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January 19, 2018

TENTH DAY



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Friday, January 19, 2018

**TENTH 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 18, 2018, 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. J. R. 103**, Election of West Virginia Board of Education members amendment,

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

In accordance with the former direction of the Speaker, the resolution (H. J. R. 103) 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. 4006**, Revising the processes through which professional development is delivered for those who provide public education,

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. 4006) 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. 2799**, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit,

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. 2799) was referred to the Committee on the Judiciary.

Delegate Cooper, 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. 2822**, Allowing honorably discharged veterans who possess certain military ratings to qualify to take an examination for licensing as a plumber, electrician, and sprinkler fitter,

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

In the absence of objection, reference of the bill (H. B. 2822) to the Committee on Government Organization was abrogated.

Delegate Cooper, 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. 2838**, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician,

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

In the absence of objection, reference of the bill (H. B. 2838) to the Committee on Health and Human Resources was abrogated.

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

**By Delegates Summers, Ellington, Sobonya, Rohrbach, Dean, Robinson and Campbell:**

**H. B. 4232** - "A Bill to amend and reenact §64-9-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Examiners on Registered Professional Nurses to promulgate a legislative rule relating to policies, standards and criteria for the evaluation and accreditation of colleges, departments or schools of nursing."

Pursuant to House Rule 80, the Speaker referred the bill (H. B. 4232) 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. 4067**, Board of Pharmacy, rule relating to licensure and practice of pharmacy,

And,

**H. B. 4070**, Board of Medicine, rule relating to continuing education for physicians and podiatric physicians,

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. 4067 and H. B. 4070) 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. 4156**, Establishing the qualifications of full and part time nursing school faculty members,

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 Education.

In accordance with the former direction of the Speaker, the bill (H. B. 4156) was referred to the Committee on Education.

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

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

**Com. Sub. for H. B. 2607** – “A Bill to amend and reenact §62-12-10 of the Code of West Virginia, 1931, as amended, relating to extending the maximum period of confinement a judge may impose for certain, first-time probationary violations from sixty days to six months; and providing judges greater sentencing discretion for certain, subsequent violations of probation,”

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:

**H. B. 4161**, Exempting the State Conservation Committee and the Conservation Agency from the requirements of the Purchasing Division for contracts related to flood recovery,

And,

**H. B. 4162**, Granting authority to the State Conservation Committee to contract for flood response,

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. 4161 and H. B. 4162) 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. 4051**, Board of Veterinary Medicine, rule relating to schedule of fees,

**H. B. 4052**, Board of Veterinary Medicine, rule relating to certified animal euthanasia technicians,

And,

**H. B. 4053**, Board of Veterinary Medicine, rule relating to organization and operation and licensing of veterinarians,

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 bills (H. B. 4051, H. B. 4052 and H. B. 4053) 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. 4061**, Board of Pharmacy, rule relating to controlled substances monitoring program,

**H. B. 4062**, Board of Pharmacy, rule relating to registration of pharmacy technicians,

**H. B. 4063**, Board of Pharmacy, rule relating to uniform controlled substances act,

**H. B. 4064**, Board of Pharmacy, rule relating to centralized prescription processing,

**H. B. 4065**, Board of Pharmacy, rule relating to immunizations administered by pharmacists and pharmacy interns,

**H. B. 4066**, Board of Pharmacy, rule relating to pharmacist recovery networks,

**H. B. 4068**, Board of Osteopathic Medicine, rule relating to osteopathic physician assistants,

And,

**H. B. 4069**, Board of Medicine, rule relating to licensure, disciplinary and complaint procedures, continuing education, physician assistants,

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. 4064, H. B. 4065, H. B. 4066, H. B. 4068 and H. B. 4069) were each referred to the Committee on the Judiciary.

