley, Morgan, Moye, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecost, Walters and P. White.

Absent and Not Voting: Deem and Moore.

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

On motion of Delegate Pushkin the bill was amended on page eighteen, section one, line one hundred fifteen, by striking out line one hundred fifteen in its entirety and inserting in lieu thereof the following:

“(D) A religious document, that in the judgment of the Division is sufficient and authentic to reflect that the person was born in the United States; or”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4150, Making a supplementary appropriation to the Department of Health and Human Resources; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4151, Making a supplementary appropriation to the Department of Education; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4159, Making a supplementary appropriation to the Public Services Commission – Motor Carrier Division; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4213, Uniform Deployed Parents Custody and Visitation Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4261, Prohibiting the sale or transfer of student data to vendors and other profit making entities; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with restricted right to amend by Delegate Butler, and the rule was suspended to permit the consideration of the amendment on that reading.

H. B. 4359, Requiring the issuance of a photo identification to persons employed as a security guard by a security guard firm; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4499, Relating to certain persons who have been disqualified or excused from jury service; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4520, Clarifying that certain hospitals have only one governing body whose meetings shall be open to the public; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances,

Com. Sub. for S. B. 14, Limiting successor corporation asbestos-related liabilities,

Com. Sub. for H. B. 4040, Regulating step therapy protocols in health benefit plans,

Com. Sub. for H. B. 4060, Relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety,

And,

Com. Sub. for H. B. 4080, Department of Veterans' Assistance, rule relating to VA headstones or markers.

Com. Sub. for H. B. 4365, Relating to the certificate of need process; on first reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for H. B. 4521, Modifying the requirements that allow a child witness to testify by closed circuit television; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Miscellaneous Business

Delegate Byrd filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4583.

Delegate Frich filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4507, H. B. 4577 and H. B. 4578.

Delegate Ihle filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4615.

Delegate Longstreth filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4377.

Delegate Miller filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4587.

Delegate Shaffer filed a form with the Clerk's cosponsor of H. C. R. 36.

At 1:08 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 19, 2016.

FRIDAY, FEBRUARY 19, 2016

THIRTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, February 18, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Rowan, Chair of the Committee on Senior Citizen Issues, submitted the following report, which was received:

Your Committee on Senior Citizen Issues has had under consideration:

H. B. 4308, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4308) was referred to the Committee on the Judiciary.

Delegate Rowan, Chair of the Committee on Senior Citizen Issues, submitted the following report, which was received:

Your Committee on Senior Citizen Issues has had under consideration:

H. B. 4555, Establishing a cause of action against a person who commits an act of financial exploitation against an elderly person,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4555) was referred to the Committee on the Judiciary.

Delegate Canterbury, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 4607, Adding violations of law upon which a public servant's retirement plan may be forfeited,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4607) was referred to the Committee on the Judiciary.

Delegate Miller, Chair of the Committee on Small Business, Entrepreneurship and Economic Development submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 4032, Self-Employment Assistance Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4032) was referred to the Committee on Finance.

Delegate Miller, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 2110, Relating generally to the tax treatment of manufacturing entities,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2110) was referred to the Committee on Finance.

Delegate Miller, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 4502, Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4502) was referred to the Committee on the Judiciary.

Delegate Nelson, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. B. 4507, Providing an employer may grant preference in hiring to a veteran or disabled veteran,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4507) was referred to the Committee on the Judiciary.

Delegate Nelson, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

H. C. R. 20, Funding for the West Virginia National Guard,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 20) was referred to the Committee on Rules.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4392, Establishing a special fund to be used for minor road repair within the county,

And,

H. B. 4528, Permitting an all-volunteer fire department to consolidate with certain other fire departments while retaining their rights to receive funds,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4392 and H. B. 4528) were each referred to the Committee on Finance.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4390, Relating to the West Virginia Land Reuse Agency Authorization Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4390) was referred to the Committee on Government Organization.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4408, Prohibiting certain civil actions against company adjusters,

And,

H. B. 4473, Clarifying that when the presumption of abandonment arises with respect to a life insurance policy or annuity payable upon proof of death,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4408 and H. B. 4473) were each referred to the Committee on the Judiciary.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 429, Adopting two National Association of Insurance Commissioners' models to protect enrollees and general public and permit greater oversight,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 429) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4594, Relating to predoctoral psychology internship qualifications,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4594) was referred to the Committee on Government Organization.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4358, Relating to out of state physicians and surgeons traveling with sports teams within this state,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4358) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 387, Shared animal ownership agreements to consume raw milk,

And,

H. B. 4470, Expanding newborn testing to include Adrenoleukodystrophy,

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

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4388, Relating to stroke centers,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4388 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §16-5B-18, relating to designating certain hospitals as stroke centers; designating based upon certain criteria; establishing protocols; setting forth reporting requirements; establishing protocols; creating an advisory committee and permitting rulemaking,"

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4386, Requiring the Department of Health and Human Resources to be notified of hearings involving criminal defendants to be placed in state inpatient mental health facilities,

H. B. 4438, Relating to the involuntary examination of individuals experiencing a psychiatric emergency or mental illness,

H. B. 4463, Permitting the practice of telemedicine,

And,

H. B. 4537, Relating to the regulation of chronic pain clinics,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4386, H. B. 4438, H. B. 4463 and H. B. 4537) were each referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4489, Relating generally to human trafficking,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4360, Increasing the criminal penalty for the unlawful practice of law,

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

Com. Sub. for H. B. 4360 - "A Bill to amend and reenact §30-2-4 the Code of West Virginia, 1931, as amended, relating to the unauthorized practice of law; increasing the criminal penalty for the unlawful practice of law; and providing that a lawyer may advertise services or hire a person to assist in advertising services as permitted by the Rules of Professional Conduct,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4383, Making individuals responsible for the costs relating to the filing of excessive false complaints,

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

Com. Sub. for H. B. 4383 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, relating to excessive filing of false complaints; defining terms; providing for the discretionary suspension of investigatory obligations by agencies or departments; setting forth time frames for determination of excessive false complaints; limiting the time frame investigatory obligations may be suspended; providing for exceptions in the agency’s or department’s sole discretion; providing for written notice of determinations that a complaint was a false complaint; providing that a copy of this article accompany notices; providing for exceptions to this article for emergency investigations and the West Virginia State Police; providing for civil actions; establishing burden of proof and remedies for civil actions; and preserving other available remedies of an agency or department.”

With the recommendation that the committee substitute do pass.

Select Committee Reports

Delegate Ellington, Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4576, Increasing the penalties for transporting controlled substances into the state except marihuana,

H. B. 4577, Creating an additional penalty for use of a firearm in furtherance of a drug offense,

And,

H. B. 4578, Creating a criminal offense of conspiracy to violate the drug laws,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4576, H. B. 4577 and H. B. 4578) were each referred to the Committee on the Judiciary.

Messages from the Executive

The Speaker presented annual reports from various state agencies as required by the provisions of law, as follows:

Administration, Department of

Comprehensive Procurement Program for Recycled Products

Development Office

Film Office

Neighborhood Investment Program

Geological and Economic Survey

Health and Human Resources, Department of

Bureau for Medical Services

Health Care Authority

Special Reclamation Fund Advisory Council

Tax Appeals, Office of

Tax Division,

Commercial Patents Incentive Tax Credit

Transportation, Division of

Administrative Hearings, Office of

The above-referenced reports are on file in the Clerk's Office.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 315 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto seventeen new sections, designated §31-15A-1a, §31-15A-9a, §31-15A-10a, §31-15A-11a, §31-15A-11b, §31-15A-12a, §31-15A-13a, §31-15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a; to amend and reenact §31-15A-2, §31-15A-8, §31-15A-10, §31-15A-11 and §31-15A-17 of said code; and to amend and reenact §31-15C-4 of said code, all relating generally to development of infrastructure in the state; establishing purposes for amendments to develop broadband infrastructure; providing for development of broadband middle mile infrastructure; defining new terms; creating separate infrastructure fund for broadband middle mile infrastructure projects; providing for deposits and expenditures; requiring certain agencies to apply for grant funds in furtherance of broadband middle mile infrastructure projects; setting forth additional powers and duties for Water Development Authority and Broadband Enhancement Council; creating West Virginia Infrastructure Fund for Broadband Middle Mile Development; providing for disposition of funds on termination or dissolution of authority; authorizing issuance of broadband middle mile revenue bonds; creating West Virginia Broadband Middle Mile Infrastructure Revenue Debt Service Fund; providing for funding of debt service fund; specifying requirements for issuance of bonds; providing for contents of trust agreement and trustee for bonds; specifying remedies available to bondholders, noteholders and trustees; making broadband middle mile infrastructure revenue bonds lawful investments; providing for purchase, cancellation and refunding of bonds; declaring bonds are not state debts and are exempt from taxation; requiring periodic reporting; limiting personal liability; and permitting

legislative and emergency rulemaking”; which was referred to the Committee on Political Subdivisions then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 400 - “A Bill to amend and reenact §11-15-30 of the Code of West Virginia, 1931, as amended, relating to dedication and deposit of certain tax proceeds; reducing amount of sales tax proceeds annually dedicated to School Major Improvement Fund by \$999,996 for fiscal year 2017; amending monthly deposit requirements; specifying retroactive effect; and reducing amount of sales tax proceeds annually dedicated to School Construction Fund by \$3 million for fiscal year 2017”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 424 - “A Bill to amend and reenact §7-1-3d of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-17-12 of said code, all relating to county commissions authorizing reasonable fees charged for fire department or fire company response to fires or other call for assistance; describing the means to be used for calculating and charging fees for responding to fire or other calls for assistance; prohibiting fire company or fire department from seeking reimbursement where the property is assessed a fire service levy or fire service fee; and establishing the method for revising and reauthorizing the county fire service fee by the county commission”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 529 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-28-1 and §47-28-2, all relating to fantasy games; defining fantasy game; providing that fantasy games are lawful; and exempting fantasy games from regulation”; which was referred to the Committee on the Judiciary then Finance.

Resolutions Introduced

Delegates Caputo, Guthrie and Rowe offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 74 - “Requesting the Division of Highways to name bridge number 20-77-83.84 (20A615), located at latitude 38.19560, longitude -81.47926, which carries Interstate 64 and Interstate 77 over Route 79/3, also known as Cabin Creek Road, in Kanawha County, the ‘Arnold Miller Memorial Bridge’.”

Whereas, Arnold Miller was born on April 25, 1923, in the mining community of Cherokee in Cabin Creek, Kanawha County to Lula Burgess Hoy and George Miller; and

Whereas, Arnold Miller left school after completing the ninth grade and began his career in the labor sector in the timber industry, before moving to the mining industry at the age of sixteen, loading coal carts in the same mine his grandfather worked in. He became involved with the local United Mine Workers union, during this time as well; and

Whereas, Arnold Miller enlisted in the U. S. Army in 1940, where he served valiantly as a Private First Class for his country as a machine gunner and took part in the Normandy invasion of Europe, where he was severely wounded. Arnold Miller was awarded the Bronze Star, the Silver Star, and the Purple Heart during his service to his country and the State of West Virginia; and

Whereas, Arnold Miller returned from World War II to marry Virginia Brown in 1948, having three children, instilling in them

values such as honesty and hard work, which he showed them by leading through example throughout his life. Arnold Miller was passionate about caring for others less fortunate than himself and was an avid outdoorsman. He worked in the mines of Cabin Creek for twenty-four years, until succumbing to black-lung disease; and

Whereas, Arnold Miller led the charge for the first “black-lung bill” in the United States, giving miners safer conditions in which to work in the 1969 session of the West Virginia State Legislature. Miller also created the West Virginia Black Lung Association, of which he was also president and carried the fight to the federal level for the creation of the Black Lung Benefits Act of 1973; and

Whereas, His presidency of the WVBLA led the way for Arnold Miller to challenge for the presidency of the United Mine Workers of America union in 1972, becoming the first native West Virginian to lead the organization; and

Whereas, The UMWA instituted several reforms during Arnold Miller’s presidency, protecting miner’s rights, increasing democratic practices within local unions, and expanding the practice of collective bargaining; and

Whereas, Arnold Miller resigned the presidency of the UMWA in 1979, before passing away on July 12, 1985. Many of the reforms he brought to the UMWA are still in practice today, highlighting Arnold Miller’s profound impact on the union and the mining industry; and

Whereas, Arnold Miller’s contribution to the State of West Virginia, the United Mine Workers of America, and to miners across the country should be commemorated in an enduring memorial to preserve his legacy; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-77-83.84 (20A615), located at latitude 38.19560, longitude

-81.47926, which carries Interstate 64 and Interstate 77 over Route 79/3, also known as Cabin Creek Road, in Kanawha County, the “Arnold Miller Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “Arnold Miller Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and to Larry and Vickie Miller.

Delegates J. Nelson, R. Smith, Caputo, Moffatt and Wagner offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 75 - “Requesting the Division of Highways to name the bridge on County Route 85, bridge number: 03-85/24-0.01 (03A167) (37.88458, -81.65320), locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in Boone County, the ‘U. S. Army SSG James C. Vickers and U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge’.”

Whereas, James C. Vickers was born on February 3, 1932, in Lorado, West Virginia, the son of Watt and Desta Vickers. He moved from Lorado, to Barrett, West Virginia in August, 1948. In April, 1950, he enlisted in the United States Army and took his basic training at Fort Knox, Kentucky. He completed basic training there the same month the Korean War started, June 1950. He was sent to Japan immediately for amphibious assault training with the 7th Infantry Division. SSG James C. Vickers was assigned to B Company, 31st Infantry Regiment, 7th Infantry Division, and saw his first combat action in the amphibious assault at Inchon, South Korea on September 14, 1950. This landing enabled the United Nations forces to liberate the South Korean capital city of Seoul, and drive the North Koreans out of South Korea. SSG James C. Vickers made a second amphibious assault

at Iwon, North Korea on October 29, 1950, as part of a push for an early end to the war. His unit was part of Taskforce Drysdale, an action to clear a number of enemy roadblocks between Koto-ri and Hagaru-ri, North Korea. His whole unit was pinned down by a .50 caliber heavy machine gun 800 to 1,000 yards away. He took out the enemy gun, protecting his unit from taking losses. SSG James C. Vickers was wounded in action a day later in the battle for the Chosin Reservoir, in weather as cold as -32 degrees. He was one of very few in his unit that was not killed or captured in the battle, as he ignored his commander's order to surrender and fought his way back to American troops. A little over 50 years later, his actions on that day were recognized when SSG Vickers was awarded the prestigious Silver Star March 11, 2001, in a ceremony in Charleston, West Virginia, presented by the State of West Virginia Adjunct General Allen Tackett. SSG James C. Vickers distinguished himself on many occasions and is the recipient of many awards including: The Purple Heart, Combat Infantry Badge, Republic of South Korea Presidential Unit Citation, Army Presidential Unit Citation W/ Oak Leaf Cluster, Navy Presidential Unit Citation W/ Oak Leaf Cluster, Korean Service Medal W/ four Combat Stars and two Arrowheads, National Defense Service Medal, United Nations Service Medal, Army of Occupation Medal (Japan), and Army Good Conduct Medal. Upon his return from Korea in 1951, he met Janet Alice Price. They were married on March 23, 1954, and have two sons, Mark and Russell, six grandchildren, and two great-grandchildren. James C. Vickers is a proud American and veteran who enjoys speaking to service clubs, VFW's, American Legions and schools about patriotism, military history and personal experiences. He is a member of the honor fraternity, the Chosin Few, which is for veterans who fought in the Battle of the Chosin Reservoir, in North Korea 1950; and

Whereas, PFC Randall Carl Phelps was born June 4, 1948, in Dorothy, West Virginia to Carl William and Bernice Dale Lee Phelps. He grew up in Boone County where he graduated from Van High School in 1967. He loved baseball and played in the Pony League each summer. He was a voracious reader who teased and tormented his

brother Steve and sisters, Joy, Jane and Diane without mercy. He enlisted in the United States Marine Corps and prior to his departure to Vietnam he became engaged to the love of his life, Grace Workman. Becoming a Marine was a choice for PFC Phelps, who believed in honor, duty and country. His letters home documented his belief that the people he was defending were deserving of his sacrifice. He was killed in action in Quang Tri Province, The Republic of South Vietnam, on April 8th, 1968. He was a member of the United States Marine Corps, A Company, 3rd Engineering Battalion, 3rd Marine Division, serving as a Combat Engineer. He died assisting wounded soldiers onto a Medevac chopper in the midst of a North Vietnam mortar barrage. He was awarded the Bronze Star, the Purple Heart, the National Defense Service Military Ribbon, the Vietnam Service Military Ribbon, the Defense Distinguished Service Military Ribbon and The Republic of Vietnam Gallantry Cross. On May 23, 1986, the Academic 1 Facility at Marine Corps Base Camp Lejeune in Jacksonville, North Carolina, was dedicated to PFC Phelps and seven other marines who also gave their lives for their country; and

Whereas, Naming the bridge on County Route 85, bridge number: 03-85/24-0.01 (03A167) (37.88458, -81.65320), locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in Boone County, the “U.S. Army SSG James C. Vickers and U.S. Marine Corps PFC Randall Carl Phelps Memorial Bridge” is an appropriate recognition of their contributions to their country, state, community and Boone County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on County Route 85, bridge number: 03-85/24-0.01 (03A167) (37.88458, -81.65320), locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in Boone County, the “U.S. Army SSG James C. Vickers and U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U.S. Army SSG James C. Vickers and U.S. Marine Corps PFC Randall Carl Phelps Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation, James C. Vickers and the family of Randall Carl Phelps.

Delegates Rodighiero, Phillips, Eldridge, Marcum and Hicks offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 76 – “Requesting the Division of Highways to name the bridge on West Virginia Route 10 over Buffalo Creek in Logan County, Bridge Number 23-10-25.88 (23A041), latitude 37.89636, longitude -81.99435, locally known as the Chief Logan Box Culvert, the ‘U.S. Army 1LT Patricia Simon Bridge’.”

Whereas, First Lieutenant Patricia Simon, known to her family and friends as Pat, served in the United States Army Nurse Corps during World War II, in the African and European Theatres of War; and

Whereas, First Lieutenant Patricia Simon, a great community leader in Logan County, passed away on January 14, 2013, at the age of ninety-five; and

Whereas, It is fitting that an appropriate memorial recognizing First Lieutenant Patricia Simon’s service to this country and her community be established near Chief Logan Park, where she walked every day for years; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge on West Virginia Route 10 over Buffalo Creek in Logan County, bridge number 23-10-25.88 (23A041), latitude 37.89636,

longitude -81.99435, locally known as the Chief Logan Box Culvert, the “U.S. Army 1LT Patricia Simon Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army 1LT Patricia Simon Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation, the Logan Woman’s Club and the family of First Lieutenant Patricia Simon.

Delegates Rodighiero, Marcum, Eldridge and Hicks offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 77 - “Requesting the Division of Highways to name the new bridge on State Route 10 located at the east end of Logan Boulevard, Bridge Number 23-10-19.39 (latitude 37.73065, longitude -81.83793), carrying County Route 10 over the Guyandotte River in Logan County, the ‘U.S. Army SGT Denver E. Short Memorial Bridge’.”

Whereas, Denver E. Short was born May 6, 1921, in Logan County at Davin on Huff Creek. He died August 26, 2001. He attended Man High School and later married Margaret Parson from West Logan. They had two daughters, Katy Short Ojeda and Brenda Short Thomas. He enlisted in the U. S. Army in August, 1941, and was honorably discharged on September 27, 1945. He participated in historic battles in central Europe and received medals for his service and for wounds received in action. As a platoon Sergeant in the Parachute Infantry Unit, he served in four wartime campaigns, Normandy, Rhineland, Ardennes and central Europe. He was awarded three Purple Heart Medals for wounds while in Normandy on D-Day, June 6, 1945, and Belgium. Sergeant Short also received the first Oak Leaf Cluster to his first Purple Heart Medal, a second Oak Leaf Cluster to his second Purple Heart Medal and two Distinguished Unit Badges. He was a

proud veteran, great father and husband; a quiet and humble man and devout Christian and a true American Hero; and

Whereas, Naming the new bridge on State Route 10 located at the east end of Logan Boulevard, Bridge Number 23-10-19.39 (latitude 37.73065, longitude -81.83793), carrying County Route 10 over the Guyandotte River in Logan County, the “U.S. Army SGT Denver E. Short Memorial Bridge” is an appropriate recognition of his contributions and sacrifices to his country as a part of “The Greatest Generation” and service to his state, community and Logan County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the new bridge on State Route 10 located at the east end of Logan Boulevard, Bridge Number 23-10-19.39 (latitude 37.73065, longitude -81.83793), carrying County Route 10 over the Guyandotte River in Logan County, the “U.S. Army SGT Denver E. Short Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U.S. Army SGT Denver E. Short Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving relatives of Denver E. Short.

Petitions

Delegate Howell presented a petition signed by 34 residents of his district, in support of H. B. 2424, Providing a procedure for West Virginia to select delegates to an Article V convention for proposing amendments to the Constitution of the United States of America; which was referred to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Shott, Lane and Ellington:

H. B. 4619 - "A Bill to amend the Code of West Virginia, 1931, as amended, by amending and reenacting §16-4C-2, §16-4C-3, §16-4C-4, §16-4C-5, §16-4C-6, §16-4C-6a, §16-4C-6b, §16-4C-6c, §16-4C-8, §16-4C-9, §16-4C-10, §16-4C-12, §16-4C-13, §16-4C-14, §16-4C-15, §16-4C-16, §16-4C-20, §16-4C-21 and §16-4C-23, all relating to the office of emergency medical services generally, transferring said office from the Bureau for Public Health to the Department of Military Affairs and Public Safety, the purposes of such regulation, the definitions, creation of and staffing of the office of emergency medical services, the Emergency Medical Services Advisory Council and its duties, composition, appointment, meetings, compensation and expenses, revising the powers and duties of the commissioner to be powers and duties of the secretary, altering administration of emergency medical services agency licensure, altering the administration of Emergency Medical Services Agency Licensure Fund and its annual report, altering the certifying authority for emergency medical technician-industrial, altering the rule-making authority for prescription of standards for emergency medical service personnel, revising the commissioner's role in the complaint process to be the responsibility of the secretary, revising the commissioner's role in the hearings and appeals process to be the responsibility of the secretary, allowing the secretary to inform law enforcement of prosecutable wrongdoing, allowing the secretary to seek injunctive relief for violations, giving the secretary rule-making authority for services that may be performed by emergency medical service personnel, providing that reports of services performed during disasters shall now be made to the secretary, providing that proof of mandatory insurance coverage shall be provided to the secretary, providing the secretary power to enter into service reciprocity agreements, providing the secretary power to bar emergency medical services by out-of-state emergency

medical service personnel or providers, and granting the secretary rule-making authority generally”; to the Committee on Health and Human Resources then Government Organization.

By Delegates Rohrbach, Sobonya, Bates, Ellington, Householder, Miller, Perdue, Stansbury, Upson, Waxman and B. White:

H. B. 4620 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to prohibiting the production, manufacture or possession of fentanyl; and establishing criminal penalties”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Walters and Frich:

H. B. 4621 - “A Bill to amend and reenact §31A-4-26 of the Code of West Virginia, 1931, as amended, relating to defining unimpaired capital and unimpaired surplus for purposes of calculating the lending limit of a state-chartered bank”; to the Committee on Finance.

By Delegates Upson, Espinosa, Householder, Duke, Howell, Folk, Blair, E. Nelson, Ellington, Storch and Trecost:

H. B. 4622 - “A Bill to amend and reenact §60-7-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-8-34 of said code, all relating to the sale of alcoholic beverages on Sundays by private licensees; requiring the county commissions to conduct an option election on the questions of whether to authorize licensed private clubs to sell nonintoxicating beer, wine and alcoholic liquors between the hours of ten-thirty o’clock a.m. and one o’clock p.m. on Sundays and restrict them from doing so between the hours of three o’clock a.m. and seven o’clock a.m. on any weekday or Saturday; and requiring the county commissions conduct an option election on the question of whether to permit a licensed private bed and breakfast, private wine restaurant or private wine spa to sell wine for consumption on the licensed premises between the hours of ten-thirty o’clock a.m. and one o’clock p.m. on Sundays”; to the Committee on Roads and Transportation then the Judiciary.

By Delegate Walters:

H. B. 4623 - “A Bill to amend and reenact §46A-2-115 of the Code of West Virginia, 1931, as amended, relating to limits on charges a secured lender may recover from a consumer borrower upon default”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Miller, Cowles, Border, D. Evans, Moffatt, Faircloth, McCuskey, Sobonya and Rohrbach:

H. B. 4624 - “A Bill to amend and reenact §5A-6-2 of the Code of West Virginia, 1931, as amended, relating to information technology projects under the Office of Technology; and raising the minimum dollar value for an information technology project to qualify as a major information technology project”; to the Committee on Finance.

Special Calendar**Third Reading**

Com. Sub. for S. B. 150, Authorizing Department of Transportation promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 98**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Folk, Lane, Marcum, J. Nelson and Walters.

Absent and Not Voting: Border, Cowles and Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 150) passed.

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

On this question, the yeas and nays were taken (**Roll No. 99**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Folk, Howell, Marcum and Walters.

Absent and Not Voting: Border, Cowles, Ellington and McCuskey.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 150) takes effect from its passage.

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

Com. Sub. for S. B. 309, Relating to child-care center licensing and exempting county parks and recreation from licensure; on third reading, coming up in regular order, was read a third time.

Delegate Moffatt requested to be excused from voting on the passage of Com. Sub. for S. B. 309 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Moffatt would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 100**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Marcum, Moffatt and Skinner.

Absent and Not Voting: Border, Cowles and Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 309) passed.

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

Com. Sub. for S. B. 369, Reducing legislative education reporting requirements; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Espinosa asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended to permit the offering and consideration of amendments on third reading.

On motion of Delegate Espinosa, the bill was amended on page one, by amending the enacting section to read as follows:

“That §18-2-5g of the Code of West Virginia, 1931, as amended, be repealed; that §18-2E-3g of said code be repealed; that §18B-5-8 of said code be repealed; that §18-2E-5 of said code be amended and reenacted; that §18-2I-5 of said code be amended and reenacted; that §18-3-12 of said code be amended and reenacted; that §18-5-44 of said code be amended and reenacted; that §18-20-5 and §18-20-8 of said code be amended and reenacted; that §18A-2-3 of said code be amended and reenacted; that §18A-4-7a of said code be amended and reenacted; that §18A-5-1a of said code be amended and reenacted; that §18B-1-10 of said code be amended and reenacted; that §18B-1B-4 of said code be amended and reenacted; that §18B-1D-8 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1D-8a; that §18B-2B-6 of said code be amended and reenacted; that §18B-2C-3 of said code be amended and reenacted; that §18B-3D-2 of said code be amended and reenacted; that §18B-10-1 of said code be amended and reenacted; that §18B-13-5 of said code be amended and reenacted; that §18B-18-6 of said code be amended and reenacted; that §18C-3-4 of said code be amended and reenacted; that §18C-5-7 of said code be amended and reenacted; and that §18C-7-5 of said code be amended and reenacted, all to read as follows” followed by a colon.

There being no further amendments, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 101**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Border, Cowles and Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 369) passed.

An amendment to the title of the bill, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 369 – “A Bill to repeal §18-2-5g of the Code of West Virginia, 1931, as amended; to repeal §18-2E-3g of said code; to repeal §18B-5-8 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-5 of said code; to amend and reenact §18-3-12 of said code; to amend and reenact §18-5-44 of said code; to amend and reenact §18-20-5 and §18-20-8 of said code; to amend and reenact §18A-2-3 of said code; to amend and reenact §18A-4-7a of said code; to amend and reenact §18A-5-1a of said code; to amend and reenact §18B-1-10 of said code; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-1D-8 of said code; to amend said code by adding thereto a new section, designated §18B-1D-8a; to amend and reenact §18B-2B-6 of said code; to amend and reenact §18B-2C-3 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-10-1 of said code; to amend and reenact §18B-13-5 of said code; to amend and reenact §18B-18-6 of said code; to amend and reenact §18C-3-4 of said code; to amend and reenact §18C-5-7 of said code; and to amend and reenact §18C-7-5 of said code, all relating to legislative education reporting requirements; repealing obsolete section providing for establishment

of a special five-year demonstration professional development school project for improving academic achievement including requirement for status reports to commission; repealing requirement for review, evaluation and report to commission on reports required to be written by principals and teachers; repealing section requiring Higher Education Policy Commission to report to commission on in-state and out-of-state contracts and purchases; removing requirement for Office of Education Performance Audits to report to commission on each appeal of on-site review findings; removing requirement for report to the commission on the effectiveness of staff development resulting from expenditures from Strategic Staff Development Fund; removing requirement for status report to commission relating to Special Community Development School Pilot Program; removing requirement for report to commission on progress of implementation of early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the program; removing requirement for report to the commission and the Joint Committee on Government and Finance that addresses, at a minimum, certain early childhood education program issues; removing requirement for State Superintendent of Schools to review the rules, policies and standards of the state and federal law for serving the needs of certain exceptional children and removing requirement for report to commission on the findings of the review along with an accounting of the services provided and the costs thereof; removing requirement for annual report to commission, the Joint Committee on Education, the Legislative Commission on Juvenile Law, and other agencies, as appropriate, which recommends policies, procedures and legislation for effectively providing early intervention services and reports on the status of existing programs; removing requirement for State Board of Education to review the status of employing prospective employable professional personnel and the requirement for an annual report to the commission which must include certain minimum prospective employable professional personnel-related items; removing requirement that county board of education submit a copy of its policy defining which

policies are lateral positions to the state board within thirty days of any adoption or modification and the requirement that the state board compile a report and submit the report to the commission; removing the requirement that county boards report the number of students determined to be dangerous students to the state board and the requirement that the state board compile the statistics and report its findings to the commission; removing the reporting requirements on the cooperative relationship between Potomac State College and Eastern West Virginia Community and Technical College; removing the requirement that the Higher Education Policy Commission report on its performance, capital investment priorities, and recommendations for statutory changes; removing numerous reports from list of reports that are not required to be made annually to the Legislature and requiring remaining reports on list to be combined with other reports, including certain personnel, classification, compensation and human resources reports, all capital appropriation requests, priorities and campus and state capital development plans, all academic related matters and reports, and all financial aid reports; permitting the Commission to modify deadlines for statutory or rule mandated reports without a statutory or rule-making change as long as provided within calendar year; removing requirement that Council collect and analyze data, report on community and technical college performance in every region, and report on progress toward meeting goals and objectives; removing annual requirement that Council report on its performance, capital investment priorities and recommendations for statutory changes; removing annual requirement that Council report on progress toward meeting statutory goals and whether statewide independently accredited community and technical college should be created; removing requirement for status report on workforce development initiatives; removing requirement for annual report on auxiliary fees; removing requirement that Higher Education Policy Commission report on technical assistance and associated costs provided to qualified businesses within the higher education and industry partnership; removing requirement for annual status report on the Eminent Scholars Endowment Trust Fund; removing requirement of an

annual report on number of nursing scholarship recipients; removing requirement to report on status of Higher Education Adult Part-Time Student Grant Program; and removing requirement for annual recommendation to encourage PROMISE recipients to live and work in West Virginia after graduation.”

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

Com. Sub. for H. B. 2474, Relating to the compensation of personnel employed at the West Virginia Schools for the Deaf and the Blind; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 102**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Border, Cowles and Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2474) passed.

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

Com. Sub. for H. B. 2852, Relating to legalizing and regulating the sale and use of fireworks; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 103**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Border, Cowles, Ellington and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2852) passed.

On motion of Delegate E. Nelson, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 2852 – “A Bill to repeal §11-12-86 of the Code of West Virginia, 1931, as amended; to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of said code; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 and §29-3E-13; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating the regulation of fireworks generally; creating unlawful acts; authorizing sale of consumer fireworks; defining consumer fireworks; establishing regulatory framework for sale of fireworks; defining terms; requiring certificate; establishing fees; requiring permits; dedicating certain fees to Veterans Facilities Support Fund and Fire Protection Fund; establishing rule-making authority; creating criminal penalties related to the sale, manufacturing, importing or storage of fireworks; defining terms; authorizing exemptions; requiring reporting; and establishing internal effective dates for certain provisions.”

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

On this question, the yeas and nays were taken (**Roll No. 104**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Border, Cowles, Ellington and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2852) takes effect from its passage.

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

Com. Sub. for H. B. 4013, Requiring a person desiring to vote to present documentation identifying the voter; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 105**), and there were, including 2 paired - yeas 64, nays 34, absent and not voting 2, with the paired and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Border Nay: Caputo

Absent and Not Voting: Cowles and Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4013) passed.

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

H. B. 4150, Making a supplementary appropriation to the Department of Health and Human Resources; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 106**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Border, Cowles, Ellington, Flanigan and Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4150) passed.

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

On this question, the yeas and nays were taken (**Roll No. 107**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Moore and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4150) takes effect from its passage.

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

H. B. 4151, Making a supplementary appropriation to the Department of Education; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 108**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Ireland, Moore and Skinner.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4151) passed.

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

On this question, the yeas and nays were taken (**Roll No. 109**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Ireland, Moore and Skinner.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4151) takes effect from its passage.

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

H. B. 4159, Making a supplementary appropriation to the Public Services Commission – Motor Carrier Division; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 110**), and there were—yeas 87, nays 6, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Cadle, Folk, Hicks, Ihle, Marcum and Sobonya.

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Moore and Skinner.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4159) passed.

Delegate Deem asked unanimous consent that the roll call used on passage of the bill be used to make it effective from passage, to which objection was heard.

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

Delegate Deem moved to amend the motion and subsequently withdrew the motion.

On the motion of Delegate Miller that the bill take effect from its passage, the yeas and nays were taken (**Roll No. 111**), and there were—yeas 89, nays 2, absent and not voting 9, with the nays and absent and not voting being as follows:

Nays: Cadle and Marcum.

Absent and Not Voting: Blair, Border, Campbell, Cowles, Ellington, Flanigan, Hanshaw, Moore and Skinner.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4159) takes effect from its passage.

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

Com. Sub. for H. B. 4213, Uniform Deployed Parents Custody and Visitation Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 112**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Moore and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4213) passed.

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

Com. Sub. for H. B. 4261, Prohibiting the sale or transfer of student data to vendors and other profit making entities; on third reading, coming up in regular order, with restricted right to amend by Delegate Butler, was reported by the Clerk.

On motion of Delegate Butler, the bill was amended on page five, line ninety-seven, after the word “results”, by striking out the

remainder of the sentence and inserting in lieu thereof “and necessary directory or other permissible information under this Act. If information classified as confidential is required, the ACT, SAT or college board must obtain affirmative written consent from the student (if 18 or older) or the student’s parent or guardian and provided that the consent contain a detailed list of confidential information required and the purpose of its requirement.”

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 113**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Fleischauer, Moore and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4261) passed.

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

H. B. 4499, Relating to certain persons who have been disqualified or excused from jury service; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 114**), and there were—yeas 90, nays 1, absent and not voting 9, with the nays and absent and not voting being as follows:

Nays: Lynch.

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Fleischauer, Hicks, Moore and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4499) passed.

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

Com. Sub. for H. B. 4520, Clarifying that certain hospitals have only one governing body whose meetings shall be open to the public; on third reading, coming up in regular order, was read a third time.

Delegates Boggs and Hartman requested to be excused from voting on the passage of Com. Sub. for H. B. 4520 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegates Boggs and Hartman would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentlemen from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 115**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Fleischauer, Moore and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4520) passed.

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

Second Reading

Com. Sub. for S. B. 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances; on second

reading, coming up in regular order, was, on motion of Delegate Miller, postponed one day.

Com. Sub. for S. B. 14, Limiting successor corporation asbestos-related liabilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page four, section three, line twenty-five, immediately following the word “to”, by striking out “April 1, 2016” and inserting in lieu thereof “the effective date of this Article”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 146, Establishing instruction standards for early childhood education; on second reading, coming up in regular order, was read a second time.

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

“That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-44. Early childhood education programs.