### **Resolutions Introduced**

Delegates Rowan, Frich, Eldridge, Hicks, Ambler, Anderson, Arvon, Atkinson, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cowles, Criss, Dean, Gearheart, Graves, Hamilton, Harshbarger, Higginbotham, Hill, Hollen, Hornbuckle, Householder, Howell, Iaquina, Isner, Jennings, Kelly, Kessinger, Lane, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, Maynard, McGeehan, Miley, C. Miller, R. Miller, Moore, Moye, Mr. Speaker (Mr. Armstead), Nelson, Overington, Pack, Paynter, Pethel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowe, Shott, Sobonya, Sponaugle, Statler, Storch, Summers, Sypolt, Thompson, Upson, Wagner, Walters, Ward, Westfall, White, Williams, Wilson, Zatezalo, Cooper and Campbell offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 19** – “Requesting that the West Virginia Legislature designate Sunday, May 6th 2018, as a day of recognition of World Moyamoya Awareness Day in West Virginia.”

Whereas, Moyamoya is a rare neurovascular condition seen in children and adults in which the walls of the internal carotid arteries—the vessels that supply blood to important areas of the brain—become thickened and narrowed, reducing blood flow; and

Whereas, This blockage of flow puts patients at great risk of transient ischemic attacks (TIAs) and strokes; and

Whereas, Moyamoya is not a well-known disease and can often go misdiagnosed or undetected; and

Whereas, While there is no known medical treatment capable of reversing or stabilizing progression of Moyamoya syndrome it can progress quickly; and

Whereas, Moyamoya syndrome is more common in children and has higher prevalence in children diagnosed with sickle cell disease or trisomy 21 (Down Syndrome); and

Whereas, Awareness is the key to saving lives and early detection and diagnosis provides patients with Moyamoya the best chance of survival; and

Whereas, The good health and well-being of the residents of the state are enhanced as a direct result of increased awareness about Moyamoya and research into early detection, causes, and effective treatments; and

Whereas, West Virginia will be aligned with World Moyamoya Day on May 6th to bring awareness to the public and the medical community, prompting early diagnosis; therefore, be it

*Resolved by the Legislature of West Virginia:*

That Sunday, May 6, 2018 is named a day of recognition of World Moyamoya Awareness Day and all citizens are urged to take cognizance of this event and participate fittingly in its observance.

Delegates Robinson, Rowe, Pushkin, Lane, Graves, Mr. Speaker (Mr. Armstead), Byrd and Capito offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 20** – “Requesting the Division of Highways name bridge number 20-73/5-0.55, locally known as Point Lick Bridge, carrying Point Lick Bridge over Campbells Creek in Kanawha County, the ‘U. S. Marine Corps CPL Larry Scott Kennedy Memorial Bridge’.”

Whereas, Larry Scott Kennedy was born in Charleston, West Virginia, May 15, 1947, and died March 6, 1968, in Khe Sanh, Vietnam. He was the first child and only son born to Clyde J. Kennedy and Janet Trigg Kennedy; and

Whereas, Larry Scott Kennedy helped his relatives build a home for his family at Point Lick on Campbells Creek. He treasured nature and enjoyed fishing, trapping, and hunting with his parents and his dogs. Larry attended New Lexington High School in New Lexington, Ohio, was Senior Class President at New Lexington High School and was deeply admired by his peers and was on the football team at New Lexington High School and helped carry his team to victory at the Muskingham Valley Championship; and

Whereas, Larry Scott Kennedy joined the Marine Corps and departed for Parris Island in July 1967 and was sent to AIT Camp Lejeune in North Carolina thereafter where he served as a Forward Observer for the Artillery. He aspired to finish college at West Virginia University after attending one year to become a forester after he returned home from service; and

Whereas, Larry Scott Kennedy was sent to Camp Pendleton in California, and from there he was sent to Khe Sanh, Vietnam along with six thousand fellow Marines. He fell ill for three weeks in Vietnam and he valiantly persevered through his illness. He worked alongside the Bru Montagnards, finding brotherhood through a love of the mountains and fighting for peace; and

Whereas, Larry Scott Kennedy was wounded on the hand by shrapnel that killed a Marine nearby. He was subsequently injured with a damaging concussion and internal bleeding after being launched thirty feet into the air. He received two Purple Hearts during his service; and

Whereas, During Larry Scott Kennedy’s recovery at a hospital in Da Nang, his best friend George L. Elliott III diligently remained by his side. They decided to return to Khe Sanh together because they knew every capable man was needed. The plane that carried Larry Scott Kennedy and George L. Elliott III back to Khe Sanh was shot down by enemy forces and everyone aboard was pronounced dead or missing in action; and

Whereas, Larry Scott Kennedy now rests at the Jefferson Barracks National Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Marine Corps CPL Larry Scott Kennedy his contributions to our 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 20-73/5-0.55, locally known as Point Lick Bridge, carrying Route 73/5 over Campbells Creek in Kanawha County, the “U. S. Marine Corps CPL Larry Scott Kennedy 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. Marine Corps CPL Larry Scott Kennedy Memorial Bridge”; and, be it

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

Delegates R. Miller, Rodighiero and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 21** – “Requesting the Division of Highways name bridge number 03-85/24-0.01 (03A167), on County Route 85, locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in Boone County, the ‘U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge’.”

Whereas, 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 loved baseball and played in the Pony League each summer and graduated from Van High School in 1967; he was a voracious reader who teased and tormented his brother Steve and sisters, Joy, Jane and Diane without mercy; and

Whereas, Randall Carl Phelps 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 and his letters home documented his belief that the people he was defending were deserving of his sacrifice; and

Whereas, U. S. Army PFC Randall Carl Phelps was a member of A Company, 3rd Engineering Battalion, 3rd Marine Division, serving as a Combat Engineer; he was killed in action in Quang Tri Province, The Republic of South Vietnam, on April 8th, 1968, assisting wounded soldiers onto a Medevac chopper during a North Vietnam mortar barrage; and

Whereas, U. S. Army PFC Randall Carl Phelps 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, in Boone County, the “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), locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in Boone County, the “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. Marine Corps PFC Randall Carl Phelps 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.

Delegates R. Miller, Eldridge, Rodighiero and Maynard 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 Bridge Number 03-3/14-0.10 (03A196), locally known as New Kirbyton Bridge, carrying CR 3/14 over Big Coal River in Boone County, the ‘U.S. Navy MM2 Carl E. Keeney, U.S. Navy SN1 Frankie Keeney and U.S. Army PFC Carl M. Nicholas 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 and 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; and

Whereas, U.S. Navy Machinist’s Mate Carl Eugene 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; and

Whereas, After faithfully and honorably serving his country, 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, Frankie Keeney was born to Dewey and Ruth Skeens Keeney on June 10, 1927, in Seth, West Virginia; and left high school early as he entered the United States Armed Forces at the age of 16, by enlisting in the United States Navy in 1944, eventually attaining the rating of Seaman First Class; and

Whereas, U.S. Navy Seaman First Class Frankie Keeney served over seven years in the Pacific Theater and earned combat ribbons from action in Iwo Jima, Okinawa and the Dutch East Indies before he was honorably discharged in 1951; and

Whereas, After faithfully and honorably serving his country, Frankie Keeney began an athletic career in the minor league baseball farm system of the Cleveland Indians until his retirement and continued with the organization by being a batting practice pitcher until well after the age of sixty; and

Whereas, Carl M. Nicholas was born to Dan and Frona Cottrell Nicholas on September 27, 1922, in Bickmore, West Virginia, and 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; and

Whereas, U.S. Army PFC Carl M. Nicholas answered his nation’s call to service, joining the United States Army in World War II in the European Theater of Operations, where he was assigned to Company I, 12th Infantry Regiment, 4th Infantry Division from May 16, 1944, to September, 1945, where he participated in the Invasion of Normandy on D-Day and in the Battle of the Bulge; and