(a) For the purposes of this section, an ‘early childhood education program’ means ~~programs~~ a program created under this section for children who have attained the age of four prior to September 1 of the school year in which ~~the pupil enters~~ the children enter the program. ~~created in this section~~

(b) *Findings.* –

(1) Among other positive outcomes, early childhood education programs have been determined to:

(A) Improve overall readiness when children enter school;

(B) Decrease behavioral problems;

(C) Improve student attendance;

(D) Increase scores on achievement tests;

(E) Decrease the percentage of students repeating a grade; and

(F) Decrease the number of students placed in special education programs;

(2) Quality early childhood education programs improve school performance and low-quality early childhood education programs may have negative effects, especially for at-risk children;

(3) West Virginia has the lowest percentage of its adult population twenty-five years of age or older with a bachelor's degree and the education level of parents is a strong indicator of how their children will perform in school;

(4) During the 2006-2007 school year, West Virginia ranked thirty-ninth among the fifty states in the percentage of school children eligible for free and reduced lunches and this percentage is a strong indicator of how the children will perform in school;

(5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a number equal to approximately sixty-three percent of the number of students enrolled in kindergarten;

(6) Excluding projected increases due to increases in enrollment in the early childhood education program, projections indicate that total student enrollment in West Virginia will decline by one percent, or by approximately 2,704 students, by the school year 2012-2013;

(7) In part, because of the dynamics of the state aid formula, county boards will continue to enroll four-year-old students to offset the declining enrollments;

(8) West Virginia has a comprehensive kindergarten program for five-year-olds, but the program was established in a manner that resulted in unequal implementation among the counties, which helped create deficit financial situations for several county boards;

(9) Expansion of current efforts to implement a comprehensive early childhood education program should avoid the problems encountered in kindergarten implementation;

(10) Because of the dynamics of the state aid formula, counties experiencing growth are at a disadvantage in implementing comprehensive early childhood education programs; and

(11) West Virginia citizens will benefit from the establishment of quality comprehensive early childhood education programs.

(c) Beginning no later than the school year 2012-2013, and continuing thereafter, county boards shall provide early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the ~~pupil enters~~ children enter the early childhood education program. Beginning no later than the school year 2016-2017, and continuing thereafter, these early childhood education programs that are full day and five days per week shall be available to all children meeting the age requirement set forth in the subsection shall provide at least forty-eight thousand minutes annually and no less than fifteen hundred minutes of instruction per week.

(d) The program shall meet the following criteria:

(1) It shall be voluntary, except that, upon enrollment, the provisions of section ~~one one-a~~, article eight of this chapter apply to an enrolled student, subject to subdivision ~~(3)~~ (4) of this subsection;

(2) ~~It shall be open to all children meeting the age requirement set forth in this section; shall have the opportunity to enroll in a program that is full day and five days per week. The program may be for fewer than five days per week and may be less than full day based on family need if a sufficient number of families request such programs and the county board finds that such programs are in the best interest of the requesting families and students: *Provided*, That the ability of families to request programs that are fewer than five days a week or less than a full day does not relieve the county of the obligation to provide all resident children with the opportunity to enroll in a full-day program; and~~

(3) ~~It shall provide no less days than fifteen hundred minutes of instruction per week, in a full day program with at least forty-eight thousand minutes of instruction annually; The program may be for fewer than five days per week and may be less than full day based on family need if a sufficient number of families request such programs and the county board finds that such programs are in the best interest of the requesting families and students: *Provided*, That the ability of families to request programs that are fewer than five days a week or less than a full day does not relieve the county of the obligation to provide all resident children with the opportunity to enroll in a full-day program and~~

~~(3)~~ (4) ~~It shall permit a parent of a~~ an enrolled ~~child enrolled in an early education program may to~~ withdraw a the child from that program for good cause by notifying the district. Good cause includes, but is not limited to, enrollment of the child in another program or the immaturity of the child. A child withdrawn under this section is not subject to the attendance provisions of this chapter until that child again enrolls in a public school in this state.

(e) Enrollment of students in Head Start, or in any other program approved by the state superintendent as provided in ~~subsection (k)~~ of this section, may be counted toward satisfying the requirement of subsection (c) of this section.

(f) For the purposes of implementation financing, all counties are encouraged to make use of funds from existing sources, including:

(1) Federal funds provided under the Elementary and Secondary Education Act pursuant to 20 U. S. C. §6301, *et seq.*;

(2) Federal funds provided for Head Start pursuant to 42 U. S. C. §9831, *et seq.*;

(3) Federal funds for temporary assistance to needy families pursuant to 42 U. S. C. §601, *et seq.*;

(4) Funds provided by the School Building Authority pursuant to article nine-d of this chapter;

(5) In the case of counties with declining enrollments, funds from the state aid formula above the amount indicated for the number of students actually enrolled in any school year; and

(6) Any other public or private funds.

(g) Each county board shall develop a plan for implementing the program required by this section. The plan shall include the following elements:

(1) An analysis of the demographics of the county related to early childhood education program implementation;

(2) An analysis of facility and personnel needs;

(3) Financial requirements for implementation and potential sources of funding to assist implementation;

(4) Details of how the county board will cooperate and collaborate with other early childhood education programs including, but not limited to, Head Start, to maximize federal and other sources of revenue;

(5) Specific time lines for implementation; and

(6) Any other items the state board may require by policy.

(g) A county board shall submit its plan to the Secretary of the Department of Health and Human Resources. The secretary shall approve the plan if the following conditions are met:

(1) The county board has maximized the use of federal and other available funds for early childhood programs; and

(2) The county board has provided for the maximum implementation of Head Start programs and other public and private programs approved by the state superintendent pursuant to the terms of ~~subsection (k) of this section; and~~ or

(3) ~~If the~~ The Secretary of the Department of Health and Human Resources ~~secretary~~ secretary finds that, if the county board has not met one or more of the requirements of this subsection, ~~but that~~ the county board has acted in good faith and the failure to comply was not the primary fault of the county board. ~~then the secretary shall approve the plan.~~ Any denial by the secretary may be appealed to the circuit court of the county in which the county board is located.

(i) The county board shall submit its plan for approval to the state board. The state board shall approve the plan if the county board has complied substantially with the requirements of subsection (g) of this section and has obtained the approval required in subsection (h) of this section.

(j) Every county board shall submit its plan for reapproval by the Secretary of the Department of Health and Human Resources and by the state board at least every two years after the initial approval of the plan and until full implementation of the early childhood education program in the county. As part of the submission, the county board shall provide a detailed statement of the progress made in implementing its plan. The standards and procedures provided for the original approval of the plan apply to any reapproval.

(k) A county board may not increase the total number of students enrolled in the county in an early childhood program until its program is approved by the Secretary of the Department of Health and Human Resources and the state board.

(l) The state board annually may grant a county board a waiver for total or partial implementation if the state board finds that all of the following conditions exist:

(1) The county board is unable to comply either because:

(A) It does not have sufficient facilities available; or

(B) It does not and has not had available funds sufficient to implement the program;

(2) The county has not experienced a decline in enrollment at least equal to the total number of students to be enrolled; and

(3) Other agencies of government have not made sufficient funds or facilities available to assist in implementation.

Any county board seeking a waiver shall apply with the supporting data to meet the criteria for which they are eligible on or before March 25 for the following school year. The state superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

(m) The provisions of subsections (b), (c) and (d), section eighteen of this article relating to kindergarten apply to early childhood education programs in the same manner in which they apply to kindergarten programs.

(n) Annually, the state board shall report to the Legislative Oversight Commission on Education Accountability on the progress of implementation of this section.

(o) Except as required by federal law or regulation, no county board may enroll students who will be less than four years of age prior to September 1 for the year they enter school.

(p) Neither the state board nor the state department may provide any funds to any county board for the purpose of implementing this section unless the county board has a plan approved pursuant to subsections (h), (i) and (j) of this section.

(q) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this section. The state board shall consult with the Secretary of the Department of Health and Human Resources in the preparation of the rule. The rule shall contain the following:

- (1) Standards for curriculum;
- (2) Standards for preparing students;
- (3) Attendance requirements;
- (4) Standards for personnel; and

(5) Any other terms necessary to implement the provisions of this section.

(r) The rule shall include the following elements relating to curriculum standards:

(1) A requirement that the curriculum be designed to address the developmental needs of four-year-old children consistent with prevailing research on how children learn;

(2) A requirement that the curriculum be designed to achieve long-range goals for the social, emotional, physical and academic development of young children;

(3) A method for including a broad range of content that is relevant, engaging and meaningful to young children;

(4) A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional

strategies to respond to differences in prior experience, maturation rates and learning styles that young children bring to the classroom;

(5) A requirement that the curriculum be designed to build on what children already know in order to consolidate their learning and foster their acquisition of new concepts and skills;

(6) A requirement that the curriculum meet the recognized standards of the relevant subject matter disciplines;

(7) A requirement that the curriculum engage children actively in the learning process and provide them with opportunities to make meaningful choices;

(8) A requirement that the curriculum emphasize the development of thinking, reasoning, decision-making and problem-solving skills;

(9) A set of clear guidelines for communicating with parents and involving them in decisions about the instructional needs of their children; and

(10) A systematic plan for evaluating program success in meeting the needs of young children and for helping them to be ready to succeed in school.

(s) The secretary and the state superintendent shall submit a report to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance which addresses, at a minimum, the following issues:

(1) A summary of the approved county plans for providing the early childhood education programs pursuant to this section;

(2) An analysis of the total cost to the state and county boards of implementing the plans;

(3) A separate analysis of the impact of the plans on counties with increasing enrollment; and

(4) An analysis of the effect of the programs on the maximization of the use of federal funds for early childhood programs.

The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible manner and make any necessary program improvements based on reported information prior to implementation of the early childhood education programs.

(t) After the school year 2012-2013, on or before July 1 of each year, each county board shall report the following information to the Secretary of the Department of Health and Human Resources and the state superintendent:

(1) Documentation indicating the extent to which county boards are maximizing resources by using the existing capacity of community-based programs, including, but not limited to, Head Start and child care; and

(2) For those county boards that are including eligible children attending approved, contracted community-based programs in their net enrollment for the purposes of calculating state aid pursuant to article nine-a of this chapter, documentation that the county board is equitably distributing funding for all children regardless of setting.”

On motion of Delegate Folk, the amendment was amended on page three, section forty-four, line sixty-nine, after the word “program”, by striking out the words “for good cause”.

On page three, section forty-four, line sixty-nine, after the word “district”, by inserting the words “in writing”.

And,

On page three, section forty-four, line sixty-nine, after the period, by striking out the entire sentence.

The amendment recommended by the Committee on Education, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for H. B. 4040, Regulating step therapy protocols in health benefit plans; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Fast, the bill was amended on two, section one, line eight, following the word “is”, by inserting the word “not”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 116**), and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Border, Campbell, Cowles, Ellington, Flanigan, Fleischauer, Kelly, Moore, Rohrbach, Skinner and Sponangle.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4060, Relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4080, Department of Veterans’ Assistance, rule relating to VA headstones or markers; on second reading, coming

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

Com. Sub. for H. B. 4521, Modifying the requirements that allow a child witness to testify by closed circuit television; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2605, Removing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2795, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order; on first reading, coming up in regular order, was, on motion of Delegate Miller, postponed one day.

Com. Sub. for H. B. 4001, Relating to candidates or candidate committees for legislative office disclosing contributions; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4152, Making a supplementary appropriation to the Division of Environmental Protection – Protect Our Water Fund; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4155, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health –

West Virginia Birth-to-Three Fund, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4157, Supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4160, Making a supplementary appropriation to the Department of Revenue, Tax Division; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4197, Allowing required HIV and hepatitis testing for the protection of law- enforcement officers who may have been exposed; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4265, Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4310, Relating to the West Virginia University Institute of Technology; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4316, Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4319, Including in the definition of “veteran” active members of the Guard and Reserve in order to exempt them

from fees charged by the Secretary of State; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4322, Expanding the Learn and Earn Program; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4340, Amending licensing requirements for an act which may be called Lynette's Law; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4366, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4445, Relating to the adoption of instructional educational resources; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4540, Removing prohibition of disposal of certain electronics in landfills; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4604, Relating to violations of the Ethics Act; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4605, Prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4606, Relating to the recusal of certain public officials from voting for appropriation of moneys to nonprofit entities; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4618, Relating to limitations on use of a public official's name or likeness; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Miller, and by unanimous consent, leaves of absence for the day were granted Delegates Border, Cowles and Ellington.

Remarks of Members

Delegate Kessinger asked and obtained unanimous consent that all remarks regarding the amendment of Delegate Fast to Com. Sub. for H. B. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions, be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Ireland announced that he was not present in his seat when the votes were taken on Roll Nos. 108 and 109, and that had he been present, he would have voted "Yea" thereon.

Delegate Sponaule noted to the Clerk that he was absent when the vote was taken on Roll No. 107, and that had he been present, he would have voted "Yea" thereon.

At 2:59 p.m., the House of Delegates adjourned until 11:00 a.m., Saturday, February 20, 2016.



SATURDAY, FEBRUARY 20, 2016

THIRTY-NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, February 19, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4466, Relating to public school support,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4466) was referred to the Committee on Finance.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4587, Relating to violations associated with absent voters' ballots,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4587) was referred to the Committee on the Judiciary.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4246, Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4246) was referred to the Committee on Government Organization.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 4542, Allowing persons with property within rural fire protection districts to opt out of fire protection coverage,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4542) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4563, Reauthorizing the Neighborhood Investment Program Act,

And,

H. B. 4580, Terminating the State Board of Registration of Foresters,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4563 and H. B. 4580) were each referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4256, Creating the Uniform Real Property Electronic Recording Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4256) was referred to the Committee on the Judiciary.

On motions for leave, resolutions were introduced (Originating in the Committee on Government Organization and reported with the recommendation that they be adopted but that they each be referred to the Committee on Rules), which were read by their titles, as follows:

By Delegates Howell, Arvon, Atkinson, Blair, Cadle, Caputo, Faircloth, Ferro, Flanigan, Hartman, Hill, Ihle, Lynch, McGeehan, Moffatt, J. Nelson, Pushkin, R. Smith, Sponaugle and Stansbury:

H. C. R. 78 - “Requesting the Joint Committee on Government and Finance study professional and occupational licensing boards,”

Whereas, The Supreme Court of the United States has ruled that state licensing boards comprised of a majority of market participants do not enjoy automatic immunity from antitrust laws; and

Whereas, The Legislature is committed to promoting public safety through the reasonable regulation of professions and occupations and reviewing those requirements to insure they protect the public; and

Whereas, Certain levels of professional expertise on professional and occupational boards helps promote public safety through the detailed understanding of professional practices, industry standards and emerging trends among the various professions and occupations; and

Whereas, The Legislature is committed to preventing the overregulation of markets by unwarranted influences of market participants and protectionist anti-free market pressures; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study professional and occupational licensing boards; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its

findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And,

By Delegates Howell, Arvon, Atkinson, Blair, Cadle, Caputo, Faircloth, Ferro, Flanigan, Hartman, Hill, Ihle, Lynch, McGeehan, Moffatt, J. Nelson, Pushkin, R. Smith, Sponaugle and Stansbury:

H. C. R. 79 - "Requesting the Joint Committee on Government and Finance study state agency websites, the processes, policies, and contracts for entities which provide technical and logistical support for agency website development and maintenance, and the laws and policies governing the electronic accessibility of public information,"

Whereas, The Legislature is committed to promoting an open, transparent and fiscally responsible government; and

Whereas, The Legislature recognizes that a government that is accessible to the people is necessary and proper, promotes transparency in government, facilitates civic participation, and such participation leads to a responsive and responsible government; and

Whereas, Government agencies provide access to information in a variety of formats on a variety of platforms, with assistance, advice, and technical support for website development and maintenance from a variety of sources, resulting in a lack of consistency among state agency websites; and

Whereas, State standards that are clear regarding what information is to be made available to the public, on what formats and in what manner, the Legislature should review the polices, rules and laws

regarding how agencies provide access to information so that access is reasonable, accurate and not duplicative; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study state agency websites, the processes, policies, and contracts for entities which provide technical and logistical support for agency website development and maintenance, and the laws and policies governing the electronic accessibility of public information; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Office of Technology, the offices of the State Treasurer, the State Auditor, the Secretary of State, the Department of Administration and the Department of Commerce shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

Which were referred to the Committee on Rules.

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

Your Committee on Finance has had under consideration:

H. B. 4315, Relating to air-ambulance fees for emergency treatment or air transportation.

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

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

Your Committee on Finance has had under consideration:

H. B. 2823, Eliminating the street and interurban and electric railways tax,

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

Com. Sub. for H. B. 2823 – “A Bill to amend and reenact §11-13-2d of the Code of West Virginia, 1931, as amended, relating to eliminating a certain tax on persons engaging or continuing within this state in the service or business of street and interurban and electric railways.”

With the recommendation that the committee substitute do pass.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 19th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 123), Treatment for sexually transmitted diseases,

(S. B. 261), Bringing state code relating to daylight saving time in conformity with federal code,

And,

(Com. Sub. for S. B. 15), Adopting learned intermediary doctrine as defense to civil action due to inadequate warnings or instructions.

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

Your Committee on Finance has had under consideration:

S. B. 341, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue,

Com. Sub. for S. B. 449, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services,

Com. Sub. for S. B. 450, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health,

And,

S. B. 451, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs,

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

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4554, Allowing an increase of gross weight limitations on certain roads in Greenbrier County,

And,

H. B. 4561, Creating a special hiring process for West Virginia Division of Highways employees,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4554 and H. B. 4561) were each referred to the Committee on Government Organization.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. B. 4196, Relating to abandoned antique vehicles,

And,

H. B. 4530, Exempting taxicab companies whose drivers are independent contractors, from providing workers' compensation coverage for the drivers,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4196 and H. B. 4530) were each referred to the Committee on the Judiciary.

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

Your Committee on Finance has had under consideration:

S. B. 351, Dedicating severance tax proceeds,

And,

S. B. 462, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund,

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

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

Your Committee on Finance has had under consideration:

H. B. 2897, Young Entrepreneur Reinvestment Act,

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

Com. Sub. for H. B. 2897 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §59-1-2c, relating to creating Young Entrepreneur Reinvestment Act; waiving certain fees for individuals under thirty creating certain business organizations, and expire the waiver of those fees,”

With the recommendation that the committee substitute do pass.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4500, Oil and Gas Royalty Payment and Transparency Act of 2016,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4500) was referred to the Committee on Finance.

On motion for leave, a bill was introduced (Originating in the Committee on Energy and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Ireland, Fast, Anderson, Zatezalo, R. Smith, J. Nelson, Cadle and Phillips:

H. B. 4639 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-7-2a, relating to concurrent mineral estates; establishing a method for the simple majority of mineral interest owners in a tract to develop their interests without committing waste; setting forth accrual and disbursement requirements to minority owners; and setting forth legislative intent.”

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4566, Relating to school personnel,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4566) was referred to the Committee on Finance.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2713, Providing taxpayers repaying their own student loans a modification reducing federal adjusted gross in the amount of the interest paid,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2713) was referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration:

S. B. 419, Relating to termination of Workers' Compensation Debt Reduction Act,

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

Select Committee Reports

Delegate Stansbury, Vice Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4183, Relating generally to reporting opioid overdoses,

And,

H. B. 4480, Addiction Treatment Act of 2016,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended, but that they first be referred to the Committee on Health and Human Resources.

In accordance with the former direction of the Speaker, the bills (H. B. 4183 and H. B. 4480) were each referred to the Committee on Health and Human Resources.

Delegate Stansbury, Vice Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4221, Relating to the administration of an opioid antagonist
And,

H. B. 4293, Relating to the West Virginia Controlled Substances Monitoring Program database,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4221 and H. B. 4293) were each referred to the Committee on the Judiciary.

Delegate Stansbury, Vice Chair of the Select Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Select Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 4044, Ryan Brown Addiction Prevention and Recovery Fund Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4044) was referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

H. B. 4148, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4158, Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4244, Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4245, Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 54 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating generally to altering way tax is collected on homeowners' associations; exempting from consumers sales and service tax liability

dues, fees and assessments paid by members to homeowners' associations when used by the homeowners' association for payment of common expenses; taxable expenses of homeowners' association; and definitions"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 293 – “A Bill to amend and reenact §11-13J-3, §11-13J-4, §11-13J-4a, §11-13J-10 and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating generally to Neighborhood Investment Program Act; reauthorizing act until July 1, 2021; defining terms ‘community based’ and ‘emergency assistance’; modifying definition of ‘economically disadvantaged area’; reducing frequency of required project transferee reports; reducing number of required advisory board meetings; reducing required number of West Virginia Development Office reports to the board; eliminating guidance on what a community based project is when the board is evaluating a project; removing requirement that Tax Commissioner annually publish addresses of taxpayers who claim the credit; and reducing frequency of program assessments by the director”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2016, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 313 – “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to school calendar; allowing limited use of available accrued instructional time when not possible to complete one hundred eighty separate instructional days in certain instances; requiring emergency rule if necessary; and removing obsolete effective date provision”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 434 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-35-5, relating to permitting sale of home-based, microprocessed foods at farmers markets; requiring seventy percent from vendor’s garden or farm; requiring recordkeeping and labeling; clarifying foods requiring permit and exempted foods; establishing permit requirements and limitations; setting for permit inspections and fees; and limiting sales to seven hundred fifty units per year”; which was referred to the Committee on Agriculture and Natural Resources then Health and Human Resources.

Petitions

Delegates Caputo, Longstreth and Manchin presented a petition signed by residents of Marion County requesting the Governor and Legislature increase the amount of state funds allocated to PEIA; which was referred to the Committee on Finance.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Mr. Speaker (Mr. Armstead), and Delegates Sobonya, Kurcaba, Hanshaw, Overington, Hamrick, Kessinger, Gearheart and Shott:

H. B. 4625 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-30; to amend said code by adding thereto a new section, designated §29-22-31; to amend said code by adding thereto a new section, designated §29-22A20; and to amend said code by adding thereto a new section, designated §29-22C-35, all relating to redirecting certain

racing and gaming revenues from greyhound development funds to the State Road Fund”; to the Committee on Finance.

By Delegate Cowles:

H. B. 4626 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-4a, relating to providing a safe harbor valuation for the measure of tax upon limestone and sandstone quarried or mined for purposes of the West Virginia Severance and Business Privilege Tax”; to the Committee on Finance.

By Delegates Kessinger, Arvon, Hill, Foster, Stansbury, Blair, Fluharty, McCuskey, Summers, Hamrick and R. Smith:

H. B. 4627 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-1-5, relating to creating a digital learning pilot project; establishing a purpose; establishing goals; establishing objectives; establishing key components of the pilot project; establishing qualifications; and establishing a deadline”; to the Committee on Education.

By Delegates Kessinger, Perry, Arvon, Hill, Stansbury, Fluharty, McCuskey, Sobonya, Summers, Border and Hamrick:

H. B. 4628 - “A Bill to amend and reenact §18-5-9 of the Code of West Virginia, 1931, as amended, relating to requiring county boards of education to conduct regular structural inspections of school facilities and structures; and requiring boards to establish a schedule of rotating inspections for all schools every ten years”; to the Committee on Education.

By Delegate Foster:

H. B. 4629 - “A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to establishing that an employee’s termination from employment for testing positive on a drug or alcohol test lawfully required by the employer disqualifies that employee for benefits”; to the Committee on the Judiciary.

By Delegates Lane and Shott:

H. B. 4630 - “A Bill to amend and reenact §6B-3-7 of the Code of West Virginia, 1931, as amended, relating to lobbyist duties and prohibitions; prohibiting a lobbyist from contributing money to candidates for Governor, Board of Public Works, State Senate or House of Delegates; extending that prohibition to the lobbyist’s spouse and dependent children; and providing exceptions”; to the Committee on the Judiciary.

By Delegates Shaffer, Lynch, Ambler, P. White, Phillips, Westfall and Stansbury:

H. B. 4631 - “A Bill to amend and reenact §20-2-60 of the Code of West Virginia, 1931, as amended, relating to requiring a hunting blind which is used during firearm deer season to have at least one hundred square inches of fluorescent orange on top of the blind”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Manchin, Skinner, Hamilton, Miley and P. Smith:

H. B. 4632 - “A Bill to amend and reenact §51-2-1 of the Code of West Virginia, 1931, as amended, relating to providing a six month term for the four new circuit judges by gubernatorial appointment prior to the beginning of the regular eight year term”; to the Committee on the Judiciary.

By Delegates Eldridge, Ambler, Skinner, P. White, Butler, J. Nelson, Phillips, Marcum, B. White, Storch and Summers:

H. B. 4633 - “A Bill to amend and reenact §49-4-720 and §49-4-722 of the Code of West Virginia, 1931, as amended, all relating to 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; requiring transfer of juvenile in adult jurisdiction upon reaching eighteen years of age if he or she has either been convicted or is in a pretrial status; directing the Division of Juvenile Services to notify the circuit court of the age of a juvenile

reaching the age of eighteen years of age; authorizing the circuit court to conduct a hearing as to alternative placement; mandating that the position of victim be taken under consideration by the court in considering disposition or alternative placement; prohibiting juveniles that commit an adult offense while under the custody of the Division of Juvenile Services from returning back to the placement in a juvenile facility if the juvenile has attained the age of eighteen years; and requiring the court to conduct a hearing as to placement of a juvenile that has turned eighteen years of age and is remanded back to the custody of the Division of Juvenile Services after completion of an adult sentence”; to the Committee on the Judiciary.

By Delegates Canterbury, Phillips, R. Smith, Householder, Kessinger, Arvon, Bates, Moye, J. Nelson, O’Neal and D. Evans:

H. B. 4634 - “A Bill to amend and reenact §11-13-2o of the Code of West Virginia, 1931, as amended, relating to increasing the tax on generating units in this state owned or leased by the taxpayer; providing a credit on the tax increase based upon megawatt hours generated above sixty percent of the rated capacity of the plant and placing a cap on the credit; designating amendments to this section the ‘Coal Jobs and Revenue Stabilization Act’ with definitions”; to the Committee on Finance.

By Delegate Rohrbach:

H. B. 4635 - “A Bill to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended, relating to a per-credit-hour tuition for community and technical colleges”; to the Committee on Education then Finance.

By Delegate Shott:

H. B. 4636 - “A Bill to amend and reenact §6C-1-6 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for violating the Whistle-blower Law; increasing the civil fine; removing the authority of the court to suspend a person from public service; authorizing discipline by the person’s employer upon a finding

of violation by the court; and authorizing termination from employment as a potential discipline”; to the Committee on the Judiciary.

By Delegates Rowe, Walters, Skinner, Bates, Guthrie and Manchin:

H. B. 4637 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-13-49, relating to requiring insurers of policies providing for payments on death of a named insured to review databases to determine if insured has died and to require due diligence to inform beneficiaries or others of availability of death proceeds”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Summers and Shott:

H. B. 4638 - “A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to truancy intervention, and defining excused and unexcused absences”; to the Committee on the Judiciary.

Special Calendar

Third Reading

Com. Sub. for S. B. 14, Limiting successor corporation asbestos-related liabilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 117**), and there were—yeas 70, nays 11, absent and not voting 19, with the nays and absent and not voting being as follows:

Nays: Caputo, Fluharty, Guthrie, Hornbuckle, Lynch, Moye, Perdue, Perry, Pushkin, Shaffer and Walters.

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Eldridge, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 14) passed.

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

Com. Sub. for S. B. 146, Establishing instruction standards for early childhood education; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 118**), and there were—yeas 81, nays none, absent and not voting 19, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Gearheart, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 146) passed.

Delegate Miller moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 119**), and there were—yeas 81, nays none, absent and not voting 19, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Gearheart, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 146) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4040, Regulating step therapy protocols in health benefit plans; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 120**), and there were—yeas 82, nays none, absent and not voting 18, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4040) passed.

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

Com. Sub. for H. B. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 121**), and there were—yeas 77, nays 5, absent and not voting 18, with the nays and absent and not voting being as follows:

Nays: Fluharty, Folk, McGeehan, Perdue and Pushkin.

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4053) passed.

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

Com. Sub. for H. B. 4060, Relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 122**), and there were—yeas 80, nays 1, absent and not voting 19, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, P. Smith, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4060) passed.

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

On this question, the yeas and nays were taken (**Roll No. 123**), and there were—yeas 81, nays none, absent and not voting 19, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, McCuskey, Moffatt, Moore, Skinner, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4060) takes effect from its passage.

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

Com. Sub. for H. B. 4080, Department of Veterans' Assistance, rule relating to VA headstones or markers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 124**), and there were—yeas 82, nays none, absent and not voting 18, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4080) passed.

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

On this question, the yeas and nays were taken (**Roll No. 125**), and there were—yeas 81, nays none, absent and not voting 19, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, McCuskey, Moffatt, Moore, Skinner, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4080) takes effect from its passage.

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

Com. Sub. for H. B. 4521, Modifying the requirements that allow a child witness to testify by closed circuit television; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 126**), and there were—yeas 82, nays none, absent and not voting 18, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4521) passed.

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

Second Reading

Com. Sub. for S. B. 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances; on second reading, coming up in regular order, was read a second time.

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

“That §55-7-13d of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §55-7B-5 of said code be amended and reenacted, all to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-13d. Determination of fault; imputed fault; plaintiff's involvement in felony criminal act; when plaintiff's criminal conduct bars recovery; burden of proof; damages; stay of action; limitations; applicability; severability.

(a) *Determination of fault of parties and nonparties.*

(1) In assessing percentages of fault, the trier of fact shall consider the fault of all persons who contributed to the alleged damages regardless of whether the person was or could have been named as a party to the suit;

(2) Fault of a nonparty shall be considered if the plaintiff entered into a settlement agreement with the nonparty or if a defending party gives notice no later than ~~one hundred-eight~~ one hundred eighty days after service of process upon said defendant that a nonparty was wholly or partially at fault. Notice shall be filed with the court and served upon all parties to the action designating the nonparty and setting forth the nonparty's name and last-known address, or the best identification of the nonparty which is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault;

(3) In all instances where a nonparty is assessed a percentage of fault, any recovery by a plaintiff shall be reduced in proportion to the percentage of fault chargeable to such nonparty. Where a plaintiff has settled with a party or nonparty before verdict, that plaintiff's recovery will be reduced in proportion to the percentage of fault assigned to the settling party or nonparty, rather than by the amount of the nonparty or party's settlement;

(4) Nothing in this section is meant to eliminate or diminish any defenses or immunities, which exist as of the effective date of this section, except as expressly noted herein;

(5) Assessments of percentages of fault for nonparties are used only as a vehicle for accurately determining the fault of named parties. Where fault is assessed against nonparties, findings of such fault do not subject any nonparty to liability in that or any other action, or may not be introduced as evidence of liability or for any other purpose in any other action; and

(1) In all actions involving fault of more than one person, unless otherwise agreed by all parties to the action, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make

findings, indicating the percentage of the total fault that is allocated to each party and nonparty pursuant to this article. For this purpose, the court may determine that two or more persons are to be treated as a single person.

(b) *Imputed fault.* — Nothing in this section may be construed as precluding a person from being held liable for the portion of comparative fault assessed against another person who was acting as an agent or servant of such person, or if the fault of the other person is otherwise imputed or attributed to such person by statute or common law. In any action where any party seeks to impute fault to another, the court shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, on the issue of imputed fault.

(c) ~~Plaintiff's involvement in felony criminal act~~ When plaintiff's criminal conduct bars recovery. — In any civil action, ~~a defendant is not liable for damages that the plaintiff suffers as a result of the negligence or gross negligence of a defendant if such damages arise out of the plaintiff's commission, attempt to commit or fleeing from the commission of a felony criminal act: *Provided*, That the plaintiff has been convicted of such felony, or if deceased, the jury makes a finding that the decedent committed such felony: a person or person's legal representative who asserts a claim for damages may not recover if:~~

(1) Such damages arise out of the person's commission, attempted commission, or immediate flight from the commission or attempted commission of a felony; and

(2) That the person's damages were suffered as a proximate result of the commission, attempted commission, or immediate flight from the commission or attempted commission of a felony.

(d) *Burden of proof.* — The burden of alleging and proving comparative fault shall be upon the person who seeks to establish such fault. The burden of alleging and proving the defense set forth in subsection (c) of this section shall be upon the person who seeks to

assert such defense: *Provided*, That in any civil action in which a person has been convicted or pleaded guilty or no contest to a felony, the claim shall be dismissed if the court determines as a matter of law that the person's damages were suffered as a proximate result of the felonious conduct to which the person pleaded guilty or no contest, or upon which the person was convicted.

(e) *Damages*. — For purposes of this section 'damages' includes all damages which may be recoverable for personal injury, death, or loss of or damage to property, including those recoverable in a wrongful death action.

(f) *Stay of action*. — Any civil action in which the defense set forth in subsection (c) is asserted shall be stayed by the court on the motion of the defendant during the pendency of any criminal action which forms the basis of the defense, including appeals, unless the court finds that a conviction in the criminal action would not constitute a valid defense under said subsection.

(e)(g) *Limitations*. — Nothing in this section creates a cause of action. Nothing in this section alters, in any way, the immunity of any person as established by statute or common law.

(f)(h) *Applicability*. — This section applies to all causes of action arising or accruing on or after the effective date of its enactment. The amendments to this section enacted during the 2016 session of the Legislature shall apply to all causes of action accruing on or after the effective date of those amendments.

(g)(i) *Severability*. — The provisions of this section are severable from one another, so that if any provision of this section is held void, the remaining provisions of this section shall remain valid.

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§55-7B-5. Health care actions; complaint; specific amount of damages not to be stated; limitation on bad faith

claims; filing of first party bad faith claims; when plaintiff's criminal conduct bars recovery.

(a) In any medical professional liability action against a health care provider no specific dollar amount or figure may be included in the complaint, but the complaint may include a statement reciting that the minimum jurisdictional amount established for filing the action is satisfied. However, any party defendant may at any time request a written statement setting forth the nature and amount of damages being sought. The request shall be served upon the plaintiff who shall serve a responsive statement as to the damages sought within thirty days thereafter. If no response is served within the thirty days, the party defendant requesting the statement may petition the court in which the action is pending to order the plaintiff to serve a responsive statement.

(b) Notwithstanding any other provision of law, absent privity of contract, no plaintiff who files a medical professional liability action against a health care provider may file an independent cause of action against any insurer of the health care provider alleging the insurer has violated the provisions of subdivision (9), section four, article eleven, chapter thirty-three of this code. Insofar as the provisions of section three, article eleven, chapter thirty-three of this code prohibit the conduct defined in subdivision (9), section four, article eleven, chapter thirty-three of this code, no plaintiff who files a medical professional liability action against a health care provider may file an independent cause of action against any insurer of the health care provider alleging the insurer has violated the provisions of section three of said article.

(c) No health care provider may file a cause of action against his or her insurer alleging the insurer has violated the provisions of subdivision (9), section four, article eleven, chapter thirty-three of this code until the jury has rendered a verdict in the underlying medical professional liability action or the case has otherwise been dismissed, resolved or disposed of.

(d) No action related to the prescription or dispensation of controlled substances may be maintained against a health care provider

pursuant to this article by or on behalf of a person whose damages arise as a proximate result of a violation of the Uniform Controlled Substances Act, as set forth in chapter sixty-a of this code, the commission of a felony, a violent crime which is a misdemeanor, or any other state or federal law related to controlled substances: *Provided*, That an action may be maintained pursuant to this article if the plaintiff alleges and proves by a preponderance of the evidence that the health care provider dispensed or prescribed a controlled substance or substances in violation of state or federal law, and that such prescription or dispensation in violation of state or federal law was a proximate cause of the injury or death.”

The bill was then ordered to third reading.

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions; on second reading, coming up in regular order, was read a second time.

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

**“ARTICLE 10. AMUSEMENT RIDES AND AMUSEMENT
ATTRACTIONS SAFETY ACT.**

§21-10-6. Permits; application; annual inspection.

No operator or owner may knowingly permit the operation of an amusement ride or amusement attraction without a permit issued by the division. Each year, and at least fifteen days before the first time the amusement ride or amusement attraction is made available in this state for public use, an operator or owner shall apply for a permit to the division on a form furnished by the division and containing any information the division may require. The division shall, upon application and within ~~ten~~ thirty days of the first time the ride or attraction is made available in this state for public use, inspect all

amusement rides and amusement attractions. The division shall inspect all stationary rides and attractions at least once every year. The division shall create an inspection checklist and provide it to owners and operators of amusement rides and amusement attractions. The owner or operator shall inspect all mobile amusement rides and amusement attractions each time they are assembled for use in this state and complete a copy of the inspection checklist provided by the division and must be available at the site for the division to inspect and review for the duration of the amusement ride or amusement attraction's use. The inspection may be performed by a certified inspector the division or the owner or operator as attested to on the inspection checklist. The owner or operator shall submit all completed inspection checklists to the division by December 31 of each year. The division may inspect all mobile amusement rides and amusement attractions each time they are disassembled and reassembled for use in this state. The division may conduct inspections at any reasonable time without prior notice: *Provided*, That in lieu of performing its own inspection the division may accept inspection reports from special inspectors certified by the division.”

The bill was then ordered to third reading.

H. B. 2605, Removing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4001, Relating to candidates or candidate committees for legislative office disclosing contributions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4152, Making a supplementary appropriation to the Division of Environmental Protection – Protect Our Water Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4155, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4157, Supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4160, Making a supplementary appropriation to the Department of Revenue, Tax Division; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4197, Allowing required HIV and hepatitis testing for the protection of law-enforcement officers who may have been exposed; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4265, Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4310, Relating to the West Virginia University Institute of Technology; on second reading, coming up in regular order, was read a second time.

Delegate Fast arose, and being recognized, moved that Com. Sub. for H. B. 4310, be placed on the House Calendar.

Delegates Hill and Perry requested to be excused from voting on questions regarding Com. Sub. for H. B. 4310 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be indirect and as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

On this motion, the yeas and nays were taken (**Roll No. 127**), and there were—yeas 28, nays 50, absent and not voting 22, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Byrd, Caputo, Duke, Faircloth, Fast, Folk, Gearheart, Guthrie, Hamilton, Hicks, Hill, Hornbuckle, Ihle, Kessinger, Longstreth, Lynch, McGeehan, Perry, Pushkin, Reynolds, Rodighiero, Rowe, P. Smith, Sponaule, Stansbury, Trecost and B. White.

Absent and Not Voting: Arvon, Blair, Border, Campbell, Cowles, Deem, Ellington, A. Evans, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, McCuskey, Moffatt, Moore, Shaffer, Skinner, Storch and Westfall.

So, less than two thirds of the members present and voting not having voted in the affirmative, the motion was rejected.

On motion of Delegates Gearheart and Shott, the bill was amended on page four, section one, line seventy, after the word “Collaboration”, by striking out the word “occurs” and inserting in lieu thereof the words “shall occur”.

On motion of Delegates Gearheart and Shott, the bill was amended on page six, section two, line thirty-five, by striking out subsection “(h)” in its entirety and inserting in lieu thereof the following:

“(h) Until such time as West Virginia University no longer owns assets, other than assets of de minimis value, in Montgomery and the

Upper Kanawha Valley, the university shall continue to collaborate with the County Commission of Kanawha County, the County Commission of Fayette County, and the City of Smithers, and each entity is authorized and encouraged to enter into agreements designed to foster economic and community redevelopment for Montgomery and the Upper Kanawha Valley.”

The bill was then ordered to engrossment and third reading.

H. B. 4316, Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4319, Including in the definition of “veteran” active members of the Guard and Reserve in order to exempt them from fees charged by the Secretary of State; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4322, Expanding the Learn and Earn Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4340, Amending licensing requirements for an act which may be called Lynette’s Law; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Howell, the bill was amended on page three, section one, line two, after the words “in subsection”, by striking out “(b)” and inserting in lieu thereof “(c)”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4366, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state;

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

Com. Sub. for H. B. 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4445, Relating to the adoption of instructional educational resources; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Waxman and Butler, the bill was amended on page three, subsection (j), line sixty-eight, following the word “A”, by inserting the words “state or county”.

And,

On page three, subsection (j), line sixty-eight, following the word “employee”, by inserting “or employee of the West Virginia Department of Education”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4540, Removing prohibition of disposal of certain electronics in landfills; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4604, Relating to violations of the Ethics Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4605, Prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4606, Relating to the recusal of certain public officials from voting for appropriation of moneys to nonprofit entities; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4618, Relating to limitations on use of a public official's name or likeness; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Sobonya, the bill was amended on page three, section one, line seventeen, after the word "other", by striking out the word "attempted".

On page five, section two, line eight, after the word "advertising", by striking out the words "for general dissemination".

On page five, section two, line eight, before the word "public", by inserting the word "general".

On page six, section three, line eleven, by striking out the word "subsection" and inserting in lieu thereof the word "section".

On page seven, section five, line seven, after the word "prohibitions", by inserting the words "in section 2(d)".

And,

On page eight, section seven, line two, after the words "impact upon the public agency", by inserting the words "to bring existing material, vehicles, or items into compliance with this article".

The bill was then ordered to engrossment and third reading.

First Reading

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

S. B. 387, Shared animal ownership agreements to consume raw milk,

Com. Sub. for H. B. 2795, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order,

Com. Sub. for H. B. 4360, Increasing the criminal penalty for the unlawful practice of law,

Com. Sub. for H. B. 4383, Making individuals responsible for the costs relating to the filing of excessive false complaints,

Com. Sub. for H. B. 4388, Relating to stroke centers,

H. B. 4470, Expanding newborn testing to include Adrenoleukodystrophy,

And,

H. B. 4489, Relating generally to human trafficking.

Leaves of Absence

At the request of Delegate Miller, and by unanimous consent, leaves of absence for the day were granted Delegates Blair, Border, Campbell, Cowles, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, Manchin, Marcum, Moffatt, Moore, Skinner, Storch and Westfall.

Miscellaneous Business

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4133.

Delegate Frich noted to the Clerk that she be recorded in the Journal as having voted "Nay" on the second amendment offered by Delegate Gearheart to H. B. 4310.

At 12:37 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, February 22, 2016.

MONDAY, FEBRUARY 22, 2016

FORTY-FIRST DAY

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

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

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

The Clerk proceeded to read the Journal of Saturday, February 20, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

On motion for leave, a bill was introduced (Originating in the Committee on Government Organization and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Howell, R. Smith, Ihle, Hamrick and Pushkin:

H. B. 4674 - "A Bill to amend and reenact §17C-15-19 of the Code of West Virginia, 1931, as amended, relating to motor vehicle back-up lamps."

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4594, Relating to predoctoral psychology internship qualifications,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4345, Repealing the West Virginia Permitting and Licensing Information Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4345) was referred to the Committee on the Judiciary.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4295, Relating to the School Innovation Zones Act,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4295 – “A Bill to amend the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5B-14; and to further amend said code by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, §18-5E-6 and §18-5E-7, all relating to Innovation in Education Schools and Innovation Zones; terminating funding for Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones; setting forth purpose of Innovation in Education Act; defining innovation in education school; specifying minimum requirements; authorizing soliciting, accepting and expending gifts, donations and grants with certain limits to remain for use in school accounts; authorizing state board designation of innovation in education school; requiring state board rule for

implementation and authorizing emergency rule if necessary; providing process for application process, minimum content, review and approval; requiring innovation in education plan as part of application; specifying plan minimum contents, components and requirements; requiring operational agreement between school principal and county board; specifying minimum contents of operational agreement; requiring evaluations of Innovation in Education designated schools; authorizing amendment and suspension of components of Innovation in Education plans; authorizing termination of designation of a school as an Innovation in Education school; authorizing designation of demonstration schools; creating Innovation in Education Fund; authorizing expenditures from Innovation in Education Fund; and authorizing investment of Innovation in Education Fund moneys,”

With the recommendation that the committee substitute do pass and that the second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for H. B. 4295) to the Committee on Finance was abrogated.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4171, Relating to the public school calendar,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4171 – “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to providing that school instructional terms for students begin no earlier than August 15 and end no later than June 15 except for schools operating on a balanced calendar; removing requirement that school instructional terms for students begin the day after Labor Day and end

no later than the second Friday in June; designating one noninstructional day for teachers as a preparation day; allowing teacher preparation day to be used for any other purpose only at teacher's discretion; increasing faculty senate time; designating time frames within which faculty senate meetings may take place; removing authority to plan ten technology days in school calendar for lost instructional days; removing the word "separate" throughout the section; requiring county boards to first use accrued minutes for early dismissals and late arrivals, and requiring that any reimagining student instructional days be exhausted prior to using accrued minutes for lost instructional days; limiting use of accrued minutes for lost instructional days to eight days,"

With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 259 – "A Bill to repeal §47-11A-1, §47-11A-2, §47-11A-3, §47-11A-4, §47-11A-5, §47-11A-6, §47-11A-7, §47-11A-8, §47-11A-9, §47-11A-10, §47-11A-11, §47-11A-12, §47-11A-12a, §47-11A-13 and §47-11A-14 of the Code of West Virginia, 1931, as amended, relating to unfair trade practices and the Unfair Trade Practices Act"; which was referred to the Committee on Government Organization then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2016, and requested the concurrence of the House of Delegates in the passage, of

S. B. 352 – "A Bill to amend and reenact §11-24-43a of the Code of West Virginia, 1931, as amended, relating to dedication of corporation net income tax proceeds to railways; and specifying that

dedication of corporation net income tax proceeds to railways expires and is void on and after January 1, 2016”; which was referred to Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 431 – “A Bill to amend and reenact §16-46-3, §16-46-5 and §16-46-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-46-3a, all relating to authorizing pharmacist or pharmacy intern to dispense, pursuant to a protocol, an opioid antagonist without a prescription; requiring Board of Pharmacy, in consultation with Bureau for Public Health, to develop a protocol; requiring patient counseling; requiring educational materials; requiring documentation of distribution of opioid antagonists in West Virginia Controlled Substances Monitoring Program database; revising existing reporting requirements; providing limited liability to pharmacist and pharmacy interns; revising reporting requirements; and reorganizing existing code language”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 488 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to establishing protocols and protections to limit and treat injury to youth athletes and students; creating Leland’s Law; setting out legislative findings; establishing requirement for an emergency action plan at all high school and middle school athletic activities; defining certain terms; requiring promulgation of certain rules; and setting forth certain minimum provisions of rules”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 552 – “A Bill to amend and reenact §52-1-17 of the Code of West Virginia, 1931, as amended, relating to eliminating provisions requiring sheriff to pay into the State Treasury all jury costs received from courtclerks; and requiring that the sheriff be held to account in the sheriff’s annual settlement for all moneys”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2016, and requested the concurrence of the House of Delegates in the passage, of

S. B. 553 – “A Bill to amend and reenact §33-2-21a of the Code of West Virginia, 1931, as amended, relating to the Volunteer Fire Department Workers (Compensation Subsidy Program and the Volunteer Fire Department Workers (Compensation Premium Subsidy Fund; and providing for the merger of the purposes and provisions of the subsidy program and the subsidy fund in the state agency (workers compensation programs section of the code”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 573 – “A Bill to amend and reenact §8-6-1 of the Code of West Virginia, 1931, as amended, relating to prohibiting municipal annexation which would result in an unincorporated territory entirely surrounded by the municipality”; which was referred to the Committee on Political Subdivisions then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 579 – “A Bill to repeal §11-24-43a of the Code of West Virginia, 1931, as amended; to repeal §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-6, §17-16B-7a, §17-16B-7b, §17-16B-9, §17-16B-10, §17-16B-11, §17-16B-12, §17-16B-13, §17-16B-14, §17-16B-15, §17-16B-16, §17-16B-17, §17-16B-18, §17-16B-19, §17-16B-20, §17-16B-21 and §17-16B-22 of said code; and to amend and reenact §17-16B-5, §17-16B-7 and §17-16B-8 of said code, all relating to eliminating the West Virginia Public Port Authority”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 582 – “A Bill to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to providing a refundable exemption from the flat rate component of the state motor fuel excise tax on all gallons of motor fuel sold for use or consumed in railroad diesel locomotives; setting a cap on the exemption per year; and requiring a proportionate disbursement if claims exceed the cap”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 597 – “A Bill to amend and reenact §5F-1-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5 and §16-5F-6 of said code; to amend and reenact §16-29B-3, §16-29B-5, §16-29B-6, §16-29B-7, §16-29B-8,

§16-29B-9, §16-29B-11, §16-29B-12, §16-29B-13, §16-29B-14, §16-29B-15, §16-29B-17, §16-29B-18, §16-29B-19a, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25 and §16-29B-26 of said code; to amend said code by adding thereto a new section, designated §16-29B-5a; to amend said code by adding thereto a new section, designated §16-29B-28; to amend and reenact §16-29G-2, §16-29G-5 and §16-29G-6 of said code; and to amend and reenact §16-29I-4 of said code, all relating generally to the Health Care Authority; employment of the members of the Board of the West Virginia Health Care Authority; providing authority to set salaries for board members; creating the position of Executive Director of the Health Care Authority; making the executive director the administrative head of the Health Care Authority; setting forth the qualifications of the executive director; providing the executive director is appointed by the Governor with advice and consent of the Senate; providing the executive director reports to the Secretary of the Department of Health and Human Resources; placing the Health Care Authority under the Department of Health and Human Resources; adding the executive director to the Public Employees Insurance Agency Advisory Board; clarifying where the administrative duties of the Health Care Authority are to be carried out; clarifying that the board of Directors of the Health Care Authority is the adjudicatory arm of the Health Care Authority; requiring that the members of the board of directors be employed on a part-time basis; setting forth other employment requirements for the board of directors; expanding the board of directors from three to five members; setting forth qualifications for appointment to the board of directors; providing that the board of directors shall report to the executive director; establishing compensation for the board of directors; setting forth minimum hearing requirements before the board of directors; providing for recommended decisions by the board of directors to the executive director; setting forth executive director procedure for review and approval of recommended decisions of the board of directors; providing for remand of a decision; clarifying that the executive director has all rule-setting powers; providing for a study by the Health Care Authority of concerns of hospitals in border counties; requiring

a comprehensive study of the certificate of need program, including possible elimination of certificate of need; making technical corrections; granting authority to the Health Care Authority to review proposed cooperative agreements; defining terms; setting out legislative findings and purpose; allowing cooperative agreements between hospitals and health care providers; setting forth goals of a cooperative agreement; establishing a review process for cooperative agreements; setting forth standards for review of cooperative agreements; granting enforcement powers over cooperative agreements to the Health Care Authority; providing for rulemaking; requiring reporting to the Health Care Authority; setting out what must be included in a report; allowing the Health Care Authority to render a decision regarding reduced competition when a cooperative agreement pertains to an acquisition, merger or combination of hospitals or health care providers; and updating code references”; which was referred to the Committee on Health and Human Resources.

Resolutions Introduced

Delegates Overington, Ambler, Anderson, Arvon, Atkinson, Azinger, Blair, Border, Butler, Cadle, Canterbury, Cooper, Ellington, Espinosa, D. Evans, Faircloth, Fast, Folk, Foster, Frich, Gearheart, Hill, Householder, Howell, Ihle, Ireland, Kessinger, Kurcaba, Marcum, McCuskey, McGeehan, Miller, Moffatt, E. Nelson, Phillips, Rohrbach, Rowan, R. Smith, Sobonya, Stansbury, Statler, Summers, Upson, Wagner, Walters, Waxman, Weld, Westfall, B. White and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

H. C. R. 80 – “Calling on and applying to the United States Congress to call a convention of the states, under the authority reserved to the States in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.”

Whereas, Article IV, Section 4 of the Constitution of the United States guarantees to every state a Republican form of government which gives each state equal standing when calling for an Amendments Convention. Article V of the Constitution of the United States reserves to the several states the right to call for a Convention for the purpose of amending the United States Constitution when Congress or the courts or both Congress and the courts refuse to address an egregious wrong suffered by the people; and

Whereas, The states alone have the authority to “limit” the agenda and authority of a Convention. The states alone can call for a “Single Issue” convention by agreeing among themselves the purpose, terms, conditions, duration, and agenda for the Convention. Congress does not have the authority to define a “Single Issue” Convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a convention as called for and defined by the several states; and

Whereas, The Founders of our Constitution empowered State Legislators to be guardians of liberty against future abuses of power by the federal government which has created a crushing national debt through improper and imprudent spending; and

Whereas, The federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, It is the solemn duty of the States to protect the liberty of our people—particularly for the generations to come—by proposing Amendments to the Constitution of the United States through a Convention of the States under Article V for the purpose of restraining these and related abuses of power; therefore, be it

Resolved by the Legislature of West Virginia:

That the State of West Virginia hereby applies to Congress under the provisions of Article V of the Constitution of the United States, for the calling of a Convention of the States limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress. Absolutely no other business will be authorized at this convention; and, be it

Further Resolved, That the Clerk forward a copy of this resolution, Legislative Call and application to the President and Secretary of the United States Senate and to the Speaker and Clerk of the United States House of Representatives, and copies to the members of the said Senate and House of Representatives from this State; also to transmit copies hereof to the presiding officers of each of the legislative houses in the several states, requesting their cooperation; and, be it

Further Resolved, That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two thirds of the several states have made applications on the same subject.

Delegates Eldridge, Phillips, Marcum, Rodighiero, Moffatt and J. Nelson offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules.

H. C. R. 81 – “Requesting the bridge at the intersection of County Route 18, known as North Fork Road, and County Route 18/2, known as Ellis Fork Road, in Boone County, West Virginia, (latitude, longitude: 38.00947, -81.95537) be named the ‘Hill Brothers Memorial Bridge’.”

Whereas, Julian, Earl and Edward Hill were brothers, three of ten children born to Edward W. Hill and Annie L. Stollings Hill who farmed for a living in Boone County; and

Whereas, Julian Alba Hill was born on August 4, 1920, at North Fork of Big Creek, Boone County and worked at many different jobs until being drafted into the United States Army. Before joining the Army Julian Hill married Audrey Chapman and they had two children. When he was sent to Fort Worth, Texas for basic training, Audrey rode the train from Charleston to Texas taking along their two small children so they could be together prior to his departure overseas during World War II. After basic training, Julian Hill was sent to Germany where he refueled airplanes and later was sent into combat with General Patton where he refueled tanks and other vehicles. He often spoke of the obstacles placed by Hitler to keep the United States Armed Forces from pushing their way through Germany towards Berlin. He returned from Germany on the USS Argentina in January 1946 and never talked of the fighting and what he had seen, but he suffered nightmares for many years after his return. After being discharged, Julian and Audrey Hill had a third child in 1949, and he became an over-the-road long haul truck driver, sometimes being gone for two full days at a time. Julian had a truck accident which forced an early retirement from truck driving. He was placed on disability by his company, and Senator Robert C. Byrd was instrumental in seeing that he also received Social Security disability benefits. Julian and Audrey Hill divorced in 1959. Following a brief second marriage which also ended in divorce, he later married Betty Smith. Julian loved camping and gospel and country music. He and Betty spent many years camping in West Virginia, Virginia and South Carolina. Their marriage lasted for forty years until his death in December 2010 at the age of ninety after a fall in a nursing home; and

Whereas, Earl Franklin Hill was born on April 22, 1923, at North Fork of Big Creek, Boone County and was inducted into the United States Army on January 12, 1943, and was honorably discharged on June 11, 1943, as Private First Class, Battery B, 225th AAA SL, Camp Davis, North Carolina under the Enlisted Mans importance to national security, health or interest and returned home early to care for his ill father and to farm for the nation's needs and because two brothers were then serving in the military. He married Naomi Ruth Stone on

December 23, 1941, and they had six children one of whom, Richard, died at birth. The other children are Catherine Sue Hill, Sherry Grant Hill, Paul Wayne Hill, Earl F. Hill, II and Barbara Gail Hill. Naomi Hill passed away on November 26, 2006, and Earl Franklin Hill passed away on July 31, 2008, at the VA Hospital in Huntington; and

Whereas, Cebert Edward Hill was born on the Ellis Fork off the North Fork of Big Creek in Boone County on October 25, 1917. He completed the eighth grade in 1933, joined the United States Army Air Corp, serving from September 8, 1942. Following his basic training in Tampa, Florida, Edward Hill attained the rank of Private First Class in the 410th Army Air Force Base Unit and served as a Radio Operator, Area 4600 Underground Placement on Catalina Island, California and a Supply Clerk on St. Nicholas Island, California and received the Good Conduct Medal. He received his honorable discharge on April 26, 1945. In addition to being a farmer for most of his life, he was also a mail carrier for four years from Banco to Danville, and worked for Grocers Wholesale Company, later named The Creasey Company, from 1954 until his retirement in 1981. He married Oma Lee Barker and they had six children, Gary A. Hill, Larry A. Hill, Judy K. Murphy, Jeanne C. Wagner, Eddy R. Hill and Lisa J. Black; and

Whereas, It is fitting that an enduring memorial be established to commemorate these native sons who served their state and their country so ably during World War II; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge at the intersection of County Route 18, known as North Fork Road, and County Route 18/2, known as Ellis Fork Road, in Boone County, West Virginia, (latitude, longitude: 38.00947, -81.95537) the “Hill Brothers Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge

containing bold and prominent letters proclaiming the bridge the “Hill Brothers Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways and the families of Julian Hill, Earl Hill and Edward Hill and Cebert Edward Hill, age 97.

Delegate Rodighiero offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 82 – “Requesting the Division of Highways to name Bridge Number 23-119-15.56 (23A095) (37.97487, -82.01675), carrying US Route 119, over WV Route 10 near Chapmanville in Logan County, locally known as Chapmanville WV 10 O.P., as the ‘U.S. Army SPC David H. Stamper Memorial Bridge’.”

Whereas, U.S. Army Specialist David Stamper was born on March 28, 1951, in Wilkinson, West Virginia to Helen R. Stamper and Haskell K. Stamper; and

Whereas, U.S. Army Specialist David H. Stamper received his draft call on the same day he was married to Delana R. Stamper in February, 1971; and

Whereas, U.S. Army Specialist David H. Stamper entered the service seven days after he was married and was sent to Vietnam in August, 1971; and

Whereas, U.S. Army Specialist David H. Stamper was crew chief of an Army helicopter when it was apparently shot down by a sniper on April 14, 1972, and he was killed; and

Whereas, U.S. Army Specialist David H. Stamper was awarded the Silver Star for gallantry in action, the Bronze Star Medal, the Air Medal (Sixth through Eighth Award), the Purple Heart, the Good

Conduct Medal, the Air Medal with Second through Fifth Award, the National Defense Service Medal, the Vietnam Service Medal, the Vietnam Campaign Medal, the Aircraft Crewman Badge, and the Marksman Badge with Automatic Rifle Bar; and

Whereas, It is fitting and proper that U.S. Army Specialist David H. Stamper be honored by having this bridge named for a soldier who gave the ultimate sacrifice; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name Bridge Number 23-119-15.56 (23A095) (37.97487, -82.01675), carrying US Route 119, over WV Route 10 near Chapmanville in Logan County, locally known as Chapmanville WV 10 O.P., as the “U.S. Army SPC David H. Stamper Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the “ U.S. Army SPC David H. Stamper Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways and the family members of US Army Specialist David H. Stamper.

Delegate Moffatt offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 83 – “Requesting the Division of Highways to name the bridge, bearing number 41-1-12.89 (41A006), originally known as the ‘Artie Bridge’, located at latitude 37.93155, longitude -81.36240 that intersects Clear Fork in Raleigh County on County Route 1 the ‘U.S. Air Force SMSgt Billie E. “Bunky” Hodge Bridge’.”

Whereas, Billie Hodge was born in the Town of Artie in Raleigh County in 1939; and

Whereas, Billie Hodge attended Clear Fork High School where he graduated valedictorian of his class while serving as President of the National Honor Society at Clear Fork; and

Whereas, Upon graduation from high school, Billie Hodge enlisted in the United States Air Force where he served in various duty locations, including Korea, Guam and Taiwan. He also served in various locations in the United States, including Nevada in the 1980s where he participated in the implementation of the U.S. Military's stealth aircraft technology; and

Whereas, Billie Hodge retired from the Air Force after serving therein for 26 years as a Senior Master Sergeant and moved his family back to his roots in Raleigh County where he demonstrated exceptional civic expression and community-based good works; and

Whereas, Billie Hodge took in scores of foster children over the years who needed a home and loving and tender care, which Billie and his wife were always willing to supply; and

Whereas, Billie Hodge passed away on September 23, 2015; and

Whereas, Billie Hodge left a legacy of good works and community leadership in multiple ways and it is only fitting that a lasting memorial be made to his exceptional life; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge, originally known as the "Artie Bridge," located at latitude 37.93155, longitude -81.36240 that intersects Clear Fork in Raleigh County on County Route 1, the "U.S. Air Force SMSgt Billie E. 'Bunky' Hodge Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming the name to be the “U.S. Air Force SMSgt Billie E. ‘Bunky’ Hodge Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the Secretary of the Department of Transportation and to Tony Hodge.

Delegate McGeehan offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 84 – “Requesting the Division of Highways to name Bridge Number 05-1/8-0.03 (05A079) (40.36929, -80.54590), locally known as Colliers Way Bridge, carrying County Route 1/8 over Harmon Creek in Brooke County, West Virginia, the ‘U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge’.”

Whereas, Mark Douglas Cool, of Colliers, West Virginia, was born January 7, 1949, and grew up to become a United States Marine; and

Whereas, Mark Douglas Cool was trained as a mortar man and served with the H&S Company, 1st Battalion, 26th Marines, 3rd Marine Division in Vietnam, reaching the rank of corporal; and

Whereas, Cpl Mark Douglas Cool died at the age of nineteen, March 2, 1968, from wounds received in hostile action in Quang Tri Province in South Vietnam; and

Whereas, Cpl Mark Douglas Cool’s name is found at Panel 42E, Line 28 on the Vietnam Veterans Memorial; and

Whereas, Cpl Mark Douglas Cool was awarded the Purple Heart, National Defense, Vietnam Service and Vietnam Campaign medals; and

Whereas, It is appropriate to provide a memorial to this Colliers, West Virginia citizen who sacrificed his life for his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 05-1/8-0.03 (05A079) (40.36929, -80.54590), locally know as Colliers Way Bridge, carrying County Route 1/8 over Harmon Creek in Brooke County, West Virginia, the “U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates J. Nelson, R. Smith, Wagner, Westfall, Moffatt, Atkinson and McCuskey offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 85 – “Requesting the Division of Highways to name a future bridge, 03-3/14-0.10 (design # 11082) (38.09778, -81.61498), carrying county route 3/14 over Big Coal River in Boone County, the ‘U.S. Navy MM2 Carl E. Keeney and U.S. Army PFC Carl M. Nicholas Memorial Bridge’.”

Whereas, Carl Eugene Keeney was born to Dewey and Ruth Skeens Keeney on March 27, 1925, in Seth, West Virginia. He learned to repair engines and vehicles at an early age and became skilled as a machinist. When this country sought skilled tradesmen in its Armed

Forces, he enlisted in the United States Navy in 1942, eventually attaining the rating of Machinist's Mate Second Class. Machinist's Mate Keeney served over three years in the Pacific Theater and saw combat in the Solomon Islands and at Okinawa. He was awarded three battle stars before he was honorably discharged in 1946. Thereafter, Carl E. Keeney applied his machinist's skills in the coal industry, working as a driver, mechanic and machinist in Boone County until his retirement; and

Whereas, Carl M. Nicholas was born to Dan and Frona Cottrell Nicholas on September 27, 1922, in Bickmore, West Virginia. Though he left school after eight years to help support his family, he became quite accomplished in a mining career that spanned five decades in the coalfields of southern West Virginia. He answered his nation's call to service, joining the United States Army in World War II in the European Theater of Operations. He participated in the Invasion of Normandy on D-Day and in the Battle of the Bulge. He also received and survived bullet wounds from a German sniper, for which he was awarded the Purple Heart. Upon his return to civilian life, he continued his mining career with some of the most prominent companies in the industry and he became a successful businessman as proprietor of his own trucking company. He continued to support military veterans and was a leader of the effort to secure dedicated parking for veterans at our State Capitol. After a life well lived in service to his community and his country, Carl M. Nicholas passed away on September 3, 2014; and

Whereas, It is an appropriate recognition of their contributions to their country, state, community and Boone County to name a bridge over the Big Coal River in their honor; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the future bridge, 03-3/14-0.10 (design # 11082) (38.09778, -81.61498), carrying county route 3/14 over Big Coal River in Boone County, the

“U.S. Navy MM2 Carl E. Keeney and U.S. Army PFC Carl M. Nicholas Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to name the future bridge, 03-3/14-0.10 (design # 11082) (38.09778, -81.61498), carrying county route 3/14 over Big Coal River in Boone County, the “U.S. Navy MM2 Carl E. Keeney and U.S. Army PFC Carl M. Nicholas Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the families of each of these honored veterans.

Delegates Waxman, Rohrbach, Hamrick, Border, Butler, Cadle, Ellington, Espinosa, A. Evans, Fast, Frich, Hamilton, Hill, Kessinger, Lane, Miller, Statler and B. White offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 86 – “Designating April 16, 2016, as World Voice Day.”

Whereas, It is estimated that nearly seven million Americans suffer from some form of voice disorder. Voice disorders can impact the everyday lives of those affected by inhibiting their ability to effectively express themselves; and

Whereas, There are many ways in which people can conserve their voice and prevent the development of voice disorders, including keeping hydrated, minimizing activities causing vocal strain such as yelling, warming up before heavy vocal use, using appropriate breath support, using amplification and paying attention to voice cues; and

Whereas, It is important to draw state, national and international awareness to the existence of voice disorders and the availability of services provided by otolaryngologist-head and neck surgeons, the only medical doctor specifically trained to treat the ear, nose, throat, head and neck, as well as other specialized providers for the amelioration of these disorders; and

Whereas, Every year on April 16, otolaryngologist-head and neck surgeons and other voice health professionals worldwide join together to recognize World Voice Day, an international celebration of the human voice established to help raise public and professional awareness about voice disorders. World Voice Day, sponsored in the U.S. by the American Academy of Otolaryngology—Head and Neck Surgery, encourages men and women, young and old, to assess their vocal health and take action to improve or maintain good voice habits; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature joins the West Virginia Academy of Otolaryngology – Head and Neck Surgery in observing April 16, 2016, as World Voice Day in the State of West Virginia and encourages its citizens to practice techniques that may help prevent the onset of a voice disorder or to visit an otolaryngologist-head and neck surgeon if they are suffering from a voice disorder; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this Resolution to the West Virginia Academy of Otolaryngology – Head and Neck Surgery.

Delegates Eldridge, Storch, Moore, Fluharty, Lynch, Bates, Phillips, Marcum, Arvon, Hicks and Blackwell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 87 – “Proclaiming and making the fiddle the official musical instrument of the State of West Virginia.”

Whereas, The fiddle arrived in Appalachia in the 18th century from immigrants from the British Isles, bringing with them the musical traditions of their countries. These traditions consisted primarily of English and Scottish ballads, which were essentially unaccompanied narratives, and dance music, such as Irish reels which were

accompanied by a fiddle. The fiddle soon became a staple of life in West Virginia, being played in churches, in logging and mining camps, at weddings and summer picnics and in the homes and on porches of many West Virginians. It has remained so ever since, being showcased in music festivals around the state, from the Augusta Festival in Elkins, the Vandalia Gathering held on the grounds at the State Capitol and the Appalachian String Band Festival at Camp Washington Carver in Hilltop, just to name a few. West Virginia has also produced some of the finest fiddlers in the nation, and continues to do so; and

Whereas, Fiddler Blind Alfred Reed was born on June 15, 1880, and was one of the artists who recorded at the Bristol Sessions in 1927, along with Jimmie Rogers and the Carter Family, which are the first recordings of traditional country music. He was raised in a very conservative family, and acquired a violin at a young age. Later, he began performing at county fairs, in country schoolhouses, for political rallies, and in churches. He even played on street corners for tips. He used to sell out printed copies of his compositions for ten cents each. After the Bristol Sessions, Mr. Reed recorded his most famous song, that is still being sung today, "How Can a Poor Man Stand Such Times and Live". After 1929, he stopped recording, but continued to perform locally until 1937 when a law was passed prohibiting blind street musicians. He is buried in Elgood and was inducted into the West Virginia Music Hall of Fame in 2007; and

Whereas, Edwin "Edden" Hammons was born in 1874 and is considered by many to have been one of the finest traditional West Virginia fiddlers of all time, and tales of his musical exploits and eccentric lifestyle flourish among the inhabitants of mountainous east central part of the state. Mr. Hammons was the youngest of four brothers and three sisters, and his musical abilities were soon recognized to be superior to that of his siblings. Family tradition holds that his ability was recognized and encouraged at an early age and that the boy was spared his share of the burdens of frontier living as a result. Mr. Hammons's first attempt in music was with a fiddle made from a gourd, he soon progressed and he secured a store-bought fiddle

and there was no dispute that he could draw out exquisite harmonies from the instrument. Whether because of immaturity or musical passion, Mr. Hammons refused to lay his fiddle down “like most men did” as he grew older and was faced with supporting a family. Mr. Hammons’ three-week marriage to Caroline Riddle in 1892 came to a head when Caroline demanded that Edden either quit playing fiddle and go to work or she would leave. Given the ultimatum, Mr. Hammons chose the fiddle. When he was older, Mr. Hammons participated in five to ten fiddle contests each year, and rarely came away with less than first prize. Perhaps Mr. Hammons’s most distinguished contest adversary was Lewis “Jack” McElwain, regarded by many others at the time to be the premier fiddler in the State of West Virginia. Mr. McElwain’s accomplishments included a first-place finish at the 1893 World’s Fair in Chicago. At a contest in Marlinton in 1909, Mr. McElwain and Mr. Hammons tied for top honors. Later, there were disagreements about the selection of judges, Mr. Hammons insisted that the judging be left to the attendees. Mr. Hammons usually won; and

Whereas, Fiddler Melvin Wine was born in Burnsville in 1909. At the age of nine he began to play his first fiddle tunes by sneaking out his father’s prized possession, the fiddle. Mr. Wine eventually gained the courage to inform his mother of the progress he had made with his father’s fiddle. One evening his mother bravely shared this with his father. At the time, Mr. Wine believed he might receive a whipping for sneaking out the fiddle. But instead, from this point on, his father supported the young boy’s efforts. Mr. Wine’s father learned the fiddle tunes that he passed on to Melvin from his father, Nels, Mr. Wine’s grandfather. Mr. Wine passed away in 2003; and

Whereas, Mr. Clark Kessinger was born in Lincoln County on July 27, 1896. Mr. Kessinger began playing the banjo when he was five years old and two years later he performed at local saloons with his father. He switched to fiddle and began performing at country dances. After serving in the Navy, Mr. Kessinger’s reputation as a fiddler increased and he visited many local fiddling contests. He teamed up

with his nephew Luches “Luke” Kessinger performing at various locations. In 1927 Mr. Kessinger and Luches Kessinger had their own radio show at the newly opened station WOBU in Charleston. On February 11, 1928, the Kessingers recorded twelve sides for the Brunswick-Balke Collender recording company. In the late 1920s, the Kessingers’ records were best sellers, including “Wednesday Night Waltz”, “Turkey in the Straw”, “Hell Among Yearlings”, “Tugboat” and “Salt River”. Mr. Kessinger was also greatly influenced by classical violin players such as Fritz Kreisler, Joseph Szigeti and Jascha Heifetz. Following his last recording session on September 20, 1930, Mr. Kessinger retired as a recording artist. But in 1963 he was rediscovered and soon was competing at several fiddling contests. In August 1964, Mr. Kessinger formed a string band in Galax, Virginia, winning first prize in the string band category. In April 1971, he won the World’s Champion Fiddle Prize at the 47th Old-time Fiddler’s Convention in Union Grove, North Carolina. Three more albums followed on Kanawha Records. His albums were later reissued on Folkways and Country Roads. In 1971 Mr. Kessinger recorded 12 tracks for the newly formed Rounder Records. The record company had plans to record many albums with Kessinger but before they could initiate what they had planned, Mr. Kessinger had a stroke and collapsed on the scene at a fiddler’s convention in Virginia. His left hand became numb, and he was unable to play the fiddle for the remainder of his life. Rounder released his recordings as “Clark Kessinger: Old-time Music with Fiddle and Guitar”. He died in 1975 and was inducted into the West Virginia Music Hall of Fame in 2007; and

Whereas, Ed Haley was born in 1885 and was one of the best known fiddlers in his region of Appalachia. He traveled frequently and performed in a variety of venues and played over WLW in Cincinnati. He also made occasional studio recordings for friends, such as for Doc Holbrook in Greenup, Kentucky. He seldom recorded commercially because he was worried that record companies would take advantage of a blind man. Late in life, he made recordings for the family on a

Wilcox-Gay disc-cutting machine brought home from the service by his stepson, Ralph. The recording featured Ed, Ella, Ralph (on guitar) and daughter Mona (vocals). Ralph eventually distributed the recordings among his five siblings. Eventually about one third to one half of those recordings were released to Rounder Records, but it is estimated that two thirds of Mr. Haley's recordings are still missing. Beginning in 1990, legendary bluegrass, folk musician and songwriter John Hartford began researching the story of Mr. Haley's life and music. Generally, Mr. Hartford spent the last years of his life promoting Mr. Haley and his significance in the world of music. He learned a number of Haley's tunes and recorded them on the Grammy-nominated album, "Wild Hog in the Red Brush" and "Speed of the Old Long Bow: A Tribute to Ed Haley". Mr. Hartford and Brandon Kirk, a Harts-area historian and genealogist, collaborated on a Haley book project from 1995 until Hartford's death in 2001. In March 2000, the "Smithsonian" magazine featured a story about their research. In October 2015, Ed Haley was inducted into the West Virginia Music Hall of Fame; and

Whereas, Tim O'Brien was born on March 16, 1954, in Wheeling and plays guitar, fiddle, mandolin, banjo, bouzouki and mandocello. He has released more than ten studio albums in addition to charting a duet with Kathy Mattea entitled, "The Battle Hymn of Love", a No. 9 hit on the Billboard Country charts in 1990. He eventually moved to Boulder, Colorado in the 1970s and became part of the music scene there. In Colorado, he met guitarist Charles Sawtelle, banjoist Pete Wernick and bassist/vocalist Nick Forster with whom he formed Hot Rize in 1978. Over the next twelve years, the quartet earned recognition as one of America's most innovative and entertaining bluegrass bands. In 2005, O'Brien won a Grammy Award for Best Traditional Folk Album for "Fiddler's Green". In 1993 and 2006, O'Brien was honored with the International Bluegrass Music Association's (IBMA)'s Male Vocalist of the Year award. His band Hot Rize was the IBMA's first Entertainer of the Year in 1990. In

November 2013 he was inducted into the West Virginia Music Hall of Fame; and

Whereas, Glenville resident Buddy Griffin, was born at Richwood on September 22, 1948, and recalling his Nicholas County childhood has said “Everybody in the family played music. It was never expected, it was never forced on us. Nobody ever handed us an instrument and said, “You have to play this.” It was just trying to be part of what was going on, “cause there was always music at the house”. Mr. Griffin was a part of his family’s music from an early age. “The first instrument I ever touched was a bass fiddle. They kept it leaned up behind the couch. I’d stand up on the couch when I was about five, maybe six. I couldn’t note it, but I could play the strings. So if they’d play some old fiddle tune, I’d have all three chords to go with it. I’d stand there and just play the strings.” He soon learned to play the guitar, mandolin, fiddle, and banjo. His parents were good singers especially in the style of the Carter Family, and they taught their children the older country music. The Griffin children, however, tended toward the faster, more modern bluegrass. Erma played the guitar and bass and sang harmony. Richard played guitar and fiddle, along with other instruments, and sang the lead. Richard’s father, Joe Griffin, born in 1883, played the old claw hammer style of banjo. Joe traveled to logging camps in Roane, Lincoln, and Calhoun counties and played dances on Saturday nights with some of the local fiddlers, mostly Enoch Camp. Parts of Mr. Griffin’s family tree can be traced to Revolutionary War times, some of his ancestors reportedly received land grants from General Washington. Mr. Griffin later became a staff musician at WWVA’s Jamboree USA in Wheeling, played more than 200 times on the Grand Ole Opry, toured the country for more than 30 years with some of the biggest names in country and bluegrass music, appeared on more than 150 record albums, and established the world’s first college degree program in bluegrass music at Glenville State College. In May 2011, he received the coveted Vandalia Award, recognizing his lifetime of devotion to entertainment and education; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature of West Virginia hereby proclaims and makes the fiddle the official musical instrument of the State of West Virginia; and, be it

Further Resolved, That the Legislature of West Virginia recognizes the importance and significance of the fiddle in West Virginia's history, traditions and culture; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to Buddy Griffin, Tim O'Brien, Clark Kessinger's daughter, Frances Goad, the descendants of West Virginia's other great fiddle players, Blind Alfred Reed, Edwin Hammons, Melvin Wine and Ed Haley, The West Virginia Music Hall of Fame, the Friends of Old Time Music and Dance (FOOTMAD) and John Lilly, Editor of Goldenseal, the official State magazine of West Virginia traditional life.