Whereas, U.S. Army PFC Carl M. Nicholas was wounded in action on June 26, 1944, when he received and survived bullet wounds from a German sniper and for which he was awarded the Purple Heart; he also was awarded the Bronze Star for meritorious achievement in active ground combat; and

Whereas, Upon his return to civilian life, U. S. Army PFC Carl M. Nicholas 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; and

Whereas, After a life well lived in service to his community and his country, Carl M. Nicholas passed away on September 3, 2014; and

Whereas, Recognizing that both U. S. Navy Machinist's Mate Carl Eugene Keeney, U.S. Navy SN1 Frankie Keeney and U. S. Army PFC Carl M. Nicholas are lifelong residents of Boone County on Big Coal River, 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 Bridge Number 03-3/14-0.10 (03A196), locally known as New Kirbyton Bridge, carrying CR 3/14 over Big Coal River in Boone County, the "U.S. Navy MM2 Carl E. Keeney, U.S. Navy SN1 Frankie Keeney and U.S. Army PFC Carl M. Nicholas 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 MM2 Carl E. Keeney, U.S. Navy SN1 Frankie Keeney and U.S. Army PFC Carl M. Nicholas Bridge"; and, be it

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

Delegates Fast, Shott, Love, C. Romine and R. Miller offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

**H. C. R. 23** – "Requesting the Department of Military Affairs and Public Safety ('DMAPS') to coordinate with the Division of Personnel ('DOP') to develop a plan to raise correctional officer's salaries to alleviate staffing and retention shortages."

Whereas, DMAPS is charged with overseeing the three correctional agencies in West Virginia: the West Virginia Regional Jail and Correctional Facility Authority, the West Virginia Division of Corrections and the West Virginia Division of Juvenile Services (herein collectively "WV Correctional Agencies"); and

Whereas, WV Correctional Agencies suffer from recruitment and retention issues, and have represented to the Legislative Oversight Committee on Regional Jail and Correctional Facilities Authority that salaries are not competitive enough to allow for recruitment of applicants and retention of staff; and

Whereas, The United States Poverty Guidelines for a family of four have increased since 2010 from \$22,050 to \$24,300 in 2016. However, as of August 2017, West Virginia correctional officer's salaries have remained at \$22,584 since 2009. Meanwhile, turnover rates have increased in WV Correctional Agencies from 29.2% in FY14 to 32.2% in FY16, and vacancies in the West Virginia Division of Corrections ("DOC") have increased by 55% from 2013 to 2016; and

Whereas, As of July 13, 2015, nearly 44% of all DOC employees have less than 5 years' service in their current position. There were 448 correctional officer separations from the DOC in FY16 with over 75% leaving within the first 24 months, and over 66% leaving within the first year of service; and

Whereas, WV Correctional Agencies are in competition with surrounding states' correctional facilities, in-state Federal Bureau of Prisons, and county and municipal police departments. WV Correctional Agencies are losing personnel to their competitors because of superior compensation. As of August 2017, the starting salary for a West Virginia correctional officer was the lowest in the nation; and

Whereas, Separation, replacement, and training costs are placing a significant strain on the financial security of WV Correctional Agencies. Vacancy costs have caused overtime hours to increase to a total of \$13,572,260 for WV Correctional Agencies in FY16; and

Whereas, In order to make WV Correctional Agencies competitive, starting salaries need to be raised from \$10.86 per hour to approximately \$14.50 per hour; or the equivalent of approximately \$30,000 per year salary. This would equal an approximately \$7,000 pay increase from the starting salary (as of August 2017) for West Virginia correctional officers; and

Whereas, WV Correctional Agencies are experiencing critical levels of staff vacancies, inexperience, and turnover. Moreover, as of August 17, 2017, WV Correctional Agencies were housing 820 inmates in excess of total beds. Correctional officers perform an important public safety function and work in an inherently dangerous environment. The staffing and retention crisis, coupled with overcrowding in WV Correctional Agencies, poses a substantial risk to public safety; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests DMAPS and DOP to work in conjunction to develop an adequate compensation plan to raise correctional officer starting salaries to approximately \$30,000 per year to alleviate the current WV Correctional Agencies' staffing and retention crisis; and, be it