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegate Moffatt:

H. J. R. 46 – “Proposing an amendment to the Constitution of the State of West Virginia, amending article VI thereof, by adding thereto a new section, designated section fifty-seven, relating to appointing a five member independent commission to submit plans to the West Virginia Legislature on how to redistrict the state into one hundred separate delegate districts; the numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on the Judiciary.

Delegates Border, Miller, D. Evans, Anderson, Azinger, Kelly, Deem, Sobonya, Butler, Waxman and Kessinger offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 13 – “Designating that March 16 be proclaimed as Healthy Bodies Healthy Spirits Month.”

Whereas, West Virginia is at the top or near the top of many national chronic disease lists; and

Whereas, Churches are powerful forces for positive change in West Virginia communities; and

Whereas, Almost one in four West Virginia eleven year olds has high blood pressure, according to West Virginia University CARDIAC testing; and

Whereas, West Virginia faith organizations want to be healthy role models for our children and adults; and

Whereas, The “West Virginia Healthy Bodies Healthy Spirits Network” has been formed to help faith organizations promote healthier congregations and communities; and

Whereas, Major faith denominations are collaborating with “Try This West Virginia” in a statewide campaign to help reverse our poor health; therefore, be it

Resolved by the House of Delegates:

That the West Virginia House of Delegates hereby proclaim March 2016 as: “Healthy Bodies Healthy Spirits Month” in the Mountain State and encourage all citizens to join us in this observance as we encourage the collaboration of governmental agencies, community organizations and faithbased institutions to be active participants in a movement that promotes health and wellness for all West Virginians.

Delegates Perdue, Bates, Eldridge, Ferro, Gearheart, Guthrie, Hornbuckle, Lynch, Marcum, Moore, Morgan, Reynolds and Rodighiero offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 14 – “Memorializing the Armenian Genocide of 1915 through 1923 and Proclaiming April 24 as a Day of Remembrance.”

Whereas, In what is currently the Republic of Turkey and the country of Armenia, from 1915 through 1923 one and one-half million ethnic Armenian men, women and children were murdered and one-half million were displaced or deported as a result of oppression and ethnic cleansing by the Ottoman Empire; and

Whereas, Hundreds of thousands of Armenians were forced to flee their homes and travel to foreign counties in order to avoid persecution and death; and

Whereas, Hundreds of thousands of Armenian men, women and children were forced to walk through the Syrian Desert, where many died through dehydration and starvation; and

Whereas, The atrocities committed against the Armenian people have been viewed as an attempt to eliminate all traces of the Armenian civilization, dating more than 3,000 years old; and

Whereas, Prior to the implementation of the Holocaust, in order to garner support from his followers, Adolf Hitler asked “Who, after all, speaks today of the annihilation of the Armenians?”; and

Whereas, By recognizing and consistently remembering the Armenian Genocide the education of future generations for the protection of cultural and ethnic history is ensured so that these atrocities do not occur again; and

Whereas, The genocide has been recognized by forty-four of the United States and twenty-seven countries, including: Germany, Russia, Canada, France, Italy and Switzerland; and

Whereas, Armenia is now a free and independent democratic state, following nearly 70 years of oppression under the Soviet Union in the twentieth century; and

Whereas, The Republic of Turkey continues to deny and distort the facts of the Armenian Genocide and reveres the perpetrators as national heroes; and

Whereas, Armenian-Americans living in West Virginia have greatly enriched the State through their leadership in business, agriculture, academia, government, and the arts; therefore, be it

Resolved by the House of Delegates:

That the West Virginia House of Delegates acknowledges the Armenian Genocide committed by the Ottoman Empire as an issue of historical and cultural significance; and, be it

Further Resolved, That April 24, 2016, be proclaimed a Day of Remembrance for the Victims of the Armenian Genocide on the 101st Anniversary of the tragedy; and, be it

Further Resolved, That the Clerk of the House of Delegates forward copies of this resolution to the Ambassador to the United States of America from Armenia and the Armenian National Institute.

Motions

Delegate Ireland asked and obtained unanimous consent that **H. B. 4639**, Establishing a method for the simple majority of mineral interest owners, be referred to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates J. Nelson, R. Smith, Phillips, Ihle, Butler, McGeehan, Blair, Sobonya, Foster and Frich:

H. B. 4640 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-24a, relating to providing a tax credit in the amount of fifty percent of the cost of educating a student in a public school for a taxpayer educating a student in a private or home school; and providing for rule-making"; to the Committee on Education then Finance.

By Delegates Walters, Hamilton, Householder and Westfall:

H. B. 4641 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-2-6b, relating to the limitation of action that applies to an action to recover the unpaid balance due upon a contract made by a consumer for the purchase of personal property, containing terms of financing the purchase price”; to the Committee on Banking and Insurance then the Judiciary.

By Delegate Miley

[By Request of the Executive]:

H. B. 4642 - “A Bill to amend and reenact §21A-8-10 and §21A-8-16 of the Code of West Virginia, 1931, as amended, all relating to maintaining the solvency of the Unemployment Compensation Fund; providing a mechanism for the Governor to borrow funds from the Revenue Shortfall Reserve Fund for a limited period and deposit those funds into the Unemployment Compensation Fund if the balance of the Unemployment Compensation Fund drops below \$50 million; providing that borrowed funds may only be used to pay benefits; providing that no amount borrowed may exceed \$50 million; and providing for repayment of borrowed amounts”; to the Committee on Finance.

By Delegates Folk, McGeehan and Faircloth:

H. B. 4643 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-1-3, eliminating requirements that state provide for professional training and development of teachers; redirecting those funds to the Public Employees Insurance Agency; and providing that professional development in public schools shall be at discretion of county school boards”; to the Committee on Education then Finance.

By Delegates Miller, Border, D. Evans, Statler, Moffatt, McCuskey, Sobonya and Rohrbach:

H. B. 4644 - “A Bill to amend and reenact §52-1-17 of the Code of West Virginia, 1931, as amended, relating to deleting subsection (e)

therein which provides the sheriff to pay into the State Treasury all jury costs received from the court clerks and that the sheriff shall be held to account in the sheriff's annual settlement for all the moneys"; to the Committee on Finance.

By Delegates Rohrbach, Statler, Canterbury, Guthrie, Pushkin, Bates, Fleischauer and Rowe:

H. B. 4645 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-97, relating to providing an earned income tax credit against the personal income tax"; to the Committee on Finance.

By Delegate Skinner:

H. B. 4646 - "A Bill to amend §50-1-14 of the Code of West Virginia, 1931, as amended, relating to civilian employees for service of civil process court security; permitting sheriff's to employ civilians for service of process and court security; and authorizing these civilian employees to carry dangerous and deadly weapons when designated and permitted by the county sheriff"; to the Committee on the Judiciary.

By Delegates Folk and McGeehan:

H. B. 4647 - "A Bill to repeal §14-2-2 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that proceedings against the State, a state agency or state officer be brought and prosecuted in the circuit court of Kanawha County"; to the Committee on the Judiciary.

By Delegates Skinner, Folk and McCuskey:

H. B. 4648 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-7, relating to providing additional pay for public employees who reside in counties with the highest median home costs"; to the Committee on Government Organization then Finance.

By Delegates Skinner, Fleischauer, Manchin, Eldridge, Sponaugle, Rowe, Moore, Byrd, Fluharty, Shaffer and Guthrie:

H. B. 4649 - “A Bill to amend and reenact §55-2-6 of the Code of West Virginia, 1931, as amended, relating to limitations and suits; and providing that any action for the default of payment of a credit card debt be brought within three years of the date of default”; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Folk and McGeehan:

H. B. 4650 - “A Bill to amend and reenact §14-2-2 of the Code of West Virginia, 1931, as amended, relating to the venue for suits and other actions against the state; allowing a pro se plaintiff or petitioner to file a claim or petition against the state, a state officer, or state agency in the circuit court of a county in which the plaintiff or petitioner resides or in which a claim arose”; to the Committee on the Judiciary.

By Delegates Howell, Arvon, Ihle, Hamrick, P. White and Stansbury:

H. B. 4651 - “A Bill to amend and reenact §30-26-4, §30-26-6 and §30-26-7 of the Code of West Virginia, 1931, as amended, all relating to professional examination requirements for hearing-aid dealers and fitters; requiring applicants for professional licensure to pass the International Licensing Examination for Hearing Healthcare Professionals or an equivalent examination; requiring applicants for professional licensure to pass a nationally recognized practical examination, or a practical examination designed by the West Virginia Board of Hearing-Aid Dealers to test certain demonstrated skills and techniques; requiring applicants to pass an examination, designed by the board, to test knowledge of certain local laws and practices; eliminating the requirement that the board provide applicants with certain details pertaining to an applicant’s failure of an examination; and authorizing emergency and legislative rulemaking”; to the Committee on Government Organization.

By Delegates Howell, Cadle, Atkinson, R. Smith, Stansbury, Moffatt, P. White, Arvon, Foster, Hamrick and McGeehan:

H. B. 4652 - “A Bill to amend and reenact §21-11-3 and §21-11-5 of the Code of West Virginia, 1931, as amended, all relating to the creation of an intermediate contractor’s license; limiting the maximum cost of the project that an intermediate contractor may undertake to \$10,000; and exempting applicants for the intermediate contractor’s license from an examination”; to the Committee on Government Organization.

By Delegate Skinner:

H. B. 4653 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-20E-1, §19-20E-2, §19-20E-3, §19-20E-4, §19-20E-5 and §19-20E-6, all relating to spaying and neutering of companion animals; making legislative findings; stating its purpose; setting forth its scope; requiring the reproductive neutering of domestic dogs and cats; providing exceptions; establishing certain conclusive presumptions; providing certain rebuttable presumptions; requiring the registration of breeders; providing exceptions; providing for enforcement; and establishing penalties”; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates Summers, Campbell, Ellington, Householder and Rohrbach:

H. B. 4654 - “A Bill to amend and reenact §30-7-4 of the Code of West Virginia, 1931, as amended, relating to the Executive Secretary of the Board of Registered Professional Nurses; and removing the executive secretary experience requirements”; to the Committee on Government Organization.

By Delegates Walters and Perry:

H. B. 4655 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-38, relating to defining certain key terms; prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers

to provide discounts on noncovered services or materials; prohibiting eye care providers from charging more to enrollees for noncovered services than the normal and customary fee; providing that insurers, vision care plan or vision care discount plans may not provide for a nominal reimbursement in order to claim that a service or material is covered; prohibiting insurers, vision care plan or vision care discount plan from falsely representing benefits provided to sell coverage or communicate benefits to enrollees; prohibiting the requirement that eye care providers be credentialed through a designated vision plan; providing pay parity for optometrist and ophthalmologists; providing that optometrist and ophthalmologist be held to the same credentialing standards; prohibiting eye care providers from being required to accept all plan and discount plans offered by an insurer, vision care plan or vision care discount plan in order to be on a panel for the insurer, vision care plan or vision care discount plan; prohibits the insurer, vision care plan or vision care discount plan from changing the terms of an agreement with an eye care provider without communication with and agreement from the eye care provider; permitting eye care providers to use any lab or supplier and notification of contract changes; creating a private right of action for eye care providers; placing limits on charge backs of administrative fees and other recoupments; providing that an insurer, vision care plan or vision care discount plan may not discriminate against a provider based on geographic location of the eye care provider; and authorizing suits for injunctions by persons aggrieved or by Insurance Commissioner and recovery of monetary damages, costs and attorney's fees"; to the Committee on Health and Human Resources.

By Delegates R. Smith, Cadle, P. White, Arvon, Hamrick and McGeehan:

H. B. 4656 - "A Bill to amend and reenact §30-9-2, §30-9-3, §30-9-4 and §30-9-5 of the Code of West Virginia, 1931, as amended, all relating to granting the Finance Division within the Department of Administration supervisory control over the board of Accountancy; defining a term; clarifying the board is an advisory body; requiring

board acts and recommendations be authorized by the division; and providing for the review of board rules prior to submission”; to the Committee on Government Organization.

By Delegates R. Smith, Cadle, Arvon, Hamrick, Ihle, Stansbury, McGeehan, Weld, Fast and Kessinger:

H. B. 4657 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §6B-3-12, relating to prohibiting state agencies, boards and commissions from hiring lobbyists; and declaring that the director of each state agency to have exclusive, non-delegable authority to lobby on behalf of the state agency”; to the Committee on the Judiciary.

By Delegates Howell, Arvon, Ihle, Moffatt, Hill, Cadle, Hamrick, Lynch, Blair, P. White and R. Smith:

H. B. 4658 - “A Bill to amend and reenact §30-6-4 of the Code of West Virginia, 1931, as amended, relating to the Board of Funeral Service Examiners; changing the qualifications for board members; providing for the continuous service of qualifying board members; and providing for the disqualification of certain members who become licensees”; to the Committee on Government Organization.

By Delegate Ellington:

H. B. 4659 - “A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended, relating to local health departments; and authorizing local health departments to bill health insurance plans for services”; to the Committee on Health and Human Resources then Finance.

By Delegate Espinosa:

H. B. 4660 - “A Bill to amend and reenact §24-2-11 of the Code of West Virginia, 1931, as amended, relating to the information required to be included in support of an application to the Public Service Commission for a certificate of convenience and necessity for a water, sewer and/or stormwater service project; preliminary engineering reports and financial analysis are required; the same

engineering report and financial analysis information supplied to the Infrastructure and Jobs Development Council will suffice; final engineering report and design information or plans and specifications not required; waiver of financial analysis for good cause; directing an entity that has received a certificate of convenience and necessity, to pursue a further rate increase through the normal rate changing process, if an increase in rates is needed exceeding fifteen percent above the increase in rates approved by the Public Service Commission in granting a certificate of convenience and necessity for a project; and the Public Service Commission may not, on its own initiative, modify the scope of a project to which a certificate of convenience and necessity was previously granted, or rescind a previously granted certificate of convenience and necessity, if the rates expected to go in effect upon substantial completion of the project have increased by less than fifteen percent”; to the Committee on Government Organization.

By Delegates Fleischauer, Perdue, Longstreth, Shaffer, Flanigan, Pushkin, Blackwell, Fluharty, Lynch, Guthrie and Rowe:

H. B. 4661 - “A Bill to amend and reenact §11-17-2 and §11-17-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §49-2-914, all relating to child welfare; children eighteen years of age or older who have been in the foster care system; creating an Aging Out of Foster Unit within the Department of Health and Human Resources to assist these children, track and collect statistics related to these children, provide assistance to the children, report annually to the Joint Committee on Government and Finance and the Legislative Oversight Committee on Health and Human Resources; vapor product definition; and placing a tax on ‘Vapor products’, equal to the tax on tobacco products other than cigarettes to finance the Aging Out of Foster Unit”; to the Committee on Health and Human Resources then Finance.

By Delegate Walters:

H. B. 4662 - “A Bill to amend and reenact §17C-16-5 of the Code of West Virginia, 1931, as amended, relating to permitting the

Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers to purchase, equip and maintain vehicles”; to the Committee on Finance.

By Delegates Miley, Bates, Campbell and Boggs:

H. B. 4663 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5W-1, §16-5W-2, §16-5W-3 and §16-5W-4, all relating to establishing an on-call center for state residents to receive assistance with healthcare”; to the Committee on Health and Human Resources then Finance.

By Delegates Fleischauer, Pethtel, Summers, Hamrick, Flanigan, Statler, Folk, Kurcaba, Miley, Storch and Fluharty:

H. B. 4664 - “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 or preventing hazardous conditions”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Hartman, Sponaugle, Campbell, Perry and Lynch:

H. B. 4665 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-3-11, relating to creating a mandatory grace period for the payment of water and sewer bills”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Upson, Stansbury, Blair, Householder, Espinosa and Hornbuckle:

H. B. 4666 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-6A-1, §29-6A-2, §29-6A-3, §29-6A-4 and §29-6A-5, all relating to enacting the Ban-the-Box Act, prohibiting public employers from asking applicants for employment to disclose information concerning the applicant’s criminal record or history, under certain circumstances”; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Guthrie, Rowe, Westfall, McCuskey, B. White, Pushkin, Anderson, Byrd, Skinner and Bates:

H. B. 4667 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-14-1, 15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10 and §15-14-11; to amend and reenact §19-20-1, §19-20-2, §19-20-3, §19-20-5, §19-20-6, §19-20-7, §19-20-8, §19-20-8a, §19-20-9, §19-20-9a, §19-20-10, §19-20-11, §19-20-19a, §19-20-21, §19-20-22 and §19-20-23 of said code; to amend said code by adding thereto a new section, designated §19-20-27; to amend and reenact §61-8-19, §61-8-19a and §61-8-19b of said code; and to amend said code by adding thereto a new section, designated §61-8-19c, all relating to protecting animals and requiring their humane treatment; creating a State Animal Abuse Registry for identifying persons convicted of animal abuse; defining terms; requiring all persons convicted of animal abuse to register; declaring information to be provided when registering; requiring payment of annual fee; creating a Central Abuse Registry Fund; specifying how money in the fund will be used; requiring the registry information to be public; providing for exception from registration requirements and petition for relief from registration; setting forth duties of animal breeders, animal shelters and pet stores; requiring annual registration of all dogs and cats; setting fee for registration of dogs and cats; providing for certain dogs and cats to be adopted in lieu of other means of disposal; increasing fees for delinquent registration of cats and dogs, registration of kennels and for license to keep a vicious or dangerous dog; allowing a reasonable rate of reimbursement to animal control officers for use of a personal vehicle; dedicating all fines and fees for support and operations of humane society, animal shelter or animal control facility; prohibiting the hoarding of animals and establishing criminal penalties therefor; providing for forfeiture and disposition of hoarded animals; providing for examination and medical intervention for the hoarder; expanding the types of activities prohibited in connection with animal fighting ventures and attendance at animal fighting events; increasing the fines for participation in animal fighting ventures and attendance at animal

fighting events; defining subsequent offenses as felonies; prohibiting wagering at animal fighting ventures and setting criminal penalties therefor; and updating terms and language throughout”; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegates Byrd, J. Nelson, Marcum, Phillips, Rowe, McCuskey, Stansbury, B. White, E. Nelson, Guthrie and Pushkin:

H. B. 4668 - “A Bill to amend and reenact §11-13A-6 of the Code of West Virginia, 1931, as amended, relating to raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services from one fourth to one half”; to the Committee on Energy then Finance.

By Delegates McGeehan, Faircloth, Folk, J. Nelson, Wagner, Azinger, Ihle and Hill:

H. B. 4669 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, relating to redirecting certain funds of the West Virginia Department of Education; requiring the department to transfer an amount equal to one half of the department’s 2015 budget for administrative costs into a special account for the purpose of increasing teacher salaries”; to the Committee on Education then Finance.

By Delegates Rowe, Sobonya, B. White, Guthrie, Lynch, Pushkin, McCuskey, Byrd, Ellington, Rohrbach and Blackwell:

H. B. 4670 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-8-101, §49-8-102 and §49-8-103, all relating to designation of social workers in the Department of Health and Human Services to promote better student school attendance and performance, and the health and well-being of students at home; duties described”; to the Committee on Education then Finance.

By Delegates Ellington and Householder:

H. B. 4671 - “A Bill to amend and reenact §60A-2-208 of the Code of West Virginia, 1931, as amended, relating to schedule three

controlled substances; designating human chorionic gonadotropin as a schedule three controlled substance; and allowing human chorionic gonadotropin solely for injection or implantation in cattle and other nonhuman species”; to the Committee on Agriculture and Natural Resources then Health and Human Resources.

By Delegate E. Nelson:

H. B. 4672 - “A Bill to amend and reenact §5-16-18 of the Code of West Virginia, 1931, as amended, relating to requiring the Public Employees Insurance Agency Finance Board factor in overtime pay received by employees to determine their premiums”; to the Committee on Finance.

By Delegates Anderson, Kelly, Border, A. Evans, Phillips, Wagner, Trecoast, R. Smith, Shaffer, Ireland and Miller:

H. B. 4673 - “A Bill to amend the Code of West Virginia, 1931 as amended, by adding thereto a new section, designated §20-2-7a, relating to providing for a crime for the theft, damage or release of deer from private game farms; providing a criminal penalty; and providing for restitution to be paid to the victimized private game farm owner”; to the Committee on the Judiciary.

Special Calendar

Third Reading

Com. Sub. for S. B. 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances; on third reading, coming up in regular order, order, was, on motion of Delegate Cowles, postponed one day.

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions; on third reading, coming up in regular order, was read a third time.

Delegate Lane requested to be excused from voting on the passage of S. B. 509 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate Lane would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 128**), and there were—yeas 91, nays 8, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Canterbury, Eldridge, Lane, Moffatt, Rowe, Skinner and Sobonya.

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 509) passed.

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

S. B. 509 – “A Bill to amend and reenact §21-10-6 of the Code of West Virginia, 1931, as amended, relating to when Division of Labor must inspect amusement rides and amusement attractions; requiring the Division of Labor to create an inspection checklist; requiring owners or operators to self-inspect amusement rides and amusement attractions after every assembly; requiring the owner or operator to retain the checklist while the amusement ride or amusement attraction is in use; and requiring the owner or operator to submit the inspection checklist to the Division of Labor at the end of the calendar year.”

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

H. B. 2605, Removing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 129**), and there were—yeas 98, nays 1, absent

and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2605) passed.

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

Com. Sub. for H. B. 4001, Relating to candidates or candidate committees for legislative office disclosing contributions; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4152, Making a supplementary appropriation to the Division of Environmental Protection – Protect Our Water Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 130**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hornbuckle, Moore and Weld.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4152) passed.

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

On this question, the yeas and nays were taken (**Roll No. 131**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hornbuckle, Moore and Weld.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4152) takes effect from its passage.

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

H. B. 4155, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health–West Virginia Birth-to-Three Fund, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 132**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4155) passed.

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

On this question, the yeas and nays were taken (**Roll No. 133**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Moffatt.

Absent and Not Voting: Weld.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4155) takes effect from its passage.

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

H. B. 4157, Supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 134**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4157) passed.

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

On this question, the yeas and nays were taken (**Roll No. 135**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4157) takes effect from its passage.

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

H. B. 4160, Making a supplementary appropriation to the Department of Revenue, Tax Division; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 136**), and there were—yeas 90, nays 9, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fluharty, Marcum, McGeehan, Morgan, J. Nelson, Perdue, R. Smith, Sobonya and Wagner.

Absent and Not Voting: Weld.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4160) passed.

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

On this question, the yeas and nays were taken (**Roll No. 137**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4160) takes effect from its passage.

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

Com. Sub. for H. B. 4197, Allowing required HIV and hepatitis testing for the protection of law enforcement officers who may have been exposed; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 138**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Guthrie, McGeehan, J. Nelson, Perdue, Skinner and Upson.
Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4197) passed.

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

Com. Sub. for H. B. 4265, Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 139**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4265) passed.

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

Com. Sub. for H. B. 4310, Relating to the West Virginia University Institute of Technology; on third reading, coming up in regular order, was read a third time.

Delegate Guthrie was addressing the House when Delegate McGeehan arose to a point of order regarding the content of the Gentlelady's remarks, to which point the Speaker asked the Gentlelady from the 36th to confine her remarks to the bill before the House.

Delegate Morgan was addressing the House when Delegate Kurcaba arose to a point of order regarding the content of the Gentleman's remarks, to which point the Speaker asked the Gentleman from the 16th to confine his remarks to the bill before the House.

Delegate Skinner arose to a point of inquiry, stating that it was his understanding that point of orders were to be directed to the Speaker and not the Member, whereupon the Speaker advised the Members as to the proper procedure of a point of order.

Delegate Frich was addressing the House when Delegate Marcum arose to a point of order regarding the content of the Gentledady's remarks, to which point the Speaker asked the Gentledady from the 51st to confine her remarks to the bill before the House.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 140**), and there were—yeas 67, nays 32, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Duke, Eldridge, Faircloth, Fast, Folk, Gearheart, Guthrie, Hamilton, Hicks, Hill, Ihle, Kessinger, Lynch, Marcum, McGeehan, Miller, Moffatt, Moore, Morgan, Perdue, Perry, Rodighiero, Rohrbach, Rowan, Rowe, P. Smith, Sobonya, Sponaule, Stansbury, B. White and P. White.

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4310) passed.

An amendment to the title of the bill, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for H. B. 4310 – “A Bill to repeal §18B-1E-1, §18B-1E-2, §18B-1E-3 and §18B-1E-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-1C-1 and §18B-1C-2 of said code, all relating to the West Virginia University Institute of Technology; finding that there is a need to maintain the valuable educational services provided by the West Virginia University Institute of Technology; finding that there are continued enrollment and facilities issues facing the West Virginia University Institute of Technology in Montgomery, West Virginia; finding that the West Virginia University Institute of Technology, West Virginia University, Marshall University, Concord University, Bluefield State College, and other public and private partners should collaborate; requiring collaboration and encouraging agreements with local governments near Montgomery; clarifying provisions relating to the West Virginia University Institute of Technology Board of Visitors; eliminating the requirement that the headquarters of the West Virginia Institute of Technology remain in Montgomery, West Virginia; providing for a program review and approval process; requiring meetings between West Virginia University, West Virginia Institute of Technology, Concord University, and Bluefield State College; eliminating outdated provisions; and repealing provisions relating to the West Virginia University Institute of Technology Revitalization Project.”

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

On this question, the yeas and nays were taken (**Roll No. 141**), and there were—yeas 76, nays 23, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Duke, Fast, Folk, Gearheart, Guthrie, Hamilton, Hicks, Hill, Ihle, Kessinger, Marcum, McGeehan, Miller, Perry, Rodighiero, Rohrbach, Rowe, P. Smith, Sobonya, Stansbury, Summers, B. White and P. White.

Absent and Not Voting: Weld.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4310) takes effect from its passage.

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

H. B. 4316, Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 142**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Guthrie and Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4316) passed.

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

Com. Sub. for H. B. 4319, Including in the definition of “veteran” active members of the Guard and Reserve in order to exempt them from fees charged by the Secretary of State; on third reading, coming up in regular order, was read a third time.

Delegate J. Nelson requested to be excused from voting on the passage of Com. Sub. for H. B. 4319 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate J. Nelson would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 143**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Guthrie and Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4319) passed.

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

Com. Sub. for H. B. 4322, Expanding the Learn and Earn Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 144**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Guthrie and Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4322) passed.

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

H. B. 4340, Amending licensing requirements for an act which may be called Lynette’s Law; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 145**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Guthrie and Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4340) passed.

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

On this question, the yeas and nays were taken (**Roll No. 146**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Guthrie and Weld.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4340) takes effect from its passage.

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

Com. Sub. for H. B. 4366, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 147**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Guthrie and Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4366) passed.

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

On this question, the yeas and nays were taken (**Roll No. 148**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4366) takes effect from its passage.

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

Com. Sub. for H. B. 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; on third reading, coming up in regular order, was read a third time.

Delegate McGeehan was addressing the House when Delegate Skinner arose to a point of order, regarding the content of the Gentleman's remarks, to which point the Speaker asked the Gentleman from the 1st District to confine his remarks to the bill before the House.

Delegates P. Smith and Frich requested to be excused from voting on the passage of Com. Sub. for H. B. 4377 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

On motion of Delegate Cowles, further consideration of the bill was postponed one day.

Com. Sub. for H. B. 4445, Relating to the adoption of instructional educational resources; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 149**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lane.

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4445) passed.

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

Com. Sub. for H. B. 4540, Removing prohibition of disposal of certain electronics in landfills; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 150**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4540) passed.

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

Com. Sub. for H. B. 4540 - “A Bill to amend and reenact §22-15A-22 of the Code of West Virginia, 1931, as amended, relating to removing prohibition of disposal of certain electronics in landfills; and permitting county or regional solid waste authorities to prohibit disposal of covered electronics in landfills where they have determined that a cost effective recycling alternative for handling covered electronic devices exists.”

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

Com. Sub. for H. B. 4604, Relating to violations of the Ethics Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 151**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4604) passed.

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

Com. Sub. for H. B. 4605, Prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; on third reading, coming up in regular order, was read a third time.

Delegates Blackwell, Foster, Gearheart, Householder, Howell, Moye and Walters requested to be excused from voting on the passage of Com. Sub. for H. B. 4605 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 152**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4605) passed.

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

Com. Sub. for H. B. 4606, Relating to the recusal of certain public officials from voting for appropriation of moneys to nonprofit entities; on third reading, coming up in regular order, was read a third time.

Delegates Ferro, Fleischauer, Hanshaw, Hartman, Householder, Howell, Ihle, Kelly, Manchin, Miller, Moffatt, Morgan, Moye, Pethtel, Pushkin, Rohrbach, Romine, Rowan, Rowe, Shott, Skinner, Sponaugle, Statler, Summers and Zatezalo requested to be excused from voting on the passage of Com. Sub. for H. B. 4606 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

On motion of Delegate Shott, further consideration of the bill was postponed one day.

H. B. 4618, Relating to limitations on use of a public official's name or likeness; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 153**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, D. Evans, Kelly, Kessinger, Phillips and Weld.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4618) passed.

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

Second Reading

S. B. 387, Shared animal ownership agreements to consume raw milk; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2795, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order; on second reading, coming up in regular order, was read a second time.

An amendment to the bill, offered by Delegate Manchin, was reported by the Clerk on page two, section seventy-two, line nine, following the words "requesting party", by inserting "for a period not to exceed five years prior to the incident giving rise to the civil suit."

Whereupon,

Delegate Manchin asked and obtained unanimous consent that the amendment be withdrawn.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4360, Increasing the criminal penalty for the unlawful practice of law; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4383, Making individuals responsible for the costs relating to the filing of excessive false complaints; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4388, Relating to stroke centers; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4470, Expanding newborn testing to include Adrenoleukodystrophy; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4489, Relating generally to human trafficking; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 341, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue,

S. B. 351, Dedicating severance tax proceeds,

S. B. 419, Relating to termination of Workers' Compensation Debt Reduction Act,

S. B. 449, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services,

S. B. 450, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health,

S. B. 451, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs,

S. B. 462, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund,

Com. Sub. for H. B. 2823, Eliminating the street and interurban and electric railways tax,

Com. Sub. for H. B. 2897, Young Entrepreneur Reinvestment Act,

And,

H. B. 4315, Relating to air-ambulance fees for emergency treatment or air transportation.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Weld.

At 2:54 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

* * * * *

Evening Session

* * * * *

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 4161, Relating to levies on classifications of property by the Board of Public Works.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 14, Limiting successor corporation asbestos-related liabilities.

A message from the Senate, by

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

Com. Sub. for S. B. 150, Authorizing Department of Transportation promulgate legislative rules.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 339 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §51-12-1, §51-12-2 and §51-12-3, all relating to establishing a judicial compensation commission; setting responsibilities for commission; establishing membership of commission; setting terms of service for appointed members; setting eligibility requirements for certain commission members; providing that members of commission are ineligible for appointment to state judicial position while serving on commission; providing for reimbursement of expenses incurred in carrying out responsibilities of commission; providing for filling of vacancies on commission; giving commission authority to make salary recommendations for certain judicial officers to the Legislature; providing for location of commission meetings; setting meeting notice requirements; directing election of a chairperson; setting quorum requirements; permitting commission to request staff assistance from Joint Committee on Government and Finance and administrative office of Supreme Court of Appeals; requiring meetings be conducted pursuant to open meetings laws; directing commission to study compensation structure for certain judicial officers for purposes of preparing a report; setting forth required factors to be considered in making recommendations regarding compensation; providing for filling of commission vacancies; establishing certain dates for commission action; providing for filing of commission reports and recommendations with certain offices; requiring a bill enacting commission’s salary recommendations be introduced by the presiding officer of the Senate and House of Delegates no later than the twentieth day of legislative session following receipt of report; requiring a bill enacting commission’s salary recommendations be reintroduced by the presiding officer of the Senate and House of Delegates in each

subsequent legislative session if not enacted; providing that commission be adjourned for three years following submission of report; and making technical corrections”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 369, Reducing legislative education reporting requirements.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 478 – “A Bill to amend and reenact §11-16-6b of the Code of West Virginia, 1931, as amended, relating to authorizing licensees authorized to sale growlers of nonintoxicating beer to offer complimentary samples to patrons from their licensed premises”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 481 – “A Bill to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating to authorizing operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises if purchased and consumed at a licensed Class A private club operating on the premises of the distillery or mini-distillery; and allowing distilleries and mini-distilleries to sell and serve alcohol beginning at 10:00 a.m. on Sundays”; which was referred to the Committee the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 500 – “A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the State Police to hold training classes for certification to access and use the West Virginia Automated Police Network; authorizing fee to be charged for the training; creating fund in which the fees are to be deposited; and specifying what the funds may be used for”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 505 – “A Bill to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to exempting from motor fuel excise tax certain uses of field gas; and defining field gas”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 520 – “A Bill to amend and reenact §5-16-12 and §5-16-12a of the Code of West Virginia, 1931, as amended, all relating to willful misrepresentation to gain benefits or payment under the Public Employees Insurance Act; establishing certain acts as violations of the act; providing for civil liability for improperly received benefits, overpayments or other sums; authorizing set off by the director to recover overpayment; authorizing investigation by the director of misrepresentations by an employer, employee or providers under the Public Employees Insurance Act; authorizing the director to issue administrative subpoenas; providing requirements for service of

subpoenas; authorizing fees for service and witnesses; establishing a process to compel obedience with a subpoena; authorizing the agency to recover benefits or claims obtained by fraud through administrative hearing; providing for the confidentiality of data; and providing criminal penalties”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 581 – “A Bill to amend and reenact §48-27-301 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-2A-2 of said code, all relating to eliminating the sunset provision terminating the pilot domestic violence court program; continuing domestic violence court initiative designed to prevent domestic violence; expanding the initiative from one pilot court to five courts; permitting Supreme Court of Appeals to determine each domestic violence court is to be located; and making other technical and conforming changes”; which was referred to the Committee on the Judiciary.

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

Committee Reports

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 5, U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge,

Com. Sub. for H. C. R. 7, U.S. Army PFC Cecil Ray Ball Memorial Bridge,

Com. Sub. for H. C. R. 10, U.S. Marine Corps GySgt Lionel Collins Memorial Road,

Com. Sub. for H. C. R. 15, U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge,

Com. Sub. for H. C. R. 17, SGT Larry Joseph Whitt Bridge,

Com. Sub. for H. C. R. 18, U.S. Air Force Staff Sergeant William Henry 'Bill' Whitman Memorial Highway,

H. C. R. 41, U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge,

H. C. R. 60, Requesting Joint Committee on Government and Finance study the state-level background check process for new employees and volunteers of caregiving businesses and facilities,

H. C. R. 68, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium and Heavy Duty Engines and Vehicles Phase 2,

S. C. R. 5, Coach Bill Stewart Exit, And,

Com. Sub. for S. C. R. 20, US Army CPL Troy Matthews Memorial Bridge,

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

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 4614, Relating to the medical loss ratio contained in any Medicaid managed care contract,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4614) was referred to the Committee on Health and Human Resources.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4617, Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program,

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

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

Your Committee on Finance has had under consideration:

H. B. 2202, Relating to more equitable disbursement of funds to county boards,

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

Com. Sub. for H. B. 2202 – “A Bill to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to more equitable disbursement of funds to county boards to lessen

budgetary impact of serving high cost/high acuity special needs students; eliminating requirement to annual review of rules, policies and standards and federal law and report to legislative oversight commission; defining high cost/high acuity special needs; and providing for method of fund disbursement,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

H. B. 4465, Relating to salary equity among school systems,

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

On motion for leave, a bill was introduced (Originating in the Committee on Finance with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Anderson, Boggs, Frich, Westfall, P. Smith, Canterbury, Hamilton, Miller and E. Nelson:

H. B. 4705 - “A Bill to amend and reenact §11-21-32 and §11-21-77 of the Code of West Virginia, 1931, as amended, relating to adding an additional type of West Virginia source income of nonresident individual; and exclusion of lottery winnings as compensation for personal services.”

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4572, Excepting specialized contract instructors from the definition of teacher,

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

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

Your Committee on Finance has had under consideration:

H. B. 4009, Letting Our Counties Act Locally Act,

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

Com. Sub. for H. B. 4009 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-27-1, §7-27-2, §7-27-3, §7-27-4, §7-27-5, §7-27-6, §7-27-7, §7-27-8, §7-27-9, §7-27-10, §7-27-11, §7-27-12, §7-27-13, §7-27-14, §7-27-15, §7-27-16, §7-27-17, §7-27-18, §7-27-19, §7-27-20, §7-27-21, §7-27-22, §7-27-23, §7-27-24, §7-27-25, §7-27-26, §7-27-27, §7-27-28, §7-27-29, §7-27-30, §7-27-31, §7-27-32, §7-27-33, §7-27-34, §7-27-35, §7-27-36, §7-27-37, §7-27-38, §7-27-39, §7-27-40, §7-27-41, §7-27-42, §7-27-43, §7-27-44 §7-27-45 and §7-27-46, all relating to road construction projects; providing legislative purpose and findings; defining terms; authorizing county commissions to develop road construction project plans; specifying process for development and approval of road construction project plans and plan amendments; allowing joint road construction project plans; requiring referendum for approval of certain road construction project plans; providing for amendments to road construction plans; requiring county commissions to submit road construction project plans and plan amendments to Commissioner of Highways for approval; specifying contents of application and approval process; creating new account and sub accounts in State Road Fund; allowing road construction projects be financed on cash basis or by special revenue bonds issued by Commissioner of Highways; giving Commissioner of Highways jurisdiction over all road construction projects accepted into state road system; specifying that road construction projects are public

improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds and refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions, are negotiable instruments and are exempt from taxation; specifying that persons executing bonds have no personal liability; providing that powers relating to road construction project plans, construction of projects and issuance of special revenue bonds are additional powers; allowing county commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; requiring transactions and uses subject or exempt from county sales and use taxes to conform to state consumers sales and service tax and use tax requirements except that county tax may not apply to sales of motor vehicles, motor fuels or to purchases where local taxation is prohibited by federal law; requiring Tax Commissioner to administer, collect and enforce county transportation sales and use tax and, for that purpose, specifying a fee allowed for commissioner's services; making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act and to West Virginia Tax Crimes and Penalties Act; requiring that definitions, taxable transactions and exemptions from county transportation sales and use taxes automatically update when state consumers sales and service tax and use tax laws are amended; requiring county commissions to develop and maintain county rate and boundary databases; requiring county commission to notify Tax Commissioner if tax has been imposed or tax rate has changed; specifying when collection of county transportation sales and use taxes begins; requiring that net collection of county transportation sales and use taxes be deposited in subaccount of county in county road improvement account in the State Road Fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; providing criminal penalties; and providing Commissioner of Highways with authority to propose rules for legislative approval,"

And,

H. B. 4612, Relating generally to tax increment financing and economic opportunity development districts,

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

Com. Sub. for H. B. 4612 – “A Bill to amend and reenact §7-11B-3, §7-11B-4, §7-11B-14, §7-11b-21 and §7-11B-22 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §7-11B-29 and §7-11B-30; to amend and reenact §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of said code; to amend said code by adding thereto two new sections, designated §7-22-23 and §7-22-24; to amend and reenact §8-38-5, §8-38-7, §838-8, §8-38-12 and §8-38-14 of said code; to amend said code by adding thereto two new sections, designated §8-38-23 and §8-38-24; and to amend and reenact §11-10-11a of said code, all relating generally to tax increment financing; authorizing tax increment financing for the funding road projects in West Virginia; permitting certain agreements between the Division of Highways and counties or municipalities regarding development districts; permitting financing of certain projects by proceeds of tax increment financing obligations; permitting road construction projects be done jointly by counties and municipalities under certain circumstances; establishing procedures and requirements for applications and the management of projects and districts; providing that projects are public improvements and subject to certain requirements; permitting the Division of Highways to propose certain projects; establishing procedures for the West Virginia Development Office and the Tax Commissioner regarding applications and their review; permitting audits in certain circumstances; establishing a procedure for adding or removing property from an economic opportunity development district; requiring procedures relating to taxpayers; providing for confidentiality; providing that roads to be part of the state road system; requiring legislative rulemaking; permitting a fee to be assessed; making findings; establishing an effective date; and defining terms.”

With the recommendation that the committee substitutes each do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4651, Relating to professional examination requirements for hearing-aid dealers and fitters,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4656, Granting the Finance Division within the Department of Administration supervisory control over the Board of Accountancy,

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

Miscellaneous Business

Delegate Phillips announced that he was absent on today when the vote was taken on Roll No. 153, and that had he been present, he would have voted "Yea" thereon.

Delegates Espinosa and Householder filed forms with the Clerk's Office per House Rule 94b to be added as cosponsors of H. B. 2202.

Delegate Sobonya filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4575 and H. B. 4577.

Delegate Ambler filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4465.

Delegate Cooper filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4465.

Delegate J. Nelson filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4639.

Delegate Phillips filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4639.

Delegate Rowan filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4465.

Delegate B. White filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4670.

At 5:19 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, February 23, 2016.

TUESDAY, FEBRUARY 23, 2016

FORTY-SECOND DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, February 22, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 4307, Clarifying that a firearm may be carried for self defense in state parks, state forests and state recreational areas,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4307) was referred to the Committee on the Judiciary.

On motion for leave, a bill was introduced (Originating in the Committee on Education and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Cooper, Duke, Ellington, D. Evans, Rohrbach, Espinosa, Statler, Blackwell, Hicks, Hornbuckle and Perdue:

H. B. 4706 - “A Bill to amend and reenact §18-2-26a of the Code of West Virginia, 1931, as amended, relating to regional county board meetings on empowering and equipping boards to attain goals for public education; removing requirements for biennial meetings on shared services; requiring notice to legislative oversight commission; removing requirement for state board approval of meeting format in advance; requiring report of meetings and specifying content; and providing for recommendations by legislative oversight commission to Legislature.”

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4351, Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture,

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

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4014, Preventing the State Board of Education from implementing common core academic standards and assessments,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4014 - “A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating generally to academic standards and assessments in schools; removing reference to the No Child Left Behind Act; including digital literacy to the list of education and efficiency standards to be periodically reviewed; defining ‘academic standards’; making a certain finding with respect to the Legislature’s constitutional authority; removing certain legislative findings and statements of intent; removing designation of name for education standards; recognizing that the state board adopted non-Common Core academic standards; requiring continuing review, analysis, and update of academic standards and collaboration with the Legislature; removing requirement that Common Core State Standards be replaced with earlier standards; requiring withdrawal from Memorandum of Agreement relating to adoption of Common Core State Standards; requiring withdrawal as a governing state in the Smarter Balanced Assessment Consortium; removing requirement to withdraw certain regulations; removing prohibition on entering into contracts subject to certain restrictions; removing requirement to report to Legislative Oversight Commission on Education and Accountability; removing requirement to develop, adopt, and implement new or revised standards by a certain school year; removing and adding certain criteria with which new standards must comply; removing requirements to follow prior to adopting and implementing new or revised standards; removing requirement that waivers for instructional resources be granted to teach new or revised standards; removing requirement that guidelines be developed for county boards of education on informing the public and providing input at the local level; removing restriction on teacher evaluations; removing requirement to take Common Core instructional resources from master list; removing requirement to follow a certain process when changing standards; removing reference to aligning adoption of standards with adoption cycle for instructional resources; removing authority to adopt certain Common Core instructional materials under certain circumstances; removing authority to seek waivers under certain circumstances; requiring the Legislative Oversight Commission on Education and Accountability to review

proposed rules for compliance with the law and legislative intent and take further action at its discretion; removing certain requirements that comprehensive statewide student assessment must meet; requiring review and approval of a summative assessment for certain grade levels; requiring that summative assessments meet certain requirements; prohibiting the implementation of any assessment developed specifically to align with Common Core State Standards; removing prohibition on entering into contracts subject to certain restrictions; requiring online assessment preparation; requiring development of a plan and recommendations regarding end of course assessments and student accountability; requiring development of a policy outlining accountability measures for students taking the comprehensive statewide assessment; requiring that written requests to opt out of assessment; prohibiting discipline, punishment, or grade reduction of a student who opts out; establishing maximum percentage of instructional time for summative assessment,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4558, Relating to victim notification and designation of additional individuals to receive notice of an offender’s release,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 2494, Creating a provisional plea process in criminal cases,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4652, Relating to the creation of an intermediate contractor's license,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and to expand the prescriptive authority that may be granted to advanced practice registered nurses,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4201, Increasing the criminal penalties for participating in an animal fighting venture,

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

Com. Sub. H. B. 4201 - “A Bill to amend and reenact §61-8-19a and §61-8-19b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8-19c, all relating to increasing the criminal penalties for participating in an animal fighting venture; defining terms; making unlawful the selling, buying, owning, possessing, keeping, training, transporting, delivering, or receiving an animal with the intent that the animal engage in an animal fighting venture; making unlawful knowingly causing an individual under the age of eighteen to attend an animal fighting venture; providing that wagering at an animal fighting venture is a crime; making unlawful knowingly conducting, financing, managing, supervising, directing, leasing, or owning all or a part of a business or premises involving wagering on an animal fighting venture; providing for penalties; and providing penalties for second or subsequent violations,”

With the recommendation that the committee substitute do pass.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 4175, Relating generally to home schooling.

On motions of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page three, section one, line forty-seven, by striking out the word “at”.

On page three, section one, after line forty-eight, by inserting a new paragraph, designated paragraph (B), to read as follows:

“(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited

institution or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.”

And,

By relettering the remaining paragraphs.

On pages four and five, section one, lines seventy-three through eighty-two, by striking out all of subparagraph (iii) and inserting in lieu thereof a new subparagraph, designated subparagraph (iii), to read as follows:

“(iii) ~~The county superintendent is provided with a written narrative indicating that a~~ A portfolio of samples of the child’s work ~~has been~~ is reviewed ~~and that~~ by a certified teacher who determines whether the child’s academic progress for the year is in accordance with the child’s abilities. ~~If the narrative indicates that the child’s academic progress for the year is in accordance with the child’s abilities, the child is considered to have made acceptable progress. This narrative shall be prepared by a certified teacher whose certification number shall be provided. The narrative shall include a statement~~ The teacher shall provide a written narrative about the child’s progress in the areas of reading, language, mathematics, science and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child’s academic progress for the year is in accordance with the child’s abilities, the child is considered to have made acceptable progress; or”.

On page five, section one, line eighty-four, after the word “superintendent”, by changing the semicolon to a period.

On page five, section one, lines eighty-seven and eighty-eight, by striking out the words “as defined under the appropriate assessment option set forth in paragraph (B) of this subdivision”.

On page five, section one, lines ninety-three and ninety-four, by striking out the words “as defined under the appropriate assessment option set forth in paragraph (B) of this subdivision”.

And,

On page five, section one, line ninety-six, after the word “provided”, by changing the semicolon to a period and striking out the word “and”.

And,

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

Com. Sub. for H. B. 4175 - “A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended, relating generally to home schooling; clarifying that a child who is exempt from compulsory school attendance is not subject to prosecution for failure to attend school and is not a status offender; requiring superintendent to show probable cause when seeking order to deny home instruction; modifying who is to provide notice of intent to provide home instruction; changing notice of intent frequency from annually to a one time notification; removing requirement that notice of intent include the grade level of child; requiring notice of intent include certain assurances; requiring notice upon termination of home instruction for a child who is of compulsory attendance age or change in county of residence; removing requirement for notice of intent two weeks prior to withdrawal from school; modifying requirement that the person providing home instruction have a high school diploma or equivalent; removing requirement that person providing home instruction outline plan of instruction for ensuing year; replacing specific annual deadline for obtaining an academic assessment of the child with the requirement that the assessment be obtained annually; removing requirement to submit results of the assessment to superintendent annually; removing requirement for parent or legal guardian to pay assessment cost when given outside public school; allowing use of a nationally normed

standardized achievement test normed not more than ten years from the date of administration; removing requirement that the nationally normed standardized achievement test be administered under standardized conditions; requiring nationally normed standardized achievement test be administered by a person qualified in accordance with the test's published guidelines; permitting parent or legal guardian to administer nationally normed standardized achievement test; modifying criteria for determining acceptable progress under the nationally normed standardized achievement test academic assessment option; removing requirement to provide written narrative of portfolio assessment to superintendent annually; removing requirement to provide certification number of the certified teacher providing written narrative; removing requirement that criteria for acceptable progress be mutually agreed upon by certain parties under the alternative academic assessment of proficiency academic assessment option; requiring parent or legal guardian to keep academic assessments for three years; making requirement for county board to notify parent or legal guardian of services available to assist in the assessment of the child's eligibility for special education services applicable only upon request; and requiring parent or legal guardian to submit to superintendent results of required assessments at grade levels three, five, eight and eleven by certain date."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 154**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ambler, Cooper, D. Evans and Lynch.

Absent and Not Voting: Moffatt and Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4175) passed.

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

Resolutions Introduced

Delegates Lane, Hanshaw and Shaffer offered the following resolution, which was read by the Clerk as follows:

H. C. R. 88 - “Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 2800, Adding law-enforcement officers’ contact information and names of family members to the list of exemptions from public records requests.”

Resolved by the Legislature of West Virginia:

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three days for the express purpose of consideration of matters of disagreement between the two houses as to Com. Sub. for H. B. 2800.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. C. R. 88) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

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

Delegates Perdue, Boggs, Butler, Byrd, Eldridge, Fleischauer, Guthrie, Hicks, Manchin, Marcum, J. Nelson, Pushkin, Rodighiero, Skinner and Westfall offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 15 - “Designating March 2, 2016 as ‘Self Injury Awareness Day’.”

Whereas, Self-injury, also called self-harm, self-inflicted violence, or self-mutilation, is a coping mechanism used by an estimated 1% of the U.S. population; and

Whereas, Self-injury is seldom talked about and often misunderstood, leading to those who self-injure being treated unfairly or insensitively by police, doctors, therapists and emergency personnel; and

Whereas, Self-injurers, despite public perceptions, are generally not psychotic and present little danger to others; and

Whereas, Effective treatments for self-harm do exist, although many professionals may not be aware of them; and

Whereas, Raising professional and public awareness of the facts about self-injury will help dispel the fears, myths and taboos that surround the subject and that make it difficult for people who self-injure to obtain effective help; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby designates, March 2, 2016, as “Self Injury Awareness Day”, and hereby urges all citizens and professionals to increase their awareness of the truths about self-injury, thus allowing people who self-injure to receive fair and sensitive treatment; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Governor and the Secretary of the Department of Health and Human Resources.

Petitions

Delegate Rowan presented a petition signed by 663 people urging the Legislature to pass a bill to allow for the reinstatement of parental

rights after a child has been adopted in certain circumstances; which was referred to the Committee on the Judiciary.

Delegate Sobonya presented a petition signed by 8,000 residents of the state urging the return of school prayer; which was referred to the Committee on Education.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates McCuskey and Hanshaw:

H. B. 4675 - "A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11A of said code; to amend said code by adding thereto a new section, designated §3-5-6e; to amend and reenact §3-5-7 and §3-5-13 of said code; and to amend and reenact §3-10-3 and §3-10-8 of said code, all relating to requiring the election of prosecuting attorneys be on a nonpartisan basis; providing for the timing and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that, commencing with the election of 2020, elections for prosecuting attorney are to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing the procedures for the filling of vacancies in the offices of prosecuting attorney; and providing occasions for special elections to be held to fill vacancies"; to the Committee on the Judiciary.

By Delegates McCuskey and Hanshaw:

H. B. 4676 - "A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code, as amended; to amend said code by adding thereto a new section, designated §3-5-6e; to amend and reenact §3-5-7 and §3-5-13 of said code; to amend and reenact §3-10-3 and §3-10-8 of said code;

and to amend said code by adding thereto a new section, designated §3-10-8a, all relating to the nonpartisan election of prosecuting attorneys generally, requiring the election of prosecuting attorneys be on a nonpartisan basis; providing for the timing and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that elections for prosecuting attorneys are to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing the procedures for the filling of vacancies in the office of prosecuting attorney and providing occasions for special elections to be held to fill vacancies”; to the Committee on the Judiciary.

By Delegates Moffatt, J. Nelson, Phillips, Eldridge, Butler, Gearheart, Frich, Faircloth, Rodighiero, Azinger and McGeehan:

H. B. 4677 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17C-24-1, relating to authorizing business establishments and other entities required to provide accessible parking to provide parking spaces for Purple Heart recipients, under certain circumstances”; to the Committee on Government Organization.

By Delegate Sponaugle:

H. B. 4678 - “A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to penalties incurred from obstructing, fleeing from and making false statements to law-enforcement, probation and parole officers and interfering with emergency communications; and amending the penalties for several of the violations to make it clear that the convicted person may be fined and confined”; to the Committee on the Judiciary.

By Delegate Morgan:

H. B. 4679 - “A Bill to amend and reenact §11-15-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15A-2 of said code, all relating to increasing sales and use taxes by one percent”; to the Committee on Finance.

By Delegates Flanigan, McGeehan, Folk, Wagner, Sponaugle, Eldridge, Skinner, Hornbuckle, Storch and Ihle:

H. B. 4680 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to creating a medical exemption to criminal laws against marijuana use and possession”; to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Manchin, Miley, Morgan, Fleischauer, Reynolds, Caputo, Boggs, Perry, Perdue, Bates, Skinner and Sponaugle:

H. B. 4681 - “A Bill to amend and reenact §11-15-8 and §11-15-30 of the Code of West Virginia, 1931, as amended, all relating to taxing attorneys legal service fees as service taxes; and dedicating proceeds to the State Road Fund”; to the Committee on Roads and Transportation then Finance.

By Delegates Skinner, Manchin, Westfall, McCuskey, Pushkin, Fleischauer, Byrd, Miley, Caputo, Longstreth and Sponaugle:

H. B. 4682 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-16A-1, §11-16A-2, §11-16A-3 and §11-16A-4, all relating to the agriculture and tourism incentive act; defining applicability; providing a tax credit for capital expenditures; limiting local control and providing policies that must be followed in the event of a sale of the business”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegate Miley**[By Request of the Executive]:**

H. B. 4683 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §17H-1-1,

§17H-1-2, §17H-1-3, §17H-1-4, §17H-1-5, §17H-1-6, §17H-1-7, §17H-1-8, and §17H-1-9, all relating to the creation of the West Virginia Second Chance Driver's License Act; short title; defining terms; providing legislative findings and purpose; directing the director of the Division of Justice and Community Services to administer the program; setting eligibility requirements to become a program participant; requiring an accounting of all unpaid court costs; providing for development of a consolidated repayment schedule and monthly payment; requiring the Division of Justice and Community Services to collect and distribute unpaid court costs on a pro-rata basis; establishing a moratorium on the collection of unpaid court fees by a court or its designee while a participant is in good standing with the program; providing standards for proof of compliance of good standing with the program; requiring the Division of Motor Vehicles to stay a driver's license suspension with certain restrictions for a participant in good standing with the program; allowing the Division of Motor Vehicles to reinstate a suspension or revocation of a driver's license under certain conditions; creating requirements for notice certification; creating a new account in the state treasury; and providing legislative and emergency rulemaking authority"; to the Committee on the Judiciary then Finance.

By Delegates Hanshaw, Fleischauer, Rowe and McCuskey:

H. B. 4684 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6 and §5B-2I-7, all relating to authorizing local units of government to adopt local energy efficiency partnership programs and to create districts to promote the use of energy efficiency improvements by owners of certain real property; providing for the financing of the programs through voluntary property assessments, commercial lending, and other means; to authorize a local unit of government to issue bonds, notes, and other evidences of indebtedness and to pay the cost of energy efficiency improvements from the proceeds thereof; providing for the repayment of bonds, notes, and other evidences of indebtedness; to authorize certain fees; prescribing the powers and duties of certain governmental

officers and entities; and providing remedies”; to the Committee on Political Subdivisions then Finance.

By Delegates Ihle, Moffatt, Hamrick, R. Smith and Atkinson:

H. B. 4685 - “A Bill to amend and reenact §30-1-4a of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto four new sections, designated §30-1-21, §30-1-22, §30-1-23 and §30-1-24, all relating to professional and occupational board members; providing for the disqualification of lay members who become licensees; indemnification of board members; prohibiting impersonation of a board licensee; requiring boards use the sunrise process to expand their scope of practice; and requiring boards to submit names of qualified individuals to the Governor for possible appointment”; to the Committee on Government Organization.

By Delegates Butler, Waxman, Kelly, McGeehan, Frich, Faircloth, Azinger, Gearheart, Atkinson, R. Smith and J. Nelson:

H. B. 4686 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-1-5, relating to prohibiting the State Board of Education from adopting new Common Core academic content standards and from purchasing, authorizing, or encouraging the purchase of Common Core instructional materials until January 1, 2019”; to the Committee on Education.

By Delegates Sobonya, Miller, Rohrbach, Morgan, Hornbuckle, Espinosa, Hill, Waxman, Rowan, Hicks and Perdue:

H. B. 4687 - “A Bill to amend and reenact §3-2-8 of the Code of West Virginia, 1931, as amended, relating to registration programs by the clerk of the county commission; revising the requirements for voter registration programs in local high schools; specifying that eligible students shall be permitted to register at their school; requiring the Secretary of State to propose rules for legislative approval; clarifying how school records may be used to provide verification of registration information; and requiring the Secretary of State to publish related

information in a dedicated area of the official website”; to the Committee on Education then the Judiciary.

By Delegate Statler:

H. B. 4688 - “A Bill to amend and reenact §18-9A-12 of the Code of West Virginia, 1931, as amended, relating to basic state aid to public education; providing for an adjustment to the allocated state aid share to any county on account of, and in the amount of, payments or contributions in lieu of property tax distributed from the sheriff to the county board of education as a result of payment in lieu of tax agreements first entered into on or after July 1, 2016”; to the Committee on Education then Finance.

By Delegates Sobonya, Frich, Moffatt, Rohrbach, Miller, Walters, Householder, Cadle, Ihle and Espinosa:

H. B. 4689 - “A Bill amend and reenact §11-1C-11b of the Code of West Virginia, 1931, as amended, relating generally to the valuation of managed timberland and timberland that is not managed timberland for ad valorem property tax purposes; establishing a specific methodology for such valuations; providing remedies to persons aggrieved by the valuations and for compliance inspections, notice of revocation, appeals; and effective date”; to the Committee on Finance.

By Delegates Perry, Morgan, Hamrick, Moore, Hornbuckle, Moyer and Eldridge:

H. B. 4690 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-5-20, relating to providing a ten percent discount to West Virginia residents for lodging, camping and other recreational activities at state parks and forests”; to the Committee on Agriculture and Natural Resources then Finance.

By Delegates Manchin, Morgan, Fleischauer, Reynolds, Caputo, Boggs, Perry, Perdue, Bates, Skinner and Sponaugle:

H. B. 4691 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-4g,

relating to establishing two new tax brackets for personal income tax for persons making more than \$500,000 and \$1,000,000 each tax year”; to the Committee on Finance.

By Delegates Arvon, Stansbury, Atkinson, Ihle, Moffatt, Faircloth and R. Smith:

H. B. 4692 - “A Bill to amend and reenact §30-14-12 of the Code of West Virginia, 1931, as amended, relating to offenses and penalties for practicing osteopathic medicine without a license”; to the Committee on the Judiciary.

By Delegates Boggs and Westfall:

H. B. 4693 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-5-15, relating to establishing a recovery fee for the rental of heavy equipment property”; to the Committee on Finance.

By Delegate Rohrbach:

H. B. 4694 - “A Bill to amend and reenact §18A-2-1 of the Code of West Virginia, 1931, as amended, relating to permitting nonprofessional personnel to be hired as athletic coaches if there are no qualified professional personnel available; setting forth the conditions for employment; and providing for rule-making”; to the Committee on Education.

By Delegates Manchin, Morgan, Miley, Fleischauer, Reynolds, Boggs, Perry, Perdue, Bates, Skinner and Sponaugle:

H. B. 4695 - “A Bill to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to establishing a temporary maximum contribution rate to the Public Employees Insurance Agency for two fiscal years for certain employees and employers”; to the Committee on Banking and Insurance then Finance.

By Delegates Howell, Faircloth, Stansbury, R. Smith, Cadle, Arvon, Hartman, Hill, Atkinson and Ihle:

H. B. 4696 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-1D-1 and

§30-1D-2, all relating to creation of the unlicensed practice review board; providing requirements for membership on the board; providing that licensing boards shall submit complaints they receive to the board; requiring the board to conduct hearings to determine if probable cause exists to take action; providing for alternative actions the board may take in making various determinations; and, establishing the board's authority and scope"; to the Committee on Government Organization.

By Delegate Sobonya:

H. B. 4697 - "A Bill to amend and reenact §9-5-11 of the Code of West Virginia, 1931, as amended, relating to the right of the Department of Health and Human Resources to subrogation to a settlement by a recipient of assistance under the Medicaid Program for third-party liability; and providing that a settlement in the aggregate that does not exceed \$20,000 is exempt from the provisions of this section"; to the Committee on the Judiciary.

By Delegate Espinosa:

H. B. 4698 - "A Bill to amend and reenact §24-2-11 of the Code of West Virginia, 1931, as amended, relating to the information required to be included in support of an application to the Public Service Commission for a certificate of convenience and necessity for a water, sewer and/or storm water service project; forbidding the Public Service Commission from requiring final design materials to be submitted in support of an application for a certificate of convenience and necessity; directing an entity that has received a certificate of convenience and necessity to pursue a further rate increase through the normal rate changing process if an increase in rates is needed above the level approved by the Public Service Commission in granting a certificate of convenience and necessity for a project; prohibiting the Public Service Commission in rate proceedings from modifying on its own initiative the scope of a project to which a certificate of convenience and necessity was previously granted or rescinding a previously granted certificate of convenience and necessity if the rates expected to go in effect upon substantial completion of the project have

increased by less than fifteen percent”; to the Committee on Government Organization.

By Delegates Fast, Howell, Butler, Walters, Cadle, Foster, Lynch, Boggs, Guthrie, Trecoast and Shaffer:

H. B. 4699 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-13A-9b, relating to public service districts; laying of water or sewer lines on state rights-of-way; limitation on required supervision by a state engineer”; to the Committee on Government Organization.

By Delegate Walters:

H. B. 4700 - “A Bill to amend and reenact §50-1-9 of the Code of West Virginia, 1931, as amended, relating to clarifying the prohibition of a magistrate assistant being a member of the immediate family of a magistrate”; to the Committee on the Judiciary.

By Delegates Perdue, Hamilton, Hornbuckle, Pushkin, Morgan, Fleischauer, Rowe, Guthrie, Trecoast and Moore:

H. B. 4701 - “A Bill to amend and reenact §11-16-13 of the Code of West Virginia, 1931, as amended; to amend of said code by adding thereto a new section, designated §11-16-27a; to amend and reenact §60-3A-17 of said code; and to amend and reenact §60-8-4 of said code, all relating to providing funding of state programs through increased taxes on beer, wine and liquor; increasing the barrel tax on nonintoxicating beer; increasing the tax on purchases of liquor; increasing the liter tax for wine; and creating a Special Intoxicant Net Revenue Account”; to the Committee on Finance.

By Delegate E. Nelson:

H. B. 4702 - “A Bill to amend and reenact §7-18-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-23-6, §19-23-7, §19-23-10, §19-23-12b, §19-23-12c, §19-23-13, §19-23-13b and §19-23-13c of said code; to amend said code by adding thereto two new sections, designated §19-23-10a and §19-23-13d; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-8, §29-22A-9, §29-22A-10, §29-22A-10b,

§29-22A-10c, §29-22A-11 and §29-22A-12; to amend said code by adding thereto three new sections, designated §29-22A-10g, §29-22A-10h and §29-22A-20; to amend and reenact §29-22C-7, §29-22C-8, §29-22C-10, §29-22C-27 and §29-22C-29 of said code; to amend said code by adding thereto a new section, designated, §29-22C-27b; and to amend and reenact §60-7-12 of said code, all relating to eliminating the hotel-motel tax on complementary hotel rooms; transferring certain revenues derived from racetrack video lottery, and racetrack table games to the state Excess Lottery Revenue Fund; distributing certain revenues from the state Excess Lottery Revenue Fund to certain distributees; defunding the West Virginia Greyhound Breeding Development Fund and West Virginia Thoroughbred Development Fund and transferring money that would have gone to those funds to the state Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating prohibition of smoking in certain gaming establishments; providing for Racing Commission to approve number of racing days requested by racing association; eliminating racing day requirement to maintain video lottery license; eliminating prohibition of ATM's on casino floors; authorizing minors accompanied by an adult to cross gaming floor to access food service areas; eliminating recall elections for video lottery and racetrack table games and allowing video lottery licensees to serve alcoholic beverages during hours of operation"; to the Committee on the Judiciary then Finance.

By Delegates Perry, Rodighiero and Moye:

H. B. 4703 - "A Bill to amend and reenact §18A-4-8 and §18A-4-8a of the Code of West Virginia, 1931, as amended, all relating to reclassifying Early Childhood Classroom Assistant Teacher I, II and III positions as Aide V, Aide VI and Aide VII positions, respectively; defining terms; and providing that pay grades remain the same"; to the Committee on Education.

By Delegate Rohrbach:

H. B. 4704 - "A Bill to amend and reenact §16-29G-1 and §16-29G-4 of the Code of West Virginia, 1931, as amended; and to

amend said code by adding thereto four new sections, designated §16-29G-1a, §16-29G-2a, §16-29G-2b and §16-29G-2c, all relating to operating and maintaining a fully interoperable statewide network to facilitate public and private use of health care information in the state through the West Virginia Health Information Network or through an alternative method determined by the board of directors of the West Virginia Health Information Network and the West Virginia Health Care Authority, and approved by the Joint Committee on Government and Finance; and, authorizing the West Virginia Health Care Authority and the board of directors of the West Virginia Health Information Network to execute agreements, transfer assets and take other actions appropriate to implement an approved alternative method of operating and maintaining the network”; to the Committee on Health and Human Resources then Finance.

By Delegate Folk:

H. B. 4707 - “A Bill to amend and reenact §18B-1B-1 of the Code of West Virginia, 1931, as amended, relating to abolishing the West Virginia Higher Education Policy Commission; transferring all powers and duties of the commission relating to internal governance of institutions of higher education to the board of governors of the institutions; transferring all powers and duties of the commission to secure, provide, or administer financial support for educational or research purposes to the Cabinet Secretary for the Department of Education and the Arts; providing for the transfer and disposition of assets, property and records of the commission; and authorizing legislative and emergency rulemaking”; to the Committee on Education then Finance.

By Delegate Lane:

H. B. 4708 - “A Bill to amend and reenact §3-2-3, §3-2-4a and §3-2-23 of the Code of West Virginia, 1931, as amended, all relating to additional duties for the Secretary of State relating to voter registration”; to the Committee on the Judiciary.

By Delegates Moffatt, Faircloth, J. Nelson, Foster, Eldridge and Morgan:

H. B. 4709 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §6-9-13, relating to requiring the Auditor to train members of local instrumentalities of counties and municipalities in appropriate rules of order and the West Virginia Ethics Act; allowing additional training; and requiring participation by the members”; to the Committee on the Judiciary.

By Delegate Lane:

H. B. 4710 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-10a, relating to eliminating the West Virginia Greyhound Breeding Development Fund and transferring that money and future money that would have gone to that fund one-half to the Public Employees Insurance Agency and one-half to the Department of Health and Human Resources for the intellectual developmental disability waiver program”; to the Committee on Finance.

By Delegates Hill, Kessinger, Arvon, Upson and Blair:

H. B. 4711 - “A Bill to amend and reenact §52-1-8 of the Code of West Virginia, 1931, as amended, relating to allowing a mother breastfeeding a child to be excused from jury duty”; to the Committee on the Judiciary.