*Further Resolved,* That the Legislature hereby requests the Governor's Office to support and adopt the staffing and retention compensation plan developed by DMAPS and DOP; and, be it

*Further Resolved,* That the Legislature hereby encourages the Governor's Office to draft and support any legislation necessary to provide salary increases to correctional officers in WV Correctional Agencies so that starting salaries for correctional officers are no less than \$30,000 per year, and to include funding for those salaries in any budget proposal submitted to the West Virginia Legislature; 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 DMAPS, the Director of DOP, and to the Governor's Office.

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

**By Mr. Speaker (Mr. Armstead) and Delegate Miley:**

**H. J. R. 106** - "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, generally relating to the Just Cut Taxes and Win Amendment; providing a purpose for the amendment; clarifying the ad valorem taxation of current tangible industrial machinery, equipment and inventory personal property directly used in industrial business activity, and such components thereof, will be reduced and ultimately eliminated; clarifying tangible industrial personal property of public service companies

will continue to be taxed; defining certain terms; exempting from ad valorem taxation new tangible industrial machinery, equipment and inventory personal property directly used in industrial business activity, and such components thereof, except for that imposed on the tangible industrial personal property of public service companies, purchased on and after July 1, 2019; freezing the assessed value of tangible industrial machinery and equipment personal property directly used in industrial business activity, and such components thereof, except for the assessed value of the tangible industrial personal property of public service companies; stepping down the assessed value and ultimately eliminating the ad valorem taxation of tangible industrial machinery and equipment personal property directly used in industrial business activity, and such components thereof, except for the assessed value and tax on tangible industrial personal property of public service companies; replacing revenue to the schools, municipalities, counties, the State, other levying bodies and levies reduced because of the assessed value stepdown and ultimate elimination of the ad valorem tax on tangible industrial machinery and equipment personal property directly used in industrial business activity, and such components thereof; requiring the Governor to annually provide in the budget bill, the Legislature to annually preserve and appropriate in the budget bill, and prohibiting the Governor from line item vetoing or reducing replacement revenue in the budget bill required by this amendment for the schools, municipalities, counties, the State, other levying bodies and levies; clarifying why replacement revenue is needed and how it is distributed; permitting the Legislature to enact general laws required to carry out the provisions of this amendment; permitting agencies through rule-making authorized by general law approved by the Legislature to promulgate rules required to carry out the provisions of this amendment; preserving earned tax relief benefits; prohibiting the reinstatement of the ad valorem tax on tangible industrial machinery, equipment and inventory personal property directly used in industrial business activity, and such components thereof, after ultimate elimination; providing for primacy of this section over all other law in the West Virginia Constitution, West Virginia Code and West Virginia common law; numbering and designating the amendment; and providing a summarized statement of the purpose of the amendment"; to the Committee on Finance then the Judiciary.

### **Bills Introduced**

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

**By Delegates Storch, Ferro, R. Romine, Hamrick, Ellington, McGeehan, Pyles, Lynch, Paynter, Barrett and Longstreth:**

**H. B. 4202** - "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, §51-12-3, §51-12-4, §51-12-5, §51-12-6, §51-12-7, §51-12-8, §51-12-9, §51-12-10, §51-12-11, §51-12-12, §51-12-13, §51-12-14, §51-12-15, and §51-12-16, all relating to the Model Veterans Treatment Court Act"; to the Committee on Veterans' Affairs and Homeland Security then the Judiciary.

**By Delegates Butler, Cooper, Ambler, Ward, Hollen, Westfall, Criss, Harshbarger, Kelly, Zatezalo and Householder:**

**H. B. 4203** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-20-1, §18-20-2, §18-20-3, §18-20-4, §18-20-5, §18-20-6 and §18-20-7, all relating to creating the Campus Free Speech Act; making findings; creating the Committee on Free Expression; requiring freshman orientation; authorizing the Higher Education Policy Commission and state institutions of higher learning to adopt additional policies; providing limitations; defining terms; providing enforcement actions; and providing for damages"; to the Committee on Education then the Judiciary.