By Delegate Pushkin:

H. B. 4712 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated section §11-28-1; to amend and reenact §60-3A-6 of said code; to amend and reenact §60A-2-204 of said code; to amend and reenact §60A-4-401 and §60A-4-402 and §60A-4-407 of said code; to amend said code by adding thereto two new sections, designated §60A-4-414 and §60A-4-415, all relating to permitted use and possession of marihuana; decriminalizing and permitting personal use, growth and possession of certain amounts of marihuana by residents over the age of twenty-one under certain circumstances; removing marihuana from the list of

schedule I drugs; decriminalizing first offense distribution of under 30 grams of marihuana; continuing criminal penalties for sales and manufacture of marihuana; establishing new criminal penalties associated with possession of marihuana; providing that the tax department issue tax stamps for certain residents to lawfully possess up to two ounces of marihuana; providing that the tax commissioner promulgate rules; authorizing persons holding retail liquor licenses to sell tax stamps; establishing cost of and allocation for tax stamp proceeds; allowing for tax penalties for failure to pay for tax stamp; providing conditions for creation and distribution of stamp; and providing for a medical exemption to criminal laws against marihuana use or possession”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Bates, Ellington, Flanigan, Fleischauer and Campbell:

H. B. 4713 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §16-51-1, §16-51-2, §16-51-3 and §16-51-4; and to amend and reenact §60A-2-204 of said code, all relating to authorizing the medical use of cannabis based pharmaceutical products”; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Skinner, Guthrie, Moore, Fleischauer and Pushkin:

H. B. 4714 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5 and §15-9C-6, all relating to creating a board for review of officer-involved deaths”; to the Committee on the Judiciary then Finance.

By Delegates Hamrick and Folk:

H. B. 4715 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-30; and to amend said code by adding thereto a new section, designated §60-4-24, all relating to exempting commercial airlines from obtaining

licenses to serve liquor, beer or wine on flights”; to the Committee on the Judiciary.

By Delegates Miller and Sobonya:

H. B. 4716 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-12-30, relating to requiring community corrections performance measurement standards for agencies responsible for supervising individuals placed on probation, serving a period of parole or post-incarceration supervision after jail; defining terms; and requiring reports”; to the Committee on the Judiciary.

By Delegates Morgan and Sobonya:

H. B. 4717 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-4-11, relating to the sale of vehicles whose title is branded as total loss, salvage, or similar brand; requiring a record of all sales of such vehicles to be kept; requiring the Department of Transportation to contract for the development of a statewide database of such vehicle sales; authorizing the department to adopt rules to facilitate implementation of the database; requiring reports of the sale or purchase of such vehicles to be reported to the database; and creating a civil infraction fine for failure to report”; to the Committee on Government Organization.

By Delegates Fast and Perry:

H. B. 4718 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-6-7, relating to defining the term ‘minor boundary adjustment’”; to the Committee on Political Subdivisions then Government Organization.

By Delegates Moye, Hicks, Morgan, Perry and Ambler:

H. B. 4719 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-22, relating to allowing service personnel with NAPT certification eligibility for professional positions whose primary duties are the

supervision of a county transportation department”; to the Committee on Education.

By Delegates Perdue, Rodighiero, Fleischauer, Fluharty and Bates:

H. B. 4720 - “A Bill to amend and reenact §60-1-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60-3-26, all relating to prohibiting the sale and consumption of powdered alcohol; providing exceptions; and defining a term”; to the Committee on Health and Human Resources then the Judiciary.

By Delegate Moffatt:

H. B. 4721 - “A Bill to amend and reenact §21A-6-1a of the Code of West Virginia, 1931, as amended, relating to unemployment compensation; providing that individuals working in certain seasonal employment are not eligible for benefits”; to the Committee on the Judiciary.

By Delegate Lane:

H. B. 4722 - “A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-20A-100, §18-20A-101, §18-20A-102, §18-20A-103, §18-20A-104, §18-20A-105, §18-20A-201, §18-20A-202, §18-20A-203, §18-20A-301, §18-20A-302, §18-20A-303, §18-20A-304, §18-20A-401, §18-20A-402, §18-20A-403, §18-20A-404, §18-20A-500, §18-20A-501, §18-20A-502, §18-20A-503, §18-20A-504, §18-20A-505, §18-20A-506, §18-20A-600, §18-20A-601, §18-20A-602, §18-20A-603, §18-20A-604, §18-20A-700, §18-20A-701, §18-20A-702, §18-20A-703, §18-20A-801, §18-20A-802, §18-20A-803, §18-20A-804, §18-20A-901, §18-20A-902, §18-20A-903, §18-20A-1001, §18-20A-1002, §18-20A-1003, §18-20A-1004, §18-20A-1005, §18-20A-1006, §18-20A-1007, §18-20A-1008, §18-20A-1009, §18-20A-1010, §18-20A-1100, §18-20A-1101, §18-20A-1102, §18-20A-1103 and §18-20A-1104, all relating to

codification of the West Virginia Procedures Manual for the Education of Students with Exceptionalities”; to the Committee on Education then the Judiciary.

By Mr. Speaker (Mr. Armstead), and Delegates O’Neal and Espinosa:

H. B. 4723 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7d, relating to creating a program of instruction for students in workforce preparedness to be added to the curriculum of courses in secondary schools”; to the Committee on Education.

Special Calendar

Unfinished Business

The following resolutions coming up in regular order as unfinished business were reported by the Clerk and adopted:

S. C. R. 5, Coach Bill Stewart Exit,

Com. Sub. for S. C. R. 20, U.S. Army CPL Troy Matthews Memorial Bridge,

Com. Sub. for H. C. R. 5, U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge,

Com. Sub. for H. C. R. 7, U.S. Army PFC Cecil Ray Ball Memorial Bridge,

Com. Sub. for H. C. R. 10, U.S. Marine Corps GySgt Lionel Collins Memorial Road,

Com. Sub. for H. C. R. 15, U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge,

Com. Sub. for H. C. R. 17, SGT Larry Joseph Whitt Bridge,

Com. Sub. for H. C. R. 18, U.S. Air Force Staff Sergeant William Henry ‘Bill’ Whitman Memorial Highway,

H. C. R. 41, U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge,

H. C. R. 60, Requesting Joint Committee on Government and Finance study the state-level background check process for new employees and volunteers of caregiving businesses and facilities,

And,

H. C. R. 68, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium and Heavy Duty Engines and Vehicles Phase 2.

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

Third Reading

Com. Sub. for S. B. 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 155**), and there were—yeas 87, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, Fleischauer, Fluharty, Hicks, Hornbuckle, Lynch, Manchin, Perdue, Pushkin, Rodighiero, Shaffer and Walters.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 7) passed.

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

Com. Sub. for S. B. 7 - “A Bill to amend and reenact §55-7-13d of the Code of West Virginia, 1931, as amended; and to amend and

reenact §55-7B-5 of said code, all relating to comparative fault; providing one hundred eighty days after service of process for defendant to give notice of nonparties wholly or partially at fault; providing that a plaintiff's recovery only be reduced in proportion to the percentage of fault assigned to settling parties or nonparties and not the amount of any settlement taking place before the verdict; providing when plaintiff's criminal conduct bars recovery; prohibiting recovery in civil actions when damages are suffered as a result of the commission, attempted commission, or immediate flight from the commission or attempted commission of a felony; requiring commission, attempted commission, or immediate flight from the commission or attempted commission of a felony be proximate cause of injury; providing that the burden of proof for establishing a criminal conduct defense is upon the person asserting such defense; providing that a court shall dismiss an action upon determination that, as a matter of law, the felonious conduct upon which there was a conviction, guilty plea or plea of no contest was a proximate cause of injury; defining damages; providing for stay of civil action in which criminal conduct defense is asserted during pendency, including appeals, of criminal action; establishing that the 2016 amendments apply to all causes of action accruing on or after the effective date of those amendments; prohibiting civil action under Medical Professional Liability Act related to prescription or dispensation of controlled substances when person's damages are a proximate result of the commission of a felony, a violent crime that is a misdemeanor, or violation of any law related to controlled substances; providing exception if health care provider that prescribes or dispenses controlled substances in violation of law proximately causing injury."

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

S. B. 387, Shared animal ownership agreements to consume raw milk; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 156**), and there were—yeas 88, nays 11, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Ferro, Fleischauer, Hornbuckle, Longstreth, Manchin, Morgan, Perdue, Pethtel, Rowe and Westfall.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 387) passed.

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

Com. Sub. for H. B. 2795, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 157**), and there were—yeas 78, nays 21, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Eldridge, Fleischauer, Fluharty, Guthrie, Hicks, Hornbuckle, Lynch, Manchin, Marcum, Miley, Perdue, Perry, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Upson, Walters and P. White.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2795) passed.

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

Com. Sub. for H. B. 4001, Relating to candidates or candidate committees for legislative office disclosing contributions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 158**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Folk, Ihle and McGeehan.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4001) passed.

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

Com. Sub. for H. B. 4360, Increasing the criminal penalty for the unlawful practice of law; on third reading, coming up in regular order, was read a third time.

Delegate J. Nelson requested to be excused from voting on the passage of Com. Sub. for H. B. 4360 under the provisions of House Rule 49.

The Speaker replied that any impact on Delegate J. Nelson would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 159**), and there were—yeas 68, nays 31, absent

and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Blair, Cadle, Deem, A. Evans, Faircloth, Folk, Hamilton, Hill, Hornbuckle, Householder, Howell, Ihle, Kelly, Lynch, McGeehan, Miller, Moffatt, Morgan, Moye, J. Nelson, Perdue, R. Phillips, Pushkin, Rodighiero, Romine, R. Smith, Sobonya, Statler, Upson and Wagner.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4360) passed.

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

Com. Sub. for H. B. 4383, Making individuals responsible for the costs relating to the filing of excessive false complaints; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 160**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4383) passed.

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

Com. Sub. for H. B. 4388, Relating to stroke centers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 161**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Moore and E. Nelson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4388) passed.

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

H. B. 4470, Expanding newborn testing to include Adrenoleukodystrophy; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 162**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4470) passed.

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

H. B. 4489, Relating generally to human trafficking; on third reading, coming up in regular order, was read a third time.

Unanimous consent having been obtained, Delegate Shaffer was added as a cosponsor of H. B. 4489.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 163**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4489) passed.

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

Com. Sub. for H. B. 4606, Relating to the recusal of certain public officials from voting for appropriation of moneys to nonprofit entities; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the rule was suspended to permit the offering and consideration of separate amendments by Delegates Caputo and Shott on third reading.

An amendment, offered by Delegate Caputo, was reported by the Clerk on page seven, section five, line one hundred fifty-six, by striking out the period, inserting a colon and the following:

“*Provided*, That this prohibition does not apply to class IV municipalities as established pursuant to section three, article one, chapter eight of this chapter.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 164**), and there were—yeas 58, nays 40, absent and not voting 2, with the yeas and absent and not voting being as follows:

Nays: Ambler, Anderson, Arvon, Blair, Border, Cadle, Canterbury, Cooper, Cowles, Deem, Duke, Ellington, Espinosa, A. Evans, Fast,

Foster, Gearheart, Hamrick, Hill, Householder, Howell, Kessinger, Lane, McCuskey, Miller, O’Neal, Overington, Romine, Rowe, Shott, Sobonya, Stansbury, Storch, Trecoast, Upson, Walters, Waxman, Westfall, B. White and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Kelly and Moore.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

On motion of Delegate Shott, the bill was amended on page eight, section five, line one hundred seventy-seven, following the word “subsection”, by replacing the period with a colon and inserting the following proviso:

“Provided, That if the contract exemption request relates to the prohibition in subdivision (2), then the Ethics Commission may grant an exemption if there is a lack of qualified candidates that have run for the election of mayor or a position on the municipal council or that apply for appointment to such a council or mayoral position.”

There being no further amendments, and having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 165**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Howell and Ihle.

Absent and Not Voting: Kelly and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4606) passed.

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

Com. Sub. for H. B. 4606 - “A Bill to amend and reenact §6B-2-5 of the Code of West Virginia, 1931, as amended, relating to prohibited interests in public contracts and appropriations of monies under the Ethics Act; prohibiting elected or appointed mayors of a municipality or members of a municipality’s governing body or council from being employed by the municipality in which they serve; and requiring public officials, except members of the Legislature, to recuse themselves from voting on the appropriation of moneys or award of contract to a nonprofit corporation if the public official or an immediate family member is employed by or an officer or board member of the nonprofit, whether compensated or not.”

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

Second Reading

S. B. 341, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 351, Dedicating severance tax proceeds; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 419, Relating to termination of Workers’ Compensation Debt Reduction Act; on second reading, coming up in regular order, was reported by the Clerk.

Delegate Cowles asked unanimous consent that the bill be advanced to third reading with amendments pending, which consent was not given, objection by Delegate Caputo being heard.

On motion of Delegate Cowles, the bill was then postponed one day.

S. B. 449, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 450, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 451, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 462, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2823, Eliminating the street and interurban and electric railways tax; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2897, Young Entrepreneur Reinvestment Act; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4315, Relating to air-ambulance fees for emergency treatment or air transportation; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

First Reading

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

Com. Sub. for H. B. 2202, Relating to more equitable disbursement of funds to county boards,

Com. Sub. for H. B. 4009, Letting Our Counties Act Locally Act,

Com. Sub. for H. B. 4171, Relating to the public school calendar,

Com. Sub. for H. B. 4295, Relating to the School Innovation Zones Act,

Com. Sub. for H. B. 4365, Relating to the certificate of need process,

H. B. 4465, Relating to salary equity among school systems,

H. B. 4572, Excepting specialized contract instructors from the definition of teacher,

H. B. 4594, Relating to predoctoral psychology internship qualifications,

Com. Sub. for H. B. 4612, Relating generally to tax increment financing and economic opportunity development districts,

H. B. 4617, Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program,

H. B. 4651, Relating to professional examination requirements for hearing-aid dealers and fitters,

H. B. 4656, Granting the Finance Division within the Department of Administration supervisory control over the Board of Accountancy,

H. B. 4674, Relating to motor vehicle back-up lamps,

And,

H. B. 4705, Relating to adding an additional type of West Virginia source income of nonresident individual.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Moore.

Remarks by Members

Delegate Lane asked and obtained unanimous consent that the remarks of Delegate J. Nelson regarding military discipline be printed in the Appendix to the Journal.

At 1:55 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 6:00 p.m.

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Evening Session

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Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 88, Extending the Conference Committee relating to H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, to take effect July 1, 2016, of

Com. Sub. for S. B. 146, Establishing instruction standards for early childhood education.

On motions of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page six, section forty-four, by striking out all of subsection (n).

On page eight, section forty-four, by striking out all of subsection (s) and relettering the remaining subsections.

And,

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

Com. Sub. for S. B. 146 - “A Bill to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to early childhood education programs; replacing days per week requirement for early childhood education programs with instructional minutes per week and instructional minutes per year requirements; modifying authority of parent to withdraw child from early childhood education program; and removing certain early childhood education program-related reporting requirements.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 166**), and there were—yeas 78, nays none, absent and not voting 22, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Byrd, Deem, A. Evans, Ferro, Flanigan, Hamilton, Hartman, Hicks, Hornbuckle, Kelly, Kessinger, Lane, Marcum, Moore, Morgan, E. Nelson, Reynolds, Romine, Storch, Walters and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 146) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 167**), and there were—yeas 78, nays none, absent and not voting 22, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Byrd, Deem, A. Evans, Ferro, Flanigan, Hamilton, Hartman, Hicks, Hornbuckle, Kelly, Kessinger, Lane, Marcum, Moore, Morgan, E. Nelson, Reynolds, Romine, Storch, Walters and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 146) takes effect July 1, 2016.

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect April 1, 2016, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 420 - “A Bill to amend and reenact §11-17-3 and §11-17-4 the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-17-4b, all relating to increasing tax rate on cigarettes and tobacco products; dedicating one million dollars to tobacco cessation programs; dedicating a portion of proceeds to Public Employees Insurance Agency; requiring physical inventory of tax stamps and tobacco products and e-cigarette liquids upon the effective date of tax imposition or tax rate increase; applying tax rate changes to inventories; requiring a report of such inventory be filed sixty days after the effective date of the tax imposition or tax rate change; levying the excise tax on e-cigarette liquid; defining terms; providing for administration of the tax on e-cigarette liquid; specifying penalty for failure to file required reports; specifying criminal sanctions; and specifying effective date”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 485 - “A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10 and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4 and §20-15-5 of said code, all relating to establishing regional recreation authorities and areas; establishing trails for off-highway recreational vehicle use; providing for reimbursement by authority for natural resources police officers or county sheriffs; authorizing creation of regional recreation authority as joint development entity formed by three or more contiguous counties; setting forth findings and definitions; establishing powers and composition of governing board; providing for financial review and oversight of public funds; prohibiting certain conduct in regional recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; limiting liability; clarifying duties and responsibilities of participants to landowners and lessors in the regional recreation area; and establishing criminal penalties and civil remedies”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 508 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating generally to civil claims for private nuisance; establishing pre-suit notice and other requirements to bringing a civil claim for private nuisance; tolling the statute of limitations on private nuisance claims for sixty-one days after the required pre-suit notice is provided; establishing and defining a ‘permit

shield' defense to claims for private nuisance; outlining the elements to that defense; providing for exceptions to that defense; and requiring an ownership or possessory interest to assert a claim for private nuisance"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 565 - "A Bill to amend and reenact §22-6A-7 of the Code of West Virginia, 1931, as amended, relating to allowing well pad and road construction for oil and gas activities that are done pursuant to a storm water permit; clarifying that the requirements of the section apply only to well work permits and not storm water permits; and providing notice to property owners"; which was referred to the Committee on Energy then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 591 - "A Bill to amend and reenact §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, all relating to voter registration list maintenance and Combined Voter Registration and Driver Licensing Fund; authorizing Secretary of State to enter into agreement with Division of Motor Vehicles for Division of Motor Vehicles to provide certain information; setting forth information to be provided by Division of Motor Vehicles; permitting Secretary of State to use information for voter registration list maintenance comparison through interstate data-sharing agreement as designated by Secretary of State; identifying additional permissible uses of funds in Combined Voter Registration and Driver Licensing Fund; and providing for periodic transfer of funds from that fund to Supreme Court of Appeals Public Campaign Financing Fund under certain circumstances"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

S. C. R. 10 - “Urging Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress.”

Whereas, Article IV, Section 4 of the Constitution of the United States guarantees to every state a republican form of government which gives each state equal standing when calling for an amendments convention. Article V of the Constitution of the United States reserves to the several states the right to call for a convention for the purpose of amending the United States Constitution when Congress or the courts or both Congress and the courts refuse to address an egregious wrong suffered by the people; and

Whereas, The states alone have the authority to “limit” the agenda and authority of a convention. The states alone can call for a “Single Issue” convention by agreeing among themselves the purpose, terms, conditions, duration and agenda for the convention. Congress does not have the authority to define a “Single Issue” convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a convention as called for and defined by the several states; and

Whereas, The founders of our constitution empowered state legislators to be guardians of liberty against future abuses of power by the federal government which has created a crushing national debt through improper and imprudent spending; and

Whereas, The federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, It is the solemn duty of the states to protect the liberty of our people—particularly for the generations to come—by proposing amendments to the Constitution of the United States through a Convention of the States under Article V for the purpose of restraining these and related abuses of power; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress; and, be it

Further Resolved, That the State of West Virginia hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress and absolutely no other business will be authorized at this convention; and, be it

Further Resolved, That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two thirds of the several states have made applications on the same subject; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution and application to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of West Virginia's congressional delegation and to the presiding officers of each of the legislative houses in the several states requesting their cooperation.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 33 - "Requesting the West Virginia Infrastructure and Jobs Development Council (IJDC) to study and report on the issue of consolidation, regarding public water and sewer utilities."

Whereas, The Legislature is concerned that over five hundred municipal and public service district water and sewer utilities are providing service to customers. The capital cost associated with the repair or replacement of existing infrastructure that serves current customers and the construction of upgrades to existing facilities or new facilities to serve new customers is far greater than available public funding sources and the ability of the utilities to raise money from existing rate-payers; and

Whereas, In its 1994 regular session, the Legislature created the West Virginia Infrastructure and Jobs Development Council in article fifteen-a, chapter thirty-one of the Code of West Virginia, 1931, as amended. Among other things, section four of the 1994 legislation requires the IJDC to develop guidelines for evaluating requests by project sponsors for funding assistance that include "the degree to which the project or infrastructure project encourages effective and efficient consolidation of water or sewage treatment systems consistent

with the comprehensive plan developed pursuant to section six of the legislation.” Section six of the 1994 legislation contains subsection (c) which states that “the council shall study the viability of the consolidation of public service districts throughout the state” and report their findings and conclusions on or before January 16, 1995, to the Governor, Speaker of the House and President of the Senate; and

Whereas, Section six (b) of the 1994 act requires an assessment of water and sewer infrastructure to be filed by IJDC every three years which includes, among other things, an assessment to identify “obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendations as the council considers appropriate regarding the obstacles, issues or problems identified.” In reviewing proposed projects, the IJDC consolidation committee, upon the request of another IJDC committee or the council itself, will review the project and determine the potential for consolidation; and

Whereas, The Legislature believes that potential economies of scale and efficiencies in providing public water and sewer service could be realized through consolidation, regional planning and cooperation between municipal and county governments; therefore, be it

Resolved by the Legislature of West Virginia:

That the West Virginia Infrastructure and Jobs Development Council study and report on the issue of consolidation, regarding public water and sewer utilities; and, be it

Further Resolved, That the Legislature hereby requests that the IJDC refer every proposed public water and sewer project to its consolidation committee to consider the issues related to potential consolidation or other measures that could result in efficiencies and more productive use of public moneys for new treatment facilities or

replacement of facilities, or major expansion of service, or any proposed within close proximity to other existing treatment, collection, and/or distribution facilities; and, be it

Further Resolved, That the IJDC submit a report to the Legislature at the beginning of its 2017 regular session that identifies the potential for consolidation; the IJDC's treatment of that issue through its funding decisions; the problems that exist with the issue, including barriers that may impede cooperation between municipalities and public service districts in obtaining the desired result of providing quality water and sewer service to the residents of West Virginia at the lowest possible cost.

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

Committee Reports

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

Your Committee on Finance has had under consideration:

H. B. 4433, Allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees,

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

Com. Sub. for H. B. 4433 - "A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees receiving pensions from defined-benefit pension plans that have been terminated with a consequent reduced benefit and extending the effective period of the allowed adjustment,"

H. B. 4487, Relating to state retirement systems,

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

Com. Sub. for H. B. 4487 - “A Bill to amend and reenact §5-10-2 and §5-10-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7A-17a of said code, all relating to state retirement systems; defining compensation and employee for the Public Employees Retirement System; requiring payment of reinstatement interest in the Public Employees Retirement System in certain circumstances; authorizing purchase of retroactive service credit under certain circumstances and with certain restrictions; and providing that failure of employee to pay the Teachers Retirement System according to a contract to purchase military service credit is to be treated as an overpayment or excess contribution pursuant to the article,”

And,

H. B. 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System,

Com. Sub. for H. B. 4519 - “A Bill to amend and reenact §8-22A-2, §8-22A-6 and §8-22A-32 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §8-22A-33, all relating to authorizing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System; providing definitions; authorizing certain municipal police officers and firefighters to become members of the retirement system under certain circumstances and with certain restrictions; and providing limitations and requirements for municipalities or municipal subdivisions to elect to participate in the retirement system.”

With the recommendation that the committee substitutes each do pass.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 23rd day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 4148), Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act,

(Com. Sub. for H. B. 4158), Making a supplementary appropriation to the Department of Commerce, WorkForce West Virginia – Workforce Investment Act,

(Com. Sub. for H. B. 4244), Eliminating the need for a public hearing when no objection is filed on an application from an out of state state-chartered credit union to establish a branch in West Virginia,

And,

(Com. Sub. for H. B. 4245), Requiring the cashier or executive officer of a banking institution to provide shareholders with the institution's most recent year-end audited financial statement.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4358, Relating to out of state physicians and surgeons traveling with sports teams within this state,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4607, Adding violations of law upon which a public servant's retirement plan may be forfeited,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4607 - "A Bill to amend and reenact §5-10A-2 of the Code of West Virginia, 1931, as amended, relating to adding violations of law upon which a public servant's retirement plan may be forfeited; changing the definition of less than honorable service; removing the exception of a misdemeanor from the definition of less than honorable service relating to impeachment and conviction of a participant or former participant under the Constitution; removing the exception for certain lesser included crimes to constitute less than honorable service; and adding additional violations of law which constitute less than honorable service,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4636, Increasing the penalties for violating the Whistle-blower Law,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4636 - "A Bill to amend and reenact §6C-1-6 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for violating the Whistle-blower Law; increasing the civil fine; removing the authority of the court to suspend a person from public service; authorizing discipline by the person's employer upon

a finding of violation by the court; and authorizing termination from employment as a potential discipline.”

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 10, Creating Unborn Child Protection from Dismemberment Abortion Act,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 10) was referred to the Committee on the Judiciary.

Miscellaneous Business

Delegate Frich filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 4575.

Delegate Hamrick filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. C. R. 80.

Delegate Hamrick filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 4690.

Delegate Overington filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 4300.

At 6:15 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, February 24, 2016.

WEDNESDAY, FEBRUARY 24, 2016

FORTY-THIRD DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, February 23, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4435, Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4435) was referred to the Committee on Finance.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. B. 4668, Raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4668) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 68, Disallowing Health Care Authority to conduct rate review and set rates for hospitals,

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

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4486, Disallowing Health Care Authority to conduct rate review and set rates for hospitals,

And,

H. B. 4659, Authorizing local health departments to bill health insurance plans for services,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4486 and H. B. 4659) were each referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4409, Requiring in-service training programs in the use of the Heimlich maneuver and response to choking emergencies for all school personnel in pre-kindergarten, kindergarten and elementary schools,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4409) was referred to the Committee on Education.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4545, Relating to regulation of pharmacy benefits managers,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4545) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4411, Relating to penalty for illegally taking native brook trout,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4330, Relating to make unlawful to take a fish, water animal or other aquatic organism from state waters to stock a commercial pond or lake,

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

Com. Sub. for H. B. 4330 - "A Bill to amend and reenact §20-2-64 of the Code of West Virginia, 1931, as amended, relating to making it unlawful to take, give or receive, or agree to take, give or receive, any fish, water animal or other aquatic organism from state waters to stock a commercial fishing preserve or other privately owned pond for commercial purposes,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4339, Relating to wildlife resources,

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

Com. Sub. for H. B. 4339 - “A Bill to amend and reenact §20-2-4 of the Code of West Virginia, 1931, as amended, relating to wildlife resources; requiring the Director of the Division of Natural Resources, in connection with rulemaking concerning electronic registration of wildlife, to provide a procedure for persons who are not required to obtain licenses or permits to register wildlife using identification other than a social security number,”

With the recommendation that the committee substitute do pass.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred H. B. 4315, H. B. 4465 and H. B. 4656, on Second Reading, Special Calendar, to the House Calendar.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 4145, Relating to carry or use of a handgun or deadly weapon.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendment was reported by the Clerk:

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

“That §20-2-6a of the Code of West Virginia, 1931, as amended, be repealed; that §61-7-3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §61-7-4a, §61-7-15a and §61-7-17, all to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.**§61-7-3. Carrying a deadly weapon without provisional license or other authorization by persons under twenty-one years of age; penalties.**

(a) Any person under twenty-one years of age and not otherwise prohibited from possessing firearms under section seven of this article who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in ~~the county~~ jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in ~~the penitentiary~~ a state correctional facility not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.

(b) ~~It shall be the duty of the~~ The prosecuting attorney in all cases ~~to shall~~ ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it ~~shall be~~ is a second or subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and ~~shall~~ may not be permitted to use discretion in introducing evidence to prove the same on the trial.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in subsection (h) of this section, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons ~~permits~~ license may only be issued for

pistols ~~or~~ and revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older; ~~Provided, That any individual who is less than twenty-one years of age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty-one years of age: Provided, however, That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty-one years of age, then the individual issued the license is no longer eligible and must return his or her license to the issuing sheriff;~~

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by

either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this section in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery either under ~~the provisions of~~ section twenty-eight, article two of this chapter or ~~the provisions of~~ subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of section seven of this article or federal law, including 18 U. S. C. §922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U. S. C. §922(g) or (n).

(c) Sixty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The

fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: Provided, That the completed course includes the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States military, reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States military, reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the

successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature and NRA or state instructor identification number, if applicable.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under ~~the provisions of~~ section two, article five, chapter sixty-one of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty-five days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within thirty days of receipt. The license is valid for five years throughout the state, unless sooner revoked.

(h) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all fifty-five counties in size, appearance and information and shall feature a photograph of the licensee.

(i) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed ~~handgun~~ weapon license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed ~~deadly~~ weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the

licensee, within twenty days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding ~~the provisions of~~ subsection (a) of this section, with respect to application by a former law-enforcement officer honorably retired from agencies governed by article fourteen, chapter seven of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this code; and article seven, chapter twenty of this code, an honorably retired officer is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this ~~shall be~~ section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals or any other information that would identify an applicant for or holder of a concealed weapon ~~permit~~ license, is confidential: *Provided*, That ~~such~~ this information may be disclosed to a law-enforcement agency or

officer: (i) To determine the validity of a permit license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(r) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon permit license issued in accordance with the provisions of this section authorizes the holder of the permit license to carry a concealed pistol or revolver on the lands or waters of this state.

§61-7-4a. Provisional license to carry deadly weapons; how obtained.

(a) Any person who is at least eighteen years of age and less than twenty-one years of age who desires to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for a provisional license, and pay to the sheriff, at the time of application, a fee of \$25, of which \$5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Provisional licenses may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide resident of this state and of the county in which the

application is made and has a valid driver's license or other state issued photo identification showing the residence;

(3) That the applicant is at least eighteen years of age and less than twenty-one years of age;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside, or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this section within five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery under either section twenty-eight, article two of this chapter or subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction, or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under section seven of this article or federal law, including 18 U. S. C. §922(g) or (n), from receiving, possessing or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon;

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For provisional license applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index, and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A provisional license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available does not indicate that receipt of or possession of a firearm by the applicant would be in violation of the provisions of

section seven of this article or federal law, including 18 U. S. C. §922(g) or (n).

(c) Twenty dollars of the application fee and any fees for replacement of lost or stolen provisional licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in said fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons provisional licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a provisional license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course included the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college, or private or public institution, or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any proof of current or former service in the United States armed forces, armed forces reserves or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant, or a copy of any document which shows successful completion of the course or class, is evidence of qualification under this section. Certificates, affidavits or other documents submitted to show completion of a course or class shall include instructor information and proof of instructor certification, including, if applicable, the instructor's NRA instructor certification number.

(e) All provisional license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under section two, article five of this chapter.

(f) The sheriff shall issue a provisional license unless the sheriff determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within forty-five days after the application is filed once all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$15 which the sheriff shall forward to the Superintendent of the West Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee turns twenty-one years of age, unless sooner revoked.

(h) Each provisional license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all provisional license cards. The sheriff shall provide to each new licensee a duplicate license card, in size

similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. Duplicate license cards issued shall be uniform across all fifty-five counties in size, appearance and information and must feature a photograph of the licensee. The provisional license shall be readily distinguishable from a license issued pursuant to section four of this article and shall state: 'NOT NICS EXEMPT. This license confers the same rights and privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license issued pursuant to section four, article seven, chapter sixty-one of this code, except that this license does not satisfy the requirements of 18 U. S. C. §922(t)(3). A NICS check must be performed prior to purchase of a firearm from a federally licensed firearm dealer.'

(i) The Superintendent of the West Virginia State Police, in coordination with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for provisional licenses and license cards showing that the license has been granted and shall perform any other act required to protect the state and to enforce of section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a provisional license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a provisional license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled

to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a provisional license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a provisional concealed weapon license moves from the address named in the application to another county within the state, the license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new county has determined that the person is no longer eligible for a provisional concealed weapon license under this article, and the sheriff shall issue a new provisional license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the provisional license is granted, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police, at any time so requested, a certified list of all provisional licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued provisional concealed weapon licenses.

(n) The sheriff shall deny any application or revoke any existing provisional license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon provisional license does

not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon provisional license, is confidential: *Provided*, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a provisional license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(q) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a provisional concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.

§61-7-6. Exceptions as to prohibitions against carrying concealed handguns for persons at least eighteen years of age and fewer than twenty-one years of age; exemptions from licensing fees.

(a) ~~The licensure provisions set forth in section three of this article do not apply to any person at least eighteen years of age and fewer than twenty-one years of age who is:~~

~~(1) Any person:~~

~~(A)(1) Carrying a deadly weapon upon his or her own premises;~~

~~(B)(2) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or~~

~~(C)~~(3) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

~~(2)~~(4) ~~Any person who is a~~ A member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

~~(3)~~(5) ~~Any~~ A law-enforcement officer or law-enforcement official or chief executive as defined in section one, article twenty-nine, chapter thirty of this code;

~~(4)~~(6) ~~Any~~ An employee of the West Virginia Division of Corrections duly appointed pursuant to ~~the provisions of~~ section eleven-c, article one, chapter twenty-five of this code while the employee is on duty;

~~(5)~~(7) ~~Any~~ A member of the ~~armed forces of the United States or the militia of this state while the member is on duty~~ armed forces, reserve or National Guard;

~~(6)~~(8) ~~Any~~ A resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in section six-a of this article;

~~(7)~~(9) ~~Any~~ A federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and

~~(8)~~(10) ~~Any~~ A parole officer appointed pursuant to section fourteen, article twelve, chapter sixtytwo of this code in the performance of ~~their~~ his or her duties.

(b) ~~On and after July 1, 2013, the~~ The following judicial officers and prosecutors and staff ~~shall be exempted~~ are exempt from paying any application fees or licensure fees required under this article. However, ~~on and after that same date, they shall be required to make application and satisfy all licensure and handgun safety and training requirements~~ to obtain a license as set forth in section four of this article before carrying a concealed handgun in this state:

(1) Any justice of the Supreme Court of Appeals of West Virginia;

(2) Any circuit judge;

(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;

(4) Any family court judge;

(5) Any magistrate;

(6) Any prosecuting attorney;

(7) Any assistant prosecuting attorney; or

(8) Any duly appointed investigator employed by a prosecuting attorney.

§61-7-7. Persons prohibited from possessing firearms; classifications; right of nonprohibited persons over twenty-one years of age to carry concealed deadly weapons; offenses and penalties; reinstatement of rights to possess; offenses; penalties.

(a) Except as provided in this section, no person shall possess a firearm, as such is defined in section two of this article, who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is habitually addicted to alcohol;

(3) Is an unlawful user of or habitually addicted to any controlled substance;

(4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of chapter twenty-seven of this code or in similar law of another jurisdiction: *Provided*, That once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession: *Provided, however*, That the mental hygiene commissioner or circuit judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

(A) Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

(B) Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or (c), section nine of said article or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

Any person who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in the county jail for not less than ninety days nor more than one year, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this state or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this state or any other jurisdiction of a felony controlled substance offense involving a Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in sections two hundred four, two hundred five and two hundred six, article two, chapter sixty-a of this code and who possesses a firearm as such is defined in section two of this article shall be guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than five years or fined not more than \$5,000, or both. The provisions

of subsection ~~(e)~~ (f) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(c) Any person may carry a concealed deadly weapon without a license therefor who is:

(1) At least twenty-one years of age;

(2) A United States citizen or legal resident thereof;

(3) Not prohibited from possessing a firearm under the provisions of this section; and

(4) Not prohibited from possessing a firearm under the provisions of 18 U. S. C. §922(g) or (n).

(d) As a separate and additional offense to the offense provided for in subsection (a) of this section, and in addition to any other offenses outlined in this code, and except as provided by subsection (e) of this section, any person prohibited by subsection (a) of this section from possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than three years or fined not more than \$5,000, or both.

(e) As a separate and additional offense to the offense described in subsection (b) of this section, and in addition to any other offenses outlined in this code, any person prohibited by subsection (b) of this section from possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than ten years or fined not more than \$10,000, or both.

~~(e)~~(f) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing

evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: *Provided*, That a person prohibited from possessing a firearm by the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability to possess a firearm in accordance with the provisions of section five, article seven-a of this chapter.

~~(d)~~(g) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that subsections (b), (g) and (h) of this section are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section twenty-two, article three of the Constitution of the State of West Virginia.

(b) (1) It is unlawful for a person to possess a firearm or other deadly weapon on a school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public or private primary or secondary education building, structure, facility or grounds

including a vocational education building, structure, facility or grounds where secondary vocational education programs are conducted or at a school-sponsored function, or in or on a private primary or secondary education building, structure or facility: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon on or in a private primary or secondary education building, structure or facility when such institution has adopted written policies allowing for possession of firearms on or in the institution's buildings, structures or facilities.

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to section five, article twelve, chapter sixty-two or chapter forty-nine of this code in the performance of his or her duties;

~~(B)~~(C) A retired law-enforcement officer who:

(i) Is employed by a state, county or municipal law-enforcement agency;

(ii) Is covered for liability purposes by his or her employer;

(iii) Is authorized by a county board of education and the school principal to serve as security for a school;

(iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U. S. C. §926C(c); and

(v) Meets all of the requirements for handling and using a firearm established by his or her employer, and has qualified with his or her firearm to those requirements;

~~(C)~~(D) A person specifically authorized by the board of Education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(D)~~(E) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(E)~~(F) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(H)~~(G) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity; or

~~(G)~~(H) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of subsection (b) of this section shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the ~~Division of Public Safety~~ State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

(e)(1) If a person eighteen years of age or older is convicted of violating subsection (b) of this section, and if the person does not act to appeal the conviction within the time periods described in subdivision (2) of this subsection, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in subdivision (1) of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within twenty days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in subdivision (1) of this subsection, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian or custodian of a person less than eighteen years of age who knows that the person is in violation of subsection (b) of this section or has reasonable cause to believe that the person's violation of subsection (b) is imminent, to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

§61-7-15a. Use or presentation of a firearm during commission of a felony; penalties.

As a separate and distinct offense, and in addition to any and all other offenses provided for in this code, any person who, while engaged in the commission of a felony, uses or presents a firearm shall be guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not more than ten years.

§61-7-17. Construction of article.

Nothing in this article should be construed to abrogate or modify statutory provisions and common law decisions related to defense of self or others.”

On motion of Delegates Cowles and Shott, the House of Delegates concurred in the Senate amendment with further amendment, on page eight, section four, following line one hundred seventy five, by adding a new subsection to read as follows:

“(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.”

And,

By relettering the remaining subsection thereafter.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 168**), and there were—yeas 67, nays 31, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Atkinson, Bates, Blackwell, Byrd, Caputo, Cooper, D. Evans, Flanigan, Fleischauer, Guthrie, Hamilton, Hornbuckle, Ireland, Longstreth, Lynch, Manchin, McCuskey, Miley, Moore, Morgan, E. Nelson, Perdue, Pethel, Pushkin, Reynolds, Rowe, Skinner, Trecoast and Westfall.

Absent and Not Voting: Ferro and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4145) passed.

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

Com. Sub. for H. B. 4145 - “A Bill to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code; and to amend said code by adding thereto three new sections, designated §61-7-4a and §61-7-15a and §61-7-17, all relating to the carrying of firearms and deadly weapons generally; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization apply only to persons under twenty-one years of age and prohibited persons; requiring an applicant for a concealed weapon permit be a United States citizen or legal resident thereof, a resident of this state and of the county in which application is made; requiring training courses in handling and firing a handgun to include the actual live firing of ammunition; requiring certificates of completion of a training course which are submitted with license applications include the instructor’s name, signature and NRA or state instructor identification number; requiring that on or after January 1, 2017, all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties and feature a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs’ Bureau of Professional Standards, prepare uniform applications for licenses and license cards; entitling a person who pays fees for training or

application after the effective date to a tax credit equal to the amount actually paid for training not to exceed \$50, unless such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application; establishing a provisional license to carry concealed deadly weapons for persons at least eighteen years of age and less than twenty-one years of age; establishing provisional license application requirements and procedures; providing for exceptions as to prohibitions against carrying handguns concealed for persons at least eighteen years of age and fewer than twenty-one years of age; providing for any United States citizen or legal resident thereof at least twenty-one years of age and not otherwise prohibited from possessing a firearm may carry a concealed deadly weapon without a license; creating felony offenses for any persons prohibited from possessing firearms who carry concealed firearms and providing for criminal penalties; providing that it shall not be unlawful to possess a firearm in or on a private primary or secondary education building, structure or facility when such institution has adopted written policies allowing for possession of firearms; exempting probation officers from prohibition against possessing firearms on premises of educational facilities; requiring a school principal to report certain violations to the State Police; creating felony offense for persons using or presenting a firearm while engaged in the commission of a felony and providing for criminal penalties; and providing for construction of article.”

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

Resolutions Introduced

Delegates Moore, P. White, Gearheart, Ellington and Blackwell offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 89 - “Requesting that the Division of Highways name the bridge numbered 19-0.01 24A293, (at 37.41606, -81.43625), originally

known as the ‘Northfork Bridge’, located in Northfork, McDowell County, carrying County Route 24-52 over Elkhorn Creek, the ‘Blue Demon Highway Bridge’.”

Whereas, The Northfork High School’s sobriquet, going back to 1966, was the “Blue Demons”; and

Whereas, Sports fans from across this state still talk about the Blue Demon’s boys’ basketball teams that won Class AA state championships in 1971 and 1984, as well as a national record eight straight from 1974 through 1981; and

Whereas, When this state inaugurated the first girls’ basketball tournament in 1976, the “Demonettes” won then as well as in 1977 and 1979; and

Whereas, The Blue Demons’ 1973 football team had a perfect season record of 12 and 0; and

Whereas, Over the nineteen years in which Northfork High was in existence, the boys’ basketball teams compiled an amazing record of 112 wins to only 12 losses on their home floor; and

Whereas, Although Northfork High School has been closed for over thirty years, the memories are just as vivid today as when they were being made decades ago for all who attended this legendary school, forever holding a place in the hearts of former students and teachers; and

Whereas, This school, as well, will always be remembered by all who saw the Blue Demons play, or heard of their exploits, as the source of the nickname for the town that is still known today as “the basketball capital of the United States;” therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge numbered 19-0.01 24A293, (at 37.41606, -81.43625), originally

known as the “Northfork Bridge”, located in Northfork, McDowell County, carrying County Route 24-52 over Elkhorn Creek, the “Blue Demon Highway Bridge”, and, be it

Further Resolved, That the Commissioner of Highways is hereby requested to erect signs at both sides of the bridge numbered 24A293 which is located in Northfork in McDowell County proclaiming its name to be the “Blue Demon Highway Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the Mayor of the Town of Northfork.

Delegates Moore, P. White, Gearheart, Ellington and Blackwell offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 90 - “Requesting the Division of Highways name Bridge Number 24-52/1-9.91 (24xxx) (37.44743, -81.70214) locally known as Roderfield Bridge carrying County Route 52/1 over Tug Fork in Roderfield, McDowell County, the ‘U. S. Army CPL Fon Mitchell Memorial Bridge’.”

Whereas, Fon Mitchell was born November 3, 1930, in Pile County, Kentucky, the son of Bill and Liza Mitchell. He joined the United States Army on June 20, 1949, and was sent to Korea in August, 1950. He was an assistant machine gunner. Wounded in the left foot, he was sent to a hospital in Japan and then back to the firing lines where he was captured on December 1, 1950. He spent the next 28 months and 21 days as a prisoner of war and listed as missing in action. He was detained in camps along the Yellow River. He was released on April 21, 1953, after enduring the “Death March” and other cruelties. Fon Mitchell received the Korean Service Medal W/4 Bronze camp Stars, United Nations Service Medal CIB Good Conduct Medal, Purple Heart Medal W/1 Oak Leaf Cluster and a Bronze Star Medal; and

Whereas, Returning to his now hometown of Roderfield in McDowell County, Fon worked as a coal miner for U. S. Steel at Gary, West Virginia. He was married to Helen “Shorty” Mitchell for 57 years. They had three children, Fonda Walker of Roderfield, Billy of Charlotte, North Carolina and Diana Hanshaw of Roderfield. Fon died on January 30, 2011. He was a member of the American Legion Post 8, VFW Post 8413, United Mine Workers of America, Local Union 7635, Disabled Americans Veterans, Ex POW Organization, 40 & 8 Organization of Welch and the American Cancer Society of Miracle Marchers Relay for Life Team and he was one of the organizers who formed the Roderfield Volunteer Fire Department; and

Whereas, CPL Fon Mitchell served his country, state and community with distinction. He was a loving husband and father who was proud of his family and his country. He was a survivor of the war fought by America’s “Greatest Generation”. Naming this bridge in McDowell County for him is an appropriate recognition of his service to his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 24-52/1-9.91 (24xxx) (37.44743, -81.70214) locally known as Roderfield Bridge carrying County Route 52/1 over Tug Fork in Roderfield, McDowell County, the “U. S. Army CPL Fon Mitchell Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL Fon Mitchell Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the surviving family members of CPL Fon Mitchell.

Delegates Eldridge, J. Nelson, McGeehan, Phillips, Marcum, Moffatt, Miller, Rodighiero, Hornbuckle, Morgan and P. White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 91 - “Requesting the Division of Highways rename the section of U.S. Route 119 that runs through Lincoln County the ‘Deputy Sheriff Sgt. Justin Alan Thompson Memorial Highway’.”

Whereas, House Concurrent Resolution No. 10 passed during the 2010 Regular Session of the Legislature naming the section of U.S. Route 119 that runs through Lincoln County the “Sgt. Justin Alan Thompson Memorial Highway”. Sgt. Justin Alan Thompson was a member of the Lincoln County Sheriff’s Department when he was killed in the line of duty on June 19, 2007. It would be fitting to add to the signs identifying the section of U.S. Route 119 that runs through Lincoln County “Deputy Sheriff Sgt. Justin Alan Thompson Memorial Highway”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to rename the section of U.S. Route 119 that runs through Lincoln County as “Sgt. Justin Alan Thompson Memorial Highway,” language that Sgt. Thompson was a Deputy Sheriff in Lincoln County such as “Deputy Sheriff Sgt. Justin Alan Thompson Memorial Highway” ; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the section of U.S. Route 119 that runs through Lincoln County “Deputy Sheriff Sgt. Justin Alan Thompson Memorial Highway”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the family of Sgt. Justin Alan Thompson.

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegate Trecoast:

H. J. R. 47 - “Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article VI thereof and section ten, article nine thereof, relating to imposing term limits for senators, delegates and county commissioners; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on the Judiciary”; which was referred to the Committee on the Judiciary.

Special Calendar

Third Reading

S. B. 341, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 169**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 341) passed.

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

On this question, the yeas and nays were taken (**Roll No. 170**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 341) takes effect from its passage.

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

S. B. 351, Dedicating severance tax proceeds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 171**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Howell, Ihle, Manchin, Marcum, Perdue and P. White.

Absent and Not Voting: Ferro and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 351) passed.

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

On this question, the yeas and nays were taken (**Roll No. 172**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Howell and Ihle.

Absent and Not Voting: Ferro and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 351) takes effect from its passage.

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

S. B. 449, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 173**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 449) passed.

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

On this question, the yeas and nays were taken (**Roll No. 174**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 449) takes effect from its passage.

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

S. B. 450, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 175**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 450) passed.

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

On this question, the yeas and nays were taken (**Roll No. 176**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 450) takes effect from its passage.

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

S. B. 451, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 177**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 451) passed.

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

On this question, the yeas and nays were taken (**Roll No. 178**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 451) takes effect from its passage.

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

S. B. 462, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 179**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Duke, Foster, Marcum, Morgan, Rodighiero, Upson and P. White.

Absent and Not Voting: Ferro and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 462) passed.

On motion of Delegate E. Nelson, the title of the bill was amended to read as follows:

S. B. 462 - “A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to the West Virginia Infrastructure Fund; reducing the distributions to the West Virginia Infrastructure Fund to \$30 million for fiscal year 2017 and increasing the percentage of funds available for grants therefrom.”

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

On this question, the yeas and nays were taken (**Roll No. 180**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Duke.

Absent and Not Voting: Ferro and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 462) takes effect from its passage.

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

Com. Sub. for H. B. 2823, Eliminating the street and interurban and electric railways tax; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 181**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2823) passed.

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

Second Reading

S. B. 419, Relating to termination of Workers' Compensation Debt Reduction Act; on second reading, coming up in regular order, was read a second time

An amendment, recommended by the Committee on Finance, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §4-11A-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-13A-3b of said code be amended and reenacted; that §11-13V-4 of said code be amended and reenacted; that §11-21-96 of said code be amended and reenacted; that §23-2C-3 of said code be amended and reenacted; and that that §29-22A-10d and §29-22A-10e of said code be amended and reenacted, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 11A. LEGISLATIVE APPROPRIATION OF TOBACCO SETTLEMENT FUNDS.

§4-11A-18. Dedication of personal income tax proceeds as replacement moneys for anticipated tobacco master settlement agreement proceeds to the Old Fund.

(a) There is hereby dedicated an annual amount of \$50,400,000 from annual collections of the tax imposed by article twenty-one, chapter eleven of this code as a portion of the revenue source dedicated to satisfy the Old Fund liabilities as they occur to provide a dollar for dollar replacement of the first \$30 million received pursuant to section IX(c)(1) of the master settlement agreement and the anticipated strategic compensation payments to be received pursuant to section IX(c)(2) of the master settlement agreement as previously dedicated to the Old Fund prior to the sale of state's share to the Tobacco Settlement Finance Authority. No portion of this amount may be pledged for payment of debt service on revenue bonds issued pursuant to article two-d, chapter twenty-three of this code.

(b) Notwithstanding any other provision of this code to the contrary, beginning immediately after the sale of the state's share to the Tobacco Settlement Finance Authority, \$50,400,000 from collections of the tax imposed by article twenty-one, chapter eleven of this code shall be deposited each calendar year to the credit of the Old Fund created in article two-d, chapter twenty-three of this code in accordance with the following schedule. Each calendar month, except for July, August and September each year, \$5,600,000 shall be transferred, on or before the twenty-eighth day of the month, to the Workers' Compensation Debt Reduction Fund created in article two-d, chapter twenty-three of this code. The transfers pursuant to this section are in addition to the transfers pursuant to section ninety-six, article twenty-one, chapter eleven of this code.

(c) *Expiration.* —

The transfers required by this section shall ~~continue to be made until the Governor certifies to the Legislature that an independent actuary study determined that the unfunded liability of the Old fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety~~ cease on and after February 1, 2016. No transfer pursuant to this section shall be made thereafter.

CHAPTER 11. TAXATION.

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3b. Imposition of tax on privilege of severing timber.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of severing timber for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax.

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section shall be three and twenty-two hundredths percent of the

gross value of the timber produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article: *Provided*, That as to timber produced after December 31, 2006 the rate of the tax imposed in subsection (a) of this section shall be one and twenty-two hundredths percent of the gross value of the timber produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article.

(c) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all persons severing timber in this state and shall be in addition to all other taxes imposed by law.

(d) *Elimination Discontinuation and reestablishment of tax.* — Beginning in the tax year 2010 and continuing until June 30, 2016, ~~the imposition of the additional tax on the privilege of severing timber imposed by subsection (c), section four, article thirteen-v of this chapter expires under the authority of subsection (g), section four, article thirteen-v of this chapter;~~ the tax imposed by this section is discontinued. On and after expiration of the additional tax on the privilege of severing timber imposed by ~~subsection c, section four, article thirteen-v of this chapter~~ July 1, 2016, the tax imposed by this section ~~resumes~~ is reestablished and is imposed and shall apply to all persons severing timber in this state at the rate of ~~one and twenty-two hundredths~~ one and fifty hundredths percent of the gross value of the timber produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article.

(e) *Termination of taxes imposed by this section.* — The taxes imposed under this section shall cease, terminate and be of no further force or effect on and after July 1, 2019. Termination of the taxes imposed under this section shall not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of such termination.

**ARTICLE 13V. WORKERS' COMPENSATION DEBT
REDUCTION ACT.**

§11-13V-4. Imposition of tax.

(a) *Imposition of additional tax on privilege of severing coal.* — Upon every person exercising the privilege of engaging within this state in severing, extracting, reducing to possession or producing coal for sale, profit or commercial use, there is hereby imposed an additional annual severance tax for exercising the privilege after November 30, 2005. The tax shall be 56 cents per ton and the measure of the tax is tons of clean coal severed or produced in this state by the taxpayer after November 30, 2005, for sale, profit or commercial use during the taxable year. When the person mining the coal sells raw coal, the measure of tax shall be ton of clean coal determined in accordance with rules promulgated by the Tax Commissioner as provided in article three, chapter twenty-nine-a of this code. If this rule is filed for public comment before July 1, 2005, the rule may be promulgated as an emergency legislative rule. This tax shall be in addition to all taxes imposed with respect to the severance and production of coal in this state including, but not limited to, the taxes imposed by articles twelve-d and thirteen-a of this chapter and the taxes imposed by sections eleven and thirty-two, article three, chapter twenty-two of this code, if applicable.

(b) *Imposition of additional tax on privilege of severing natural gas.* — For the privilege of engaging or continuing within this state in the business of severing natural gas for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising this privilege an additional annual privilege tax. The rate of this additional tax shall be ~~\$.047~~ 4.7 cents per mcf of natural gas and the measure of the tax is natural gas produced after November 30, 2005, determined at the point where the production privilege ends for purposes of the tax imposed by section three-a, article thirteen-a of this chapter, and with respect to which the tax imposed by section three-a of said article thirteen-a is paid. The additional tax imposed by this

subsection shall be collected with respect to natural gas produced after November 30, 2005.

(c) *Imposition of additional tax on privilege of severing timber.* — For the privilege of engaging or continuing within this state in the business of severing timber for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising this privilege an additional annual privilege tax equal to two and seventy-eight hundredths percent of the gross value of the timber produced, determined at the point where the production privilege ends for purposes of the tax imposed by section three-b, article thirteen-a of this chapter and upon which the tax imposed by section three-b of said article thirteen-a is paid. The additional tax imposed by this subsection shall be collected with respect to timber produced after November 30, 2005: *Provided*, That during the period of discontinuance of the tax as provided in subsection (d), section three-b, article thirteen-a of this chapter, the additional tax imposed by this subsection shall be determined as provided in this subsection in the same manner as if the tax described under section three-b, article thirteen-a of this chapter is being imposed and collected, subject to the provisions of subsection (g) of this section.

(d) *No pyramiding of tax burden.* — Each ton of coal and each mcf of natural gas severed in this state after the effective date of the taxes imposed by this section shall be included in the measure of a tax imposed by this section only one time.

(e) *Effect on utility rates.* — The Public Service Commission shall, upon the application of any public utility that, as of the effective date of the taxes imposed by this section, is not currently making periodic adjustments to its approved rates and charges to reflect changes in its fuel costs because the mechanism historically used to make such periodic adjustments is suspended by an order of the commission, allow such utility to defer, for future recovery from its customers, any increase in its costs attributable to the taxes imposed by

this section upon: Coal and natural gas severed in this state and utilized in the production of electricity generated or produced in this state and sold to customers in this state; coal and natural gas severed in this state and utilized in the production of electricity not generated or produced in this state that is sold to customers in this state; and natural gas severed in this state that is sold to customers in this state.

(f) *Dedication of new taxes.* —

(1) Subject to the provisions of subdivision (2) of this subsection, the ~~The~~ net amount of all moneys received by the Tax Commissioner from collection of the taxes imposed by this section, including any interest, additions to tax, or penalties collected with respect to these taxes pursuant to article ten, chapter eleven of this code, shall be deposited in the Workers' Compensation Debt Reduction Fund created in article two-d, chapter twenty-three of this code. As used in this section, "net amount of all taxes received by the Tax Commissioner" means the gross amount received by the Tax Commissioner less the amount of any refunds paid for overpayment of the taxes imposed by this article, including the amount of any interest on the overpayment amount due the taxpayer under the provisions of section fourteen, article ten of this chapter.

(2) If the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from taxes imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(g) *Sunset expiration date of taxes.* — The new taxes imposed by this section shall expire and not be imposed with respect to privileges exercised on and after the first day of the month following the month in which the Governor certifies to the Legislature that: (1) The revenue

~~bonds issued pursuant to article two-d, chapter twenty-three of this code, have been retired, or payment of the debt service provided for; and (2) that an independent certified actuary has determined that the unfunded liability of the old fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety. Expiration of the taxes imposed in this section as provided in this subsection shall not relieve any person from payment of any tax imposed with respect to privileges exercised before the expiration date.~~

(g) Termination of taxes imposed by this article. — The taxes imposed under this article shall cease, terminate and be of no further force or effect on and after July 1, 2016: *Provided*, That the Governor may, by Executive Order, cause the tax to terminate before July 1, 2016. Termination of the taxes imposed under this article shall not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of such termination.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-96. Dedication of personal income tax proceeds.

(a) There is hereby dedicated an annual amount of \$45 million from annual collections of the tax imposed by this article for payment of the unfunded liability of the current Workers' Compensation Fund. No portion of this amount may be pledged for payment of debt service on revenue bonds issued pursuant to article two-d, chapter twenty-three of this code.

(b) Notwithstanding any other provision of this code to the contrary, beginning in January of 2006, \$45 million from collections of the tax imposed by this article shall be deposited each calendar year to the credit of the old fund created in article two-c, chapter twenty-three of this code, in accordance with the following schedule. Each calendar month, except for July, August and September each year, \$5 million shall be transferred, on or before the twenty-eighth day of the month, to the Workers' Compensation Debt Reduction Fund created in article two-d, chapter twenty-three of this code.

(c) ~~The transfers required by subsection (b) of this section shall continue to be made until the Governor certifies to the Legislature that an independent actuarial study determined that the unfunded liability of the old fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety. Thereafter, cease on and after February 1, 2016. For fiscal years beginning on and after July 1, 2016, an annual amount of \$35 \$30 million from annual collections of the tax imposed by this article and which were previously dedicated by this section for payment of the unfunded liability of the Workers Compensation Fund shall be dedicated for payment of the unfunded liability of the West Virginia Retiree Health Benefit Trust Fund and to provide funding for the Post-July 1, 2010, Employee Trust Fund created by section five-b, article sixteen, chapter five of this code. The \$35 \$30 million transferred pursuant to this subsection shall be transferred in accordance with the following:-~~

~~(1) The annual amount of \$30 million shall be transferred into the West Virginia Retiree Health Benefit Trust Fund by transferring \$5 million each month for the following months of each year: October, November, December, January, February and March, until the Governor certifies to the Legislature that an independent actuarial study has determined that the unfunded liability of West Virginia Retiree Health Benefit Trust Fund, as created in section two, article sixteen-d, chapter five of this code, has been provided for in its entirety or July 1, 2037, whichever date is later: Provided, That no transfer shall be made under this subdivision in the months of February and March of fiscal year 2016. Transfers shall thereafter resume and be made in October, November, December, January, February and March of fiscal year 2017 and thereafter. No transfer into the West Virginia Retiree Health Benefit Trust Fund pursuant to this subdivision shall be made after the Governor certifies to the Legislature that an independent actuarial study has determined that the unfunded liability of West Virginia Retiree Health Benefit Trust Fund, as created in section two, article sixteen-d, chapter five of this code, has been provided for in its entirety or July 1, 2037, whichever date is later. ~~thereafter, and~~~~

~~(2) An annual amount of \$5 million shall be transferred into the Post-July 1, 2010, Employee Trust Fund created by section five-b, article sixteen, chapter five of this code in April of each year.~~

CHAPTER 23. WORKERS' COMPENSATION.

ARTICLE 2C. EMPLOYERS' MUTUAL INSURANCE COMPANY.

§23-2C-3. Creation of employer mutual as successor organization of the West Virginia Workers' Compensation Commission.

(a) (1) On or before July 1, 2005, the executive director may take such actions as are necessary to establish an employers' mutual insurance company as a domestic, private, nonstock, corporation to:

(A) Insure employers against liability for injuries and occupational diseases for which their employees may be entitled to receive compensation pursuant to this chapter and federal Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §901, *et. seq.*;

(B) Provide employer's liability insurance incidental to and provided in connection with the insurance specified in paragraph (A) of this subdivision, including coal workers' pneumoconiosis coverage and employer excess liability coverage as provided in this chapter; and

(C) Transact other kinds of property and casualty insurance for which the company is otherwise qualified under the provisions of this code.

(2) The company may not sell, assign or transfer substantial assets or ownership of the company.

(b) If the executive director establishes a domestic mutual insurance company pursuant to subsection (a) of this section:

(1) As soon as practical, the company established pursuant to the provisions of this article shall, through a vote of a majority of its provisional board, file its corporate charter and bylaws with the Insurance Commissioner and apply for a license with the Insurance Commissioner to transact insurance in this state. Notwithstanding any other provision of this code, the Insurance Commissioner shall act on the documents within fifteen days of the filing by the company.

(2) In recognition of the workers' compensation insurance liability insurance crisis in this state at the time of enactment of this article and the critical need to expedite the initial operation of the company, the Legislature authorizes the Insurance Commissioner to review the documentation submitted by the company and to determine the initial capital and surplus requirements of the company, notwithstanding the provisions of section five-b, article three, chapter thirty-three of this code. The company shall furnish the Insurance Commissioner with all information and cooperate in all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The Insurance Commissioner shall monitor the economic viability of the company during its initial operation on not less than a monthly basis, until the commissioner, in his or her discretion, determines that monthly reporting is not necessary. In all other respects the company shall comply with the applicable provisions of chapter thirty-three of this code.

(3) Subject to the provisions of subdivision (4) of this subsection, the Insurance Commissioner may waive other requirements imposed on mutual insurance companies by the provisions of chapter thirty-three of this code the Insurance Commissioner determines are necessary to enable the company to begin insuring employers in this state at the earliest possible date.

(4) Within forty months of the date of the issuance of its license to transact insurance, the company shall comply with the capital and

surplus requirements set forth in subsection (a), section five-b, article three, chapter thirty-three of this code in effect on the effective date of this enactment, unless the deadline is extended by the Insurance Commissioner.

(c) For the duration of its existence, the company is not a department, unit, agency or instrumentality of the state for any purpose. All debts, claims, obligations and liabilities of the company, whenever incurred, are the debts, claims, obligations and liabilities of the company only and not of the state or of any department, unit, agency, instrumentality, officer or employee of the state.

(d) The moneys of the company are not part of the General Revenue Fund of the state. The debts, claims, obligations and liabilities of the company are not a debt of the state or a pledge of the credit of the state.

(e) The company is not subject to provisions of article nine-a, chapter six of this code; the provisions of article two, chapter six-c of this code; the provisions of chapter twenty-nine-b of this code; the provisions of article three, chapter five-a of this code; the provisions of article six, chapter twenty-nine of this code; or the provisions of chapter twelve of this code.

(f) If the commission has been terminated, effective upon the termination, private carriers, including the company, are not subject to payment of premium taxes, surcharges and credits contained in article three, chapter thirty-three of this code on premiums received for coverage under this chapter. In lieu thereof, the workers' compensation insurance market is subject to the following:

(1) (A) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be collected by each private carrier from its policyholders. The surcharge percentage shall be calculated by dividing the previous fiscal year's total premiums collected plus deductible payments by all employers into the portion of the Insurance Commissioner's budget amount attributable to regulation of the private

carrier market. This resulting percentage shall be applied to each policyholder's premium payment and deductible payments as a surcharge and remitted to the Insurance Commissioner. Said surcharge shall be remitted within ninety days of receipt of premium payments;

(B) With respect to fiscal years beginning on and after July 1, 2008, in lieu of the surcharge set forth in the preceding paragraph, each private carrier shall collect a surcharge in the amount of five and five-tenths percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied: *Provided*, That prior to June 30, 2013, and every five years thereafter, the commissioner shall review the percentage surcharge and determine a new percentage as he or she deems necessary.

(C) The amounts required to be collected under paragraph (B) of this subdivision shall be remitted to the Insurance Commissioner on or before the twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year.

(2) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be remitted on a quarterly basis by self-insured employers and said percentage shall be calculated by dividing previous year's self-insured payroll in the state into the portion of the Insurance Commissioner's budget amount attributable to regulation of the self-insured employer market. This resulting percentage shall be applied to each self-insured employer's payroll and the resulting amount shall be remitted as a regulatory surcharge by each self-insured employer. The Industrial Council may promulgate a rule for implementation of this section. The company, all other private carriers and all self-insured employers shall furnish the Insurance Commissioner with all required information and cooperate in all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The surcharge shall be calculated so as to only defray the costs associated with the administration of this

chapter and the funds raised shall not be used for any other purpose except as set forth in subdivision (4) of this subsection;

(3) (A) Each private carrier shall collect a premiums surcharge from its policyholders as annually determined, by May 1 of each year, by the Insurance Commissioner to produce \$45 million annually, of each policyholder's periodic premium amount for workers' compensation insurance: *Provided*, That the surcharge rate on policies issued or renewed on or after July 1, 2008, shall be nine percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied.

(B) By May 1 each year, the self-insured employer community shall be assessed a cumulative total of \$9 million. The methodology for the assessment shall be fair and equitable and determined by exempt legislative rule issued by the Industrial Council. The amount collected pursuant to this subdivision shall be remitted to the Insurance Commissioner for deposit in the Workers' Compensation Debt Reduction Fund created in section five, article two-d of this chapter: *Provided*, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of the amount collected pursuant to this subdivision, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the fund otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code: *Provided*, however, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of the amount collected pursuant to this subdivision, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the

unfunded liability of the Old Fund, as defined in chapter twenty three of this code, has been paid or provided for in its entirety.

(4) On or before July 1, 2009, the Insurance Commissioner shall make a one-time lump sum transfer of \$40 million generated from the surcharges assessed pursuant to paragraph (B), subdivision (1) of this subsection and subdivision (2) of this subsection to the Bureau of Employment Programs' Commissioner for deposit with the Secretary of the Treasury of the United States as a credit of this state in the Unemployment Trust Fund Account maintained pursuant to section four, article eight, chapter twenty-one-a of this code.

(g) The new premiums surcharge imposed by paragraphs (A) and (B), subdivision (3), subsection (f) of this section sunset and are not collectible with respect to workers' compensation insurance premiums paid when the policy is renewed on or after the first day of the month following the month in which the Governor certifies to the Legislature that the revenue bonds issued pursuant to article two-d of this chapter have been retired and that the unfunded liability of the Old Fund has been paid or has been provided for in its entirety, whichever occurs last.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-10d. Changes in distribution of net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (b), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

(b) Notwithstanding any provision of subsection (c), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014,

and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(c) The total amount of reductions resulting from subsection (b) of this section shall be paid into the State Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(d) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(e) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(f) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(g)(1) Notwithstanding Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (c), section ten of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the

Old Fund, as defined in chapter twenty three of this code, has been paid or provided for in its entirety.

§29-22A-10e. Changes in distribution of excess net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (a), section ten-b of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten-b of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(b) The total amount of reductions resulting from subsection (a) of this section shall be paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(c) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(d) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d, and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(e) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(f)(1) Notwithstanding Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (a), section ten-b of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (a), section ten-b of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30,

2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty three of this code, has been paid or provided for in its entirety.”

Delegate Sponaugle moved to amend the amendment on page six, section four, line sixty-five, by striking out the word “discontinued” and the period and further striking out the remainder of subsection (g) and inserting a colon and the following proviso:

“Provided, The tax shall be continued beginning fiscal year 2017, and the assessment rates as determined by this article shall be deposited quarterly into the public employees insurance trust fund as provided in section eighteen, article sixteen, chapter five of this code until certification of the Governor that the fund will be solvent, with employee rates and deductibles at or exceeding those benefits received for the fiscal year 2015, and will be solvent without the taxes established pursuant to this article, and the fund is fully funding for the upcoming fiscal year. Upon such certification, the taxes assessed pursuant to this article are expired.”

And,

On page fifteen, section ten (d), line fifty-five, following the period, by inserting a new subdivision (C) to read as follows:

“(C) Notwithstanding any code provision to the contrary, all taxes herein established shall be continued and deposited into the special fund established by the Public Employees Insurance Agency created pursuant to section eighteen, article sixteen, chapter five of this code on July 1, 2016.”

The question being on the adoption of the amendment to the amendment, the same was put and did not prevail.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on questions related to S. B. 419 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

Delegates Ambler, Anderson, Border, Byrd, Duke, Eldridge, Espinosa, Flanigan, Fleischauer, Frich, Guthrie, Hamilton, Householder, Ihle, Lynch, Marcum, McGeehan, Moore, Moye, E. Nelson, J. Nelson, Perdue, Perry, Pethel, Romine, Rowan, Shaffer, R. Smith, Wagner and Walters requested to be excused from voting on questions related to S. B. 419 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

Delegates Skinner, Ferro, McGeehan, Folk and Fluharty moved to amend the Finance Committee amendment on pages thirteen through seventeen, by striking out §29-22A-10d and §29-22A-10e in their entirety, and inserting in lieu thereof the following:

“§29-22A-10d. Changes in distribution of net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (b), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

(b) Notwithstanding any provision of subsection (c), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(c) The total amount of reductions resulting from subsection (b) of this section shall be paid into the State Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(d) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(e) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(f) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a,

article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

~~(g) Notwithstanding the provisions of paragraph (B), subdivision (9), subsection (c), section ten of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety; the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.~~

§29-22A-10e. Changes in distribution of excess net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (a), section ten-b of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten-b of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(b) The total amount of reductions resulting from subsection (a) of this section shall be paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(c) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year

thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(d) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d, and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(e) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

~~(f) Notwithstanding the provisions of paragraph (B), subdivision (9), subsection (a), section ten-b of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety; the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (a), section ten-b of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation."~~

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 182**), and there were—yeas 37, nays 61, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Duke, Eldridge, Espinosa, Faircloth, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Householder, Ihle, Longstreth, Manchin,

McGeehan, Miley, Moore, Morgan, Perdue, Perry, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, Sponaugle, Trecost, Upson and Zatezalo.

Absent and Not Voting: Ferro and Storch.

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

There being no further amendments, the amendment recommended by the Committee on Finance was then adopted.

The bill was then ordered to third reading.

Com. Sub. for H. B. 2202, Relating to more equitable disbursement of funds to county boards; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2897, Young Entrepreneur Reinvestment Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4009, Letting Our Counties Act Locally Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4171, Relating to the public school calendar; on second reading, coming up in regular order, was read a second time.

Delegates Perry, Ambler, P. Smith, Pethtel, Cooper, D. Evans, Perdue, Campbell, Rowans, Westfall, Wagner, Hartman, Romine, Boggs, Caputo, Pushkin, Shaffer, Lynch, Eldridge, Morgan, A. Evens, Hamilton, Sponaugle, Canterbury, P. White, Guthrie, Longstreth and Reynolds moved to amend the bill on page two, section forty-five, line forty, by striking out the words “the 15th”, and inserting in lieu thereof, the number “10th”.

On page two, section forty-five, line forty-one, by striking out the words “the 15th”, and inserting in lieu thereof, the number “10th”,

And,

On page three, section forty-five, line seventy, by striking out the words “up to eight days” and the comma.

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

The yeas and nays having been ordered, they were taken (**Roll No. 183**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Cowles, Howell, Moffatt, Shott and Upson.

Absent and Not Voting: Ferro, Skinner and Storch.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4295, Relating to the School Innovation Zones Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4365, Relating to the certificate of need process; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4572, Excepting specialized contract instructors from the definition of teacher; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Moye, Ambler, Cooper, Rowen, D. Evans, P. Smith and Perry, the bill was amended on page two, section one, line

thirty-six, after the word “compensation” and the comma, by adding the word “benefits” and a comma.

And,

On page two, section one, line thirty-seven, after the word “contract” and the semicolon, by inserting a colon, and the following proviso:

“Provided, That in no event shall a specialized contract instructor displace a teacher.”

On motion of Delegates Moye, Ambler, Cooper, Rowan, D. Evans and Perry the bill was amended on page two, section one, line twenty-seven, after the word “is”, by striking out the word “an” and inserting in lieu thereof the words “a part time”.

And,

On page two, section one, line thirty-one, after the word “agency”, by inserting a colon, and the following proviso:

“Provided, That the specialized contract instructor is employed for less than three and one-half hours per day.”

The bill was then ordered to engrossment and third reading.