**By Delegates C. Miller, A. Evans, Sobonya, McGeehan, Frich, Atkinson, Westfall, Butler, Cooper, Harshbarger and Ambler:**

**H. B. 4204** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-1-3, relating to the preservation of rights guaranteed by the West Virginia Constitution and the United States Constitution when deciding the comity of a legal decision in a foreign country, the choice of law used for contractual interpretations and choice of forum; exempting businesses; making legislative findings; stating public policy; defining a term; and providing a severability provision"; to the Committee on the Judiciary.

**By Delegates Phillips, Maynard, Criss, Statler, Paynter, Ambler, Lane, McGeehan, R. Miller, Eldridge and Dean:**

**H. B. 4205** - "A Bill to amend and reenact §11-13Q-3, §11-13Q-7 and §11-13Q-19 of the Code of West Virginia, 1931, as amended, all relating to entitling natural resource producers to the economic opportunity tax credit; allowing the credit to be used to offset the severance tax; establishing conditions; and modifying definitions"; to the Committee on Energy then Finance.

**By Delegates Shott, Gearheart and Ellington:**

**H. B. 4206** - "A Bill to amend and reenact §18-5-18a of the Code of West Virginia, 1931, as amended, relating to revising pupil to teacher ratio for elementary schools"; to the Committee on Education then Finance.

**By Delegates Shott and Hanshaw:**

**H. B. 4207** - "A Bill to amend and reenact §39-4-20 of the Code of West Virginia, 1931, as amended, relating to receiving a commission to act as a notary public; authorizing an online electronic application process to apply to receive a commission to act as a notary public; and eliminating the \$1000 bond requirement"; to the Committee on the Judiciary.

**By Delegates Storch, Hamrick, Ellington and Barrett:**

**H. B. 4208** - "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 Council to develop the standards necessary to electronically record real property documents; authorizing a legislative rule; providing for a report and recommendations to the Legislature; providing that members of the Real Property Electronic Recording Standards Council 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 the Judiciary.

**By Delegates Storch, Ferro, R. Romine, Hamrick, Ellington, Pyles and Barrett:**

**H. B. 4209** - "A Bill to amend and reenact §39B-2-101 and §39B-3-101 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new article, designated §44E-1-1, §44E-1-2, §44E-1-3, §44E-1-4, §44E-1-5, §44E-1-6, §44E-1-7, §44E-1-8,

§44E-1-9, §44E-1-10, §44E-1-11, §44E-1-12, §44E-1-13, §44E-1-14, §44E-1-15, §44E-1-16, §44E-1-17, and §44E-1-18, all relating to the Uniform Power of Attorney Act, exercising authority over the content of electronic communications and accessing the content of electronic communications; creating the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets; addressing terms of service agreements; setting forth procedure for disclosing digital assets; providing for disclosure of content of electronic communications and other digital assets of deceased users; providing for disclosure of content of electronic communications of a principal; addressing disclosure of digital assets of a principal; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of digital assets held in trust when trustee is not an original owner or user; addressing disclosure of digital assets to conservator of a protected person; setting forth fiduciary's duties and authority; providing for custodian's compliance and immunity; providing for uniformity of application and construction of article; and addressing relation of article to Electronic Signatures in Global and National Commerce Act"; to the Committee on the Judiciary.

**By Delegates Marcum, Thompson, Hicks, Isner, Rodighiero, Eldridge, R. Miller, Robinson and Williams:**

**H. B. 4210** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-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 Marcum, Eldridge, Rodighiero, Hicks, R. Miller, Isner, Phillips, Hollen, Maynard and E. Evans:**

**H. B. 4211** - "A Bill to amend and reenact §61-3-20 of the Code of West Virginia, 1931, as amended, relating to increasing penalties for public school employees that embezzle public funds"; to the Committee on Education then the Judiciary.

**By Delegates Marcum, R. Miller, Hicks, Eldridge, Thompson, Isner, Phillips, Hollen, E. Evans and Rodighiero:**

**H. B. 4212** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-6-21a, relating to requiring a minimum criminal penalty of life imprisonment upon conviction of first degree murder, second degree murder, or voluntary manslaughter if the convicted individual selected the victim of such crime based on the victim's actual or perceived employment as a law-enforcement officer"; to the Committee on the Judiciary then Finance.

**By Delegates Phillips, Blair, Criss, Lane, McGeehan, Marcum, Gearheart and Maynard:**

**H. B. 4213** - "A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, reducing the severance tax on coal to two percent; making it effective March 31, 2018"; to the Committee on Energy then Finance.

**By Delegates Eldridge, Maynard, Diserio, R. Miller, Campbell, Marcum, Dean, Phillips, Ambler, Paynter and Cooper:**

**H. B. 4214** - "A Bill to amend and reenact §19-1A-3a of the Code of West Virginia, 1931, as amended, and to amend and reenact §61-3-35 of said code, all relating to increasing penalties for unlawfully possessing or digging ginseng"; to the Committee on Agriculture and Natural Resources then the Judiciary.

**By Delegates Lane, Westfall, Kelly, White and Hanshaw:**

**H. B. 4215** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-46-7, relating to the involuntary hospitalization of persons administered opioid antagonists"; to the Committee on Health and Human Resources then the Judiciary.

**By Delegates Shott, Ellington and Gearheart:**

**H. B. 4216** - "A Bill amend and reenact §18A-4-8b(b), of the Code of West Virginia, 1931, as amended; relating to revising the order in which qualified applicants are considered for service personnel employment by county boards of education to the Committee on Education.

**By Delegates Ellington, Sobonya, Atkinson, Queen, Summers, White, Westfall, Dean, Criss and Rohrbach:**

**H. B. 4217** - "A Bill to amend and reenact §61-12-10 of the Code West Virginia, 1931, as amended, relating to permitting an attending physician to obtain a patient's autopsy report"; to the Committee on Health and Human Resources then the Judiciary.

**By Delegates Ellington, Summers, Householder, Rohrbach, Sobonya, Criss and Hollen:**

**H. B. 4218** - "A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; setting out requirement for an expert who signs a certificate of merit; allowing for admissibility of certificate of merit in actions against health care providers; and allowing testimony in a judicial proceeding or by deposition upon issuing a certificate of merit"; to the Committee on Health and Human Resources then the Judiciary.

**By Delegates Espinosa, Statler, Upson, Cooper, Dean, Wilson and Higginbotham:**

**H. B. 4219** - "A Bill to amend and reenact §18-7A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7B-2 of said code, all relating to permitting employees of educational services cooperatives to participate in the State Teachers Retirement System; and permitting persons employed for instructional services by educational services cooperatives to participate in the State Teachers' Defined Contribution Retirement System"; to the Committee on Pensions and Retirement then Finance.

**By Delegates Espinosa, Statler, Upson, Cooper, Dean, Wilson, Higginbotham and Folk:**

**H. B. 4220** - "A Bill to amend and reenact §18A-3-6 of the Code of West Virginia, 1931, as amended, relating generally to grounds for revocation of a teaching certificate; and providing that a teaching certificate or license shall be automatically revoked if a teacher is convicted of a criminal offense that requires him or her to register as a sex offender"; to the Committee on Education then the Judiciary.

**By Delegates Brewer, Sponaugle, Iaquina, Diserio, Canestraro, Ferro, Fluharty, Isner, Hornbuckle, R. Miller and Maynard:**

**H. B. 4221** - "A Bill to amend and reenact §11-10-12 of the Code of West Virginia, 1931, as amended, relating to requiring the Tax Commissioner