H. B. 4594, Relating to predoctoral psychology internship qualifications; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4612, Relating generally to tax increment financing and economic opportunity development districts; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4617, Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher

Scholarship Program and Nursing Scholarship Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4651, Relating to professional examination requirements for hearing-aid dealers and fitters; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4674, Relating to motor vehicle back-up lamps; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4705, Relating to adding an additional type of West Virginia source income of nonresident individual; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

H. B. 2494, Creating a provisional plea process in criminal cases,

Com. Sub. for H. B. 4014, Preventing the State Board of Education from implementing common core academic standards and assessments,

Com. Sub. for H. B. 4201, Increasing the criminal penalties for participating in an animal fighting venture,

H. B. 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and to expand the prescriptive authority that may be granted to advanced practice registered nurses,

H. B. 4351, Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture,

H. B. 4358, Relating to out of state physicians and surgeons traveling with sports teams within this state,

Com. Sub. for H. B. 4433, Allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees,

Com. Sub. for H. B. 4487, Relating to state retirement systems,

Com. Sub. for H. B. 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System,

H. B. 4558, Relating to victim notification and designation of additional individuals to receive notice of an offender's release,

Com. Sub. for H. B. 4607, Adding violations of law upon which a public servant's retirement plan may be forfeited,

Com. Sub. for H. B. 4636, Increasing the penalties for violating the Whistle-blower Law,

H. B. 4652, Relating to the creation of an intermediate contractor's license,

And,

H. B. 4706, Relating to county board regional meetings.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Ferro.

Remarks of Members

Unanimous consent having been obtained, the following remarks were ordered printed in the Journal:

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead – Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen, obviously it is very rare for me to come down to my desk here. It is nice to know I still have one here on the floor to speak to the members. And while I know there was some, some coverage in the last week that said I came down on a certain bill, as you may recall, I came down to defend a particular ruling. So I really didn't come down necessarily to speak to the House about a particular subject and so I think it is, in my 18 years here, it has been very rare that the Speaker comes to address a particular subject, and it should be, but it has occurred, and when it has occurred, it has been a subject that that particular Speaker or the membership of the House has found very serious and one that they felt, that person felt, was so important to the future of our state that they decided to take a moment to address the House.

That is why I hope you will take my comments in that context. Which is that I do believe that this is a very important issue. An important issue that is a priority not only for me as Speaker but also for the members of our caucus but I think in terms of the entire membership of this House, and that is the PEIA issue. So I would like to take just a few moments today and, first of all let me say this, I think that all the debate about this issue has, I think, centered on what all of us really know and value, at our state, which is our public employees, our teachers and our retirees. Now, I think all of us could sit here today and think of a particular teacher, perhaps that you had or other teachers, and how important they are to you and how much of an impact they made on your lives and how much they mean to you. I have a particular teacher on occasion when I get on Facebook, which isn't often, I have discussed.....still keep in contact with this teacher, my third grade teacher. This is a very important issue to these individuals who I think have been needlessly to some degree used in this process, needlessly caused to fear their future, needlessly particularly in some ways become a political object which they should not have been.

So what I would like to do for just a few moments today and I know we have had a long day on the House floor here, but just if you all indulge me for a few moments to talk about

this issue because I think there has been a lot of misinformation about this and those of us who are as old as I am remember the old Dragnet show and Friday saying “just the facts ma’am”. Okay, let me talk about “just the facts” on this and not the rhetoric. Because the facts I think are not exactly what has been presented in many cases.

So let’s talk about where we’ve been, where we are and where we are going on this issue. Where we’ve been, if you recall this came up primarily as a result of a...I don’t know if it was a press release or a comment the Governor made back last year that he did not intend at that time to put additional funding in the PEIA system. The result of which would be that there would be inadequate funding to continue that system without what has been called draconian increases in co-pays and deductibles and I think we would all agree and I will be the first to say, those were draconian and our teachers, our retired teachers, our retired police are better than what they would have gotten as a result of those cuts. I think we all agree to that.

Let’s talk about where we have been on this issue. Where we’ve been on this issue is that this has been a simmering problem for many, many years. And I am not saying this to point fingers or blame or anything else on that but I am trying to... let’s lay the foundation of where we are and where we are is this, I looked at the sheet here in terms of the reserve fund for PEIA. Now, I have taken just a snap shot from 2013 to 2016 and in that period of time we have had an increase of 18% in expenses payments out of that fund, 18% in those three years...I guess counting those years is four years....18% increase. But, the problem we have had is the reserve fund has been allowed to continue to diminish. So back in 2012 there was \$190 million in that fund, it went up in 2014 to \$230 million but since 2014 it has been reduced to \$176 million, \$136 million now in 2016, for an overall reduction between 2013 and 2016 of 36.44%. So we have had 18% increases and we have allowed that fund to diminish by 36...almost 36.5% over that period of time.

There were no alarm bells going off at that time. There was no action. There was no one on this House floor demanding a plan to address that. The administration and this legislature allowed that to happen over the years and that is where we

got where we are...that is how we got where we are. So, when we talk about whether there is a plan for this, what I'd ask is where was that plan over those many, many years while this was occurring? It didn't happen.

Now, so where does that leave us? After that occurred the members of the board, PEIA board, had various meetings throughout the state. Many of you I am sure attended those meetings. Talk about these draconian cuts, caused a great deal of fear in the hearts of many, many retirees... public employees... and so that is why we now have this angst that I think has spread throughout our legislature and throughout our state. That is where we were.

Now where are we now, today? Where we are today is this, we have listened to what has been said about this... this issue. We have taken it to heart. The Governor has proposed a budget that is pending before the two Finance Committees in the House and Senate and in that budget there is a funding to avoid these cuts. Now I know you say where are you coming up with the funding? Let me...let me, follow me in terms of where we are in terms of this issue. The budget that has been proposed has \$43 million of additional revenue funds. It has \$24 million in new special revenue funds, that is a total of \$66...\$67 million new dollars. In addition to that, a new contract with CVS/Caremark will save \$23 million dollars that goes in to that...that stays in that fund and there is an addition \$6 million that comes from other changes to the program. We started out with \$120 million that we need originally and after you put all that together, the funding that was included in the Governor's budget, the funding that was included in the Caremark contract, the other funding, we have filled that \$120 million hole in the budget. And, as I said, stay with me in terms of where we are talking about. In the budget as it currently stands, PEIA is fully funded.

Now you say, what's our plan, what's our plan and when we say it is in the budget everyone says no, no, no, that is not a plan. That is the plan. That is the money. That is where the money is. Now you may legitimately ask, "Where will that money come from? But let me step back and say that unless someone has the idea that they are going to go into that budget and pull that money out, it is funded in that current budget and I know of no one that intends to go in and do that.

I can commit to you that I have no interest in doing so and I don't think the legislature as a whole is interested in taking that money out so where does that leave us in terms of moving forward? Well, we do have a great deal of work left to do on this budget and I have here on my desk copies of all the agency, I guess some may have submitted electronically, but all the agency presentations that have been given to the House Finance and Senate Finance Committees. I also have a copy, that I think many of you have on both sides of the aisle, of when the Chairman of the House Finance Committee asked the agencies to propose where they could make some additional cuts. Here is the proposal that they gave us. So in front of us here is a great deal of information about the funding of all of our state agencies.

So, what we have left in the next two and a half weeks are some very tough decisions, but let me say those aren't tough decisions necessarily about PEIA, those are tough decisions about our budget. So when you say that, "Where is the plan to fund PEIA?" The plan is already in this budget. It is simply a matter of balancing our overall budget. So if you want to point out and say, "Wait a minute where is the plan, where is the bill on PEIA", could we not say the same thing about any particular line item in this budget? I could ask those who say that every day, where is the plan, where is your plan to fund any of the other programs that are going to need to be funded that we are looking for revenue to fund? Where is your plan to fund corrections? Where is your plan to make sure teachers are paid? Where is your plan to do this or that? The plan is the budget. The budget is where we will make up the funding necessary to continue to fund PEIA and all these other issues that are important to West Virginians.

So as I look at the budget, right here it is. This is the proposed budget bill and you go to page 27 and then right there...Public Employees Insurance Matching Fund, \$43,487,151. Right there, it is in the budget. Now unless someone is taking it out. Which again, I know of no one intending to do so. It is in the budget as we speak. Now we will have to make some tough decisions about whether there will be cuts in our overall budget, whether there will be additional revenue measures and, yes, the Senate has sent over a bill along with a tobacco tax and that will be discussed in this House. And we will make those decisions, all 100

members of this House will make the decisions about what cuts might need to be made, what revenue may need to be raised but what I am asking the people in this House is let's quit the game playing. Let's quit trying to take every bill that comes through here, whether it actually would or not fund anything, and try to throw some amendment on and try to say there is no plan.

This is a plan that needs to be developed as part of our overall budget because this budget is what will fund PEIA and make sure that our citizens do not have draconian cuts that none of us, Republican or Democrat, want to see occur. What I am asking each of you is to work with us together in a bipartisan manner to fund, FY17 budget and beyond. And when we talk about fixing PEIA let's think about... in addition to funding it there are other things that we are going to need to do in future years to ensure we don't get right back where we were when we started this session. It was irresponsible, now let me repeat that, it was irresponsible to continue to fund benefits for working West Virginians out of that reserve fund and letting it get down to where it was, that was irresponsible and that is what caused us to be where we are today and we cannot allow that to occur again.

If we are going to be responsible to these teachers and these retirees and these state employees, we need to make sure that doesn't occur and there are going to be some other things we need to take a very close look at in terms of how this program is run but in terms of funding it and assuring our teachers, our public employees, our retirees that it is funded...I hope that you will take to heart today what I am saying and what I believe I am saying on behalf of this legislature is that we are not going to allow those draconian cuts to take place and we are going to continue as we fund this budget to make sure that and the other essential programs of our state are funded.

It is going to take some tough work, it is going to take some tough decisions and, yes, those decisions are going to be made by all 100 of us, and the 34 members across the hall, and the Governor downstairs, but we need to work together and quit playing games and quit trying to get soundbites and trying to get, you know, some type of gotcha moment. My third grade teacher and the other teachers deserve better than

that as do... all the other retirees...employees of our state. It is time to get to work over the next two and a half weeks that we have of this session... solve this issue. We have plans to do it that will be in front of this House over the next two and a half weeks. Let's get to work and work together to do this. Thank you.

Mr. Speaker, Mr. Armstead, in the Chair

Delegate Miley – Thank you, Mr. Speaker. I, too, appreciate your comments but I feel some of them have to be addressed. Number one, some of us too had a meeting with the Governor, at the beginning of the session, who presented a plan to fix much of the PEIA shortfall, not all...much of. Conditioned on that plan was the passage of a 45 cent, at least 45 cent cigarette tax increase. He sent up his bill and neither you, Mr. Speaker, or the Senate President signed off on that bill. So what is one to conclude when the leadership is not willing to sign off on a bill that makes up part of the budget to restore some of these cuts? What is one to conclude? So we still haven't heard whether there is support for any form of a cigarette and tobacco tax increase to help restore these cuts.

So if you want to find the source of the concern, the source of uncertainty as to whether or not the PEIA cuts will be restored in toto or in part, let's start with where we are going to find these revenue enhancements. Now we are willing to work together on that. We have made that very clear from day one but, to date, it appears there is some resistance to that, so I am left to assume perhaps that we are going to face cuts to come up with the money to fund that. But let's not make any mistake, there was a lack of willingness to support the Governor's plan that provided the balanced budget contingent upon certain pieces of legislation passing. So we don't know what you are going to do to submit a balanced budget to us for consideration. So that, among many reasons, is why there has been the constant request of, "What is your plan?", because you haven't embraced the plan the Governor sent up, not yet anyway. Now with all due respect, I do take a little offense about the accusation of political gamesmanship. And it is really striking to me when the majority party, who was once the minority party who would routinely move to discharge bills, abortion bills when the

Right to Lifer's were here, and take other steps to try to make then the majority party look bad, now complains when similar requests are made on it.

My request for all of us is we need to understand that we all have constituents, we all have issues that are important and each one of us ought to take whatever steps necessary to satisfy those concerns. There was reference to the reserve fund and, yes, it has been spent down. It was several hundred million strong. You can see from the document that the Finance Chair and the Minority Chair of Judiciary were using. There has been a significant decrease in coal production, significant revenue from oil and gas, and had the six year projections been met we wouldn't have had to spend down the reserve fund but nobody expected...this was the year we were supposed to have a surplus going back two or three years ago. Nobody expected the condition we are in now. So that is why there is a shortfall and the shortfall was known last year and all that has been requested was..."What is the plan?" That we have known about it for at least six or eight months. Now we want to work in a bipartisan manner on the plan but to suggest that somehow this has been an ongoing problem for years... when you have several hundred million dollars surplus, yes, you can afford to have years where you don't fully fund it and draw down from the surpluses. That is why you have a surplus. But it had never gotten to this point. It has never got to this point.

I think that we can fix it together but it is going to take bold and courageous leadership. We got a bill from the Senate that I think goes a long way if not completely fixes the PEIA problem but also, most importantly in my opinion, has a positive impact on the health of West Virginians. Twenty-five Senators, bipartisan vote supported that...Senate President didn't. How committed is he to fixing PEIA? I hope the leadership of this House stands up despite what the leadership of the Senate may have done and says we are committed and we are going to make those tough decisions because we have to make them too. Do you think any of us would've voted for a tax increase of any kind? It would just be as easy for us to vote no. I have had a member of the now majority party when they were in the minority tell me, tell me privately, I can always go home and explain my no votes...that's not leadership. Hope you won't find it on our side and I don't think it will come from your side.

So we are willing to work together, Mr. Speaker, but it is important that we remember not that long ago when some of the same things now are being complained of were engaged in by the now majority party. I don't think I took the floor and complained about those tactics. It was part of what we do down here serving our constituents. So, I think we are all going to press each other to make sure we get what's needed done from now until day 60, or beyond day 60 if necessary. So, I thank you for your comments and your commitment and I mean that sincerely but let's not act like we are forbidden, prohibited, or we should be discouraged from speaking out and speaking up for our constituents who have these concerns.

I am sure you all are getting the same emails I am getting and the fact is there are cuts in 2016 to the tune of \$65-67 million that you heard the gentleman from the 38th refer to. They drew down the reserve fund to the floor and had to cut another \$35 million in benefits this year. It is not the \$120 million that is this year and so there have been significant cuts that need to be addressed if that is a priority and choice of this body. If it is not, I guess that is fine too. But, it is up to us together, primarily the majority party, it is up to us together though to decide what our priorities are and how serious we want to engage in efforts to meet those priorities and some of us have different priorities.

One of the things I tell everyone that I love about this body, and it was a learning experience for me when I first got elected, is we live a very geographically diverse state despite its small size in terms of population. The priorities of the eastern panhandle are different from the southern coalfields. The priorities from the southern coalfields are different from northcentral and the northern panhandle. So we all have different priorities for which we come down here that take different places on our list of priorities. One of the things that I think we all should have is fixing PEIA and I look forward from this day forward of moving together in lockstep to address that problem if we can.

So with that, Mr. Speaker, I do appreciate your....I will consider it an invitation to work together in a bipartisan manner but make no mistake, we are still going to work hard

to hold the majority party's feet to the fire as you did us when we were the majority party and I didn't find any shame in that against you all when you did it. That is just part of the process when you are in the opposing parties and one is the majority and one is the minority and you have opposing views. That is part of the process and I hope we can continue working through the next seventeen days. I hate the thought of going beyond that very long but if we do, we do, and we will work with the Finance Chair to make that happen. Thank you.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendments of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

Com. Sub. for H. B. 4145, Relating to carry or use of a handgun or deadly weapon.

Miscellaneous Business

Delegate Anderson asked and obtained unanimous consent that the remarks of Delegate Morgan regarding budgetary issues be printed in the Appendix to the Journal.

At 1:55 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 6:00 p.m.

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Evening Session

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Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of concurrent resolutions of the House of Delegates as follows:

Com. Sub. for H. C. R. 2, U.S. Army PV2 William Frederick Kump Memorial Bridge,

Com. Sub. for H. C. R. 14, Second Friday in July as West Virginia Collector Car Appreciation Day,

And,

Com. Sub. for H. C. R. 19, H. Laban White Memorial Bridge.

A message from the Senate, by

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

Com. Sub. for S. B. 7, Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 252 - "A Bill to amend and reenact §62-1D-2 of the Code of West Virginia, 1931, as amended, relating to Wiretapping and Electronic Surveillance Act; and excluding from protection under the act oral communications uttered in a place where there are notices posted informing persons that their oral communications are being intercepted"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 274 - "A Bill to amend and reenact §50-2-1 of the Code of West Virginia, 1931, as amended, relating to increasing the civil jurisdictional amount in magistrate courts from \$5,000 to \$10,000; and allowing circuit courts to send cases at or under the

jurisdictional amount to magistrate courts for trial”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 291 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-2B-1, §29-2B-2, §29-2B-3, §29-2B-4, §29-2B-5, §29-2B-6 and §29-2B-7, all relating to regulation of unmanned aircraft systems; requiring compliance with federal laws and regulations relating to such vehicles; defining terms; creating criminal offenses for certain conduct using an unmanned aircraft system and setting penalties therefor; regulating law-enforcement use of unmanned aircraft systems; limiting uses by law enforcement of unmanned aircraft systems; requiring search warrants to be obtained before unmanned aircraft systems may be used in criminal investigations and creating exemptions thereto; requiring documentation of law-enforcement flights of unmanned aircraft systems and maintenance of records; precluding admissibility in civil, criminal and administrative proceedings of images or the evidence obtained in violation of the provisions of this article; and requiring the West Virginia Aeronautics Commission, the West Virginia Department of Military Affairs and Public Safety, the West Virginia Sheriffs’ Bureau for Professional Standards and the West Virginia State Police to propose legislative rules and promulgate emergency rules”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 376 - “A Bill to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended, relating to background checks for applicants for private investigator and security

guard licensure; directing Secretary of State to request a full set of fingerprints from each applicant; stating purpose for requesting fingerprints; and directing fingerprints to be checked through Criminal Identification Bureau of West Virginia State Police and United States Federal Bureau of Investigation”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 416 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-51-1, §16-51-2, §16-51-3, §16-51-4, §16-51-5, §16-51-6, §16-51-7 and §16-51-8, all relating to allowing terminally ill patients to have access to investigational products that have not been approved by the federal Food and Drug Administration that other patients have access to when they participate in clinical trials; establishing a short title; setting out legislative findings; defining terms; allowing drug manufacturers to provide investigative products; setting forth insurance requirements; and prohibiting action”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 438 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-6A-2a, relating to notification and recommendation of Department of Health and Human Resources with regard to placement of criminal defendants committed to the department’s care and custody”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 474 - “A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting Department of Environmental Protection’s construction or reclamation contracts from review and approval requirements of the Division of Purchasing”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

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

Delegates Arvon, Stansbury and P. White.

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 575 - “A Bill to amend and reenact §5A-10-5 of the Code of West Virginia, 1931, as amended, relating to the Real Estate Division; and providing that any contract or lease in the name of the state for office space which requires the landlord or owner of the premises to provide for or contract for cleaning or janitorial services

shall not also require the owner or landlord of the premises to use any particular person, firm or company to provide the cleaning or janitorial services”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 592 - “A Bill to amend and reenact §24B-5-3 of the Code of West Virginia, 1931, as amended, relating the method of calculating the amount of special license fees paid by pipeline companies to the Public Service Commission”; which was referred to the Committee on Energy.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 621 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24A-2-7, relating to exempting taxicab companies whose drivers are independent contractors from providing workers’ compensation coverage for the drivers”; which was referred to the Committee on Roads and Transportation then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

S. C. R. 30 - “Requesting Division of Highways to name a new bridge, bridge design number 11166 (with latitude and longitude values of 38.05515, -81.82709), crossing the Little Coal River in Boone County the ‘Lester W. and Ida C. Ellis Memorial Bridge.’”

Whereas, Lester W. Ellis was born May 5, 1904, in Sioux City, Iowa, the oldest child of parents who had immigrated to the United States through Ellis Island from Lebanon; and

Whereas, In 1924, the family moved to Kanawha County, West Virginia, and Lester W. Ellis's parents peddled merchandise in the Cabin Creek area and operated a grocery store; and worked in the Clothier, West Virginia, area selling items from the trunk of their vehicle; and

Whereas, Due to his determination and work ethic, Lester W. Ellis learned the trade from his father and became an extremely successful businessman; and

Whereas, At a dance somewhere in the South Charleston area in 1930, Lester W. Ellis met Ida Cantees of Williamson, West Virginia; and

Whereas, The couple married June 11, 1933, made a home in Madison and peddled wares in Madison and the Clothier area; and

Whereas, In the late 1930s, Lester W. and Ida C. Ellis, along with Lester's brother, opened the People's Department Store, a dry goods store on Main Street in Madison. A few years later, they built on Main Street in Madison another store called The New and Greater Ellis Department Store with their motto being "Growing Bigger—Serving Better"; and

Whereas, Both stores thrived for many years, serving the people of Madison and surrounding areas; and

Whereas, Lester W. Ellis, along with other local business and professional men, chartered the Madison Lions Club in 1943. The club did charitable and civic work that benefited the entire county; and

Whereas, Lester W. Ellis was vice president of the Madison Home Furniture Company which Lester and his brothers opened in a vacated building on Main Street in Madison; and

Whereas, In the early 1960s Lester W. Ellis and other prominent businessmen founded HECK'S, which became a multistate discount store business which operated in West Virginia, Kentucky, Ohio and Virginia. The first of many HECK'S stores opened in 1962 on Washington Street in Charleston, West Virginia. Lester W. Ellis served as Vice President of HECK'S. The "E" in HECK'S represented the Ellis brothers, Lester and Tom; and

Whereas, Ida C. Ellis, a civic-minded citizen and leader in Madison who worked right along with her husband in early business endeavors, later became a stay-at-home mother and homemaker who participated in many civic activities; and

Whereas, Ida C. Ellis was a dedicated member in the Madison Junior Woman's Club, Wildwood Garden Club, Order of the Eastern Star and the Parent Teacher Association, in which she held various offices; and

Whereas, The couple's love of community and service to the people of the community helped Madison, West Virginia, become a thriving town; and

Whereas, It is fitting that a memorial be dedicated to recognize the many contributions Lester W. and Ida C. Ellis made to the community of Madison, West Virginia, their generosity to others, strong family ties, and their legacy of family members who continue to carry on the good name and work they started; and

Whereas, A new bridge is being built on property previously belonging to the Ellis family; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a new bridge, bridge design number 11166 (with latitude and longitude values of 38.05515, -81.82709), crossing the Little Coal River in Boone County the "Lester W. and Ida C. Ellis Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Lester W. and Ida C. Ellis Memorial Bridge”; and, be it

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

S. C. R. 31 - “Requesting Division of Highways to name bridge number 23-12-0.05 (23A057) (37.87210, -81.98544), locally known as the ‘Peach Creek Bridge’, carrying CR-12 over Guyandotte River in Logan County, the ‘U. S. Air Force Staff Sgt Bethel Howard McNeely and U. S. Marine Staff Sgt Clyde Elmo Bryant Bridge’.”

Whereas, Staff Sergeant Bethel Howard McNeely was born on January 1, 1922, at Peach Creek, West Virginia, the son of Manny and Mary McNeely of Peach Creek; and

Whereas, Staff Sergeant Bethel Howard McNeely was raised in Logan County and enlisted in the Air Force in September 1942. He served with the 94th Bomb Group, 333rd Bomb Squadron from September 1942 until October 1945 as a Tail Gunner on a B-17 Flying Fortress; and

Whereas, During this time, Staff Sergeant Bethel Howard McNeely flew on 26 missions into Germany and enemy-occupied territory; and

Whereas, Staff Sergeant Bethel Howard McNeely was awarded the Presidential Unit Citation Distinguished Flying Cross, Air Medal with

Three Oak Leaf Clusters, the Air Offensive Europe with Battle Star and the European, African and Middle East Theater Ribbons; and

Whereas, Upon returning home, Staff Sergeant Bethel Howard McNeely worked for C&O Railroad until he retired in 1985. Today he resides at Crooked Creek in the home where he raised seven children. His wife was a long-time employee of the Logan County Board of Education, serving in the Payroll Office; and

Whereas, Staff Sergeant Bethel Howard McNeely is a member of the Crooked Creek Church of Christ and much loved in the community; and

Whereas, United States Marine Staff Sergeant Clyde Elmo Bryant enlisted in the service during World War II, in Bridgeport, Connecticut, when he heard of the attack on Pearl Harbor; and

Whereas, After training at Cherry Point and Parris Island, Staff Sergeant Clyde Elmo Bryant was assigned to the Third Marine Division and shipped off to the Pacific. He made beachhead landings at Guam, Bougainville and Iwo Jima, as well as on other smaller islands; and

Whereas, Staff Sergeant Clyde Elmo Bryant was loading wounded Marines for transfer off the Island of Iwo Jima when the famous flag raising photo was taken by Joe Rosenthal; and

Whereas, Staff Sergeant Clyde Elmo Bryant was awarded the Presidential Unit Citation Award and Ribbon Bar for service on Guam, the Asiatic-Pacific Campaign Medal and the Victory Medal; and

Whereas, Staff Sergeant Clyde Elmo Bryant returned home to Logan County at the end of World War II, married Lila Evelyn Wilson and took up residence at Crooked Creek. He raised his four children on Crooked Creek; and

Whereas, Staff Sergeant Clyde Elmo Bryant was a watchmaker and jeweler and operated several businesses in the City of Logan. He was a leader in the Crooked Creek Church of Christ and in many other community organizations. He was a 32 degree Mason; and

Whereas, In 1962, Staff Sergeant Clyde Elmo Bryant was again called to duty as a squad leader and Sergeant 1st class in the 150th Armored Cavalry when the West Virginia National Guard was called up during the “Cuban Missile Crisis”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-12-0.05 (23A057) (37.87210, -81.98544), locally known as the “Peach Creek Bridge”, carrying CR-12 over Guyandotte River in Logan County, the “U. S. Air Force Staff Sgt Bethel Howard McNeely and U. S. Marine Staff Sgt Clyde Elmo Bryant Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Air Force Staff Sgt Bethel Howard McNeely and U. S. Marine Staff Sgt Clyde Elmo Bryant Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways, to the family of Howard McNeely and to the family of the late Clyde Bryant.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

S. C. R. 32 - “Requesting Division of Highways to name the bridge along 119/2 Hemlock Road off Route 47 that crosses Leading Creek at latitude 39.01564, longitude -80.74842, near Troy, bridge number

11-119/2-4.34 (11A140), currently known as the Hemlock Road Girder, the ‘CW2 Robert D. Taylor Memorial Bridge’.”

Whereas, Robert Taylor grew up on Hemlock Road with his parents, Dale and Alice Taylor, and brother Richard; and

Whereas, Robert was a positive young man who had a big heart. He was active in his community, attended church and always helped neighbors and friends; and

Whereas, Robert always dreamed of being a pilot and he enlisted in the United States Army; and

Whereas, Robert was assigned the rank of Chief Warrant Officer 2 while serving in the U. S. Army; and

Whereas, After serving eight years, CW2 Robert D. Taylor was tragically killed in a helicopter crash along the demilitarized zone between North and South Korea; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is requested to name the bridge along 119/2 Hemlock Road off Route 47 that crosses Leading Creek at latitude 39.01564, longitude -80.74842, near Troy, bridge number 11-119/2-4.34 (11A140), currently known as the Hemlock Road Girder, the “CW2 Robert D. Taylor Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signed identifying the “CW2 Robert D. Taylor Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Jim Bailey at 102 Sleeth Run Road, Linn, West Virginia, 26384.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

S. C. R. 36 - "Requesting Division of Highways name bridge number 35-70/1-0.01 (35A141) (40.06690 -80-69312), locally known as Washington Avenue Bridge, carrying County Route 70/1 over Interstate 70 in Ohio County, the 'U. S. Army SPC5 Joseph Richard "Rick" Schafer Memorial Bridge'."

Whereas, Joseph Richard "Rick" Schafer was born April 29, 1949, in Wheeling, West Virginia, the son of Joseph E. Schafer, Jr., deceased, and Betty J. Pappert Schafer; and

Whereas, Joseph Richard Schafer grew up with three sisters: Beverly Schafer Yankwitt of Port Charlotte, Florida; Paula Schafer Wood of Ocala, Florida; and Lynnette Schafer of Wheeling, West Virginia; and

Whereas, Joseph Richard Schafer enjoyed playing Little League baseball and high school football; and

Whereas, Joseph Richard Schafer graduated from Central Catholic High School in Wheeling and attended West Liberty State College; and

Whereas, Joseph Richard Schafer would cross the Washington Avenue Bridge near his home almost every day to be with friends or to meet the girlfriend he would later marry; and

Whereas, Prior to entering the U. S. Army, Joseph Richard Schafer married Vicki Dayton of Wheeling, West Virginia; and

Whereas, SPC5 Joseph Richard Schafer entered the U. S. Army on May 29, 1969, and was trained as an engineer equipment repairman; and

Whereas, SPC5 Joseph Richard Schafer was deployed to Vietnam on September 15, 1970; and

Whereas, Joseph Richard Schafer was killed in Vietnam on May 6, 1971, while driving a military vehicle involved in an accident; and

Whereas, It is appropriate to name the bridge for SPC5 Joseph Richard “Rick” Schafer who gave his life for his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 35-70/1-0.01 (35A141) (40.06690 – 80-69312), locally known as Washington Avenue Bridge, carrying County Route 70/1 over Interstate 70 in Ohio County, the “U. S. Army SPC5 Joseph Richard ‘Rick’ Schafer Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “U. S. Army SPC5 Joseph Richard ‘Rick’ Schafer Memorial Bridge”; and, be it

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

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

Committee Reports

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 24th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(**H. B. 4161**), Relating to levies on classifications of property by the Board of Public Works,

And,

(**Com. Sub. for S. B. 309**), Relating to child-care center licensing and exempting county parks and recreation from licensure.

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

Your Committee on Finance has had under consideration:

H. B. 4299, Increasing the amount volunteer fire companies or paid fire departments may charge for reimbursement,

And,

H. B. 4461, Relating to School Building Authority School Major Improvement Fund eligibility.

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

On motion for leave, a bill was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Ellington, Summers and Householder:

H. B. 4728 - "A Bill to amend and reenact §60A-2-208 of the Code of West Virginia, 1931, as amended, relating to schedule three controlled substances; designating human chorionic gonadotropin as a schedule three controlled substance; and allowing human chorionic gonadotropin solely for injection or implantation in cattle and other nonhuman species."

On motion for leave, a bill was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Ellington, Summers, Lane, Householder, Sobonya, Hill, Faircloth, Perdue, Pushkin and Longstreth:

H. B. 4727 - “A Bill to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, and to amend and reenact §9-5-23 of said code, all relating to state plan amendments; requiring the filing of state plan amendments to the legislature; requiring state plan amendments to be filed with the legislative rule-making and review committee; requiring a state plan amendment by approved through the rule-making process.”

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2960, Permitting county boards of education to develop emergency preparedness drills in schools,

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

On motions for leave, bills were introduced (Originating in the Committee on Government Organization and reported with the recommendation that they each do pass), which were read by their titles, as follows:

By Delegates Howell, Arvon, Border, Moffatt, Flanigan, Ihle, Hill and Hamrick:

H. B. 4732 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-24, relating to performance metrics for the West Virginia Division of Highways; requiring the division to develop performance standards and criteria to measure agency performance in all essential operations; requiring the division to employ a management information system that will track the division’s past and current progress toward meeting performance standards; and requiring the division to report to the Joint Committee on Infrastructure,”

And,

By Delegates Howell, Arvon, Border, Moffatt, Hartman, Lynch, Caputo, Sponaugle, Eldridge, Ihle and Blair:

H. B. 4733 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to requiring the Commissioner of Highways to develop a statewide communications plan known as the Comprehensive Public Involvement Plan; requiring that the plan utilize multimedia outlets to inform the public of known or anticipated disruptions in traffic patterns; requiring that the plan include a mechanism to receive and respond to communications from the public in a timely manner; requiring that the plan include a mechanism for collecting feedback from the public on the division’s response to public communications; requiring the division to designate a communications specialist in each maintenance district; and requiring the division to submit the plan to the Legislature for approval as a legislative rule.”

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4658, Relating to the Board of Funeral Service Examiners,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 4554, Allowing an increase of gross weight limitations on certain roads in Greenbrier County,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4554 - “A Bill to authorize the Commissioner of the Division of Highways to allow an increase of gross weight limitations on certain roads in Greenbrier County”,

With the recommendation that the committee substitute do pass.

On motions for leave, bills were introduced (Originating in the Committee on Education and reported with the recommendation that they each do pass), which were read by their titles, as follows:

By Delegates Espinosa, Hamrick, Kurcaba, Hicks, Ellington, Blackwell, Statler and Rohrbach:

H. B. 4730 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated section ‘18-2-12, relating to computer science courses of instruction; making legislative findings; requiring submission by state board of plan for implementation of computer science instruction and learning standards in public schools to legislative oversight commission prior to 2017 legislative session; and specifying areas of recommendations to be included in plan,”

And,

By Delegates Rohrbach, Cooper, Rowan, Hornbuckle, Perdue, Ambler, Hicks, Romine, D. Evans, Ellington and Blackwell:

H. B. 4731 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated section §18-2-7b, relating to requiring comprehensive drug awareness and prevention program in all public schools; requiring county boards to implement no later than 2016-2017 school year; specifying purposes of program; requiring county boards to coordinate delivery of instruction to meet program purposes with educators, drug rehabilitation specialists and law-enforcement agencies; and requiring instruction relating to interactions with law-enforcement officers.”

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Lane, Hanshaw, McCuskey, Fleischauer, Azinger, Shaffer, Sobonya, Deem, Fluharty, Skinner and Manchin:

H. B. 4725 - “A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, all relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications.”

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

Your Committee on the Judiciary has had under consideration:

H. B. 2801, Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2801 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3pp; and to amend said code by adding thereto a new section, designated §8-12-16d, all relating to permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas; and setting forth their additional powers and responsibilities,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4587, Relating to violations associated with absent voters' ballots,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 4587 - “A Bill to amend and reenact §3-9-19 of the Code of West Virginia, 1931, as amended, relating to violations associated with absent voters’ ballots; providing cleanup language by changing reference of circuit clerk to clerk of county commission; changing gender references and making other changes relating to the language in the misdemeanor provisions of this section,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2205, Creating the crime of prohibited sexual contact by a psychotherapist,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2205 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-8F-1 and §61-8F-2, all relating to prohibited sexual contact by psychotherapists; creating the crime of prohibited sexual contact by a psychotherapist and the crime of therapeutic deception; providing elements of the crime; providing exceptions; providing definitions; and providing criminal penalties,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4237, Supporting and Strengthening Families Act,

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

Com. Sub. for H. B. 4237 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-8-1, §49-8-2, §49-8-3, §49-8-4, §49-8-5, and §49-8-6, all relating to the temporary delegation of certain custodial powers by a parent or guardian; providing findings, defining terms; permitting the delegation of certain custodial powers; creating a parental rights form; requiring certain background checks; mandating certain disclosures; and providing exemptions,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

H. B. 4380, Adding the spouse of an indigent person as a possible individual who may be liable for the funeral service expenses,

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

Com. Sub. for H. B. 4380 - “A Bill to amend and reenact §9-5-9 and §9-5-18 of the Code of West Virginia, 1931, as amended, all relating to liability of spouses or relatives for certain expenses of an indigent person; requiring spouse to be liable for funeral expenses of an indigent person; eliminating liability of certain persons for support of an indigent person; defining terms; limiting liability of certain persons for funeral expenses of an indigent person; reducing the maximum amount the department of health and human resources may pay for funeral expenses for indigent persons; authorizing department to require certain financial information; requiring certain sworn statements regarding ability to pay for funeral services for an indigent

person; limiting the total number of indigent funeral services that may be paid for by the department of health and human resources per year; and requiring cremation under certain circumstances,”

And,

H. B. 2110, Relating generally to the tax treatment of manufacturing entities,

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

Com. Sub. for H. B. 2110 - “A Bill to amend and reenact §11 6F 2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11 13S 3 and §11 13S 4 of said code, all relating generally to the tax treatment of manufacturing entities generally; amending definition of manufacturing for purposes of special method for appraising qualified capital additions to manufacturing facilities for property tax purposes; amending definition of manufacturing for purposes of manufacturing investment tax credit; and amending the formula for calculating credit allowed for manufacturing investment, to include Small Arms Ammunition Manufacturing and Small Arms, Ordinance, and Ordinance Accessories Manufacturing,”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on Finance has had under consideration:

H. B. 4321, Relating to tax credits for apprenticeship training in construction trades.

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

Miscellaneous Business

Delegate Frich asked and obtained unanimous consent that the remarks of Delegate Miller regarding the committee process be printed in the Appendix to the Journal.

Delegate Byrd noted to the Clerk that he was absent on today when the votes were taken on Roll No. 166 and Roll No. 167, and that had he been present, he would have voted “Yea” thereon.

Delegate Wagner filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 4009.

At 6:20 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 25, 2016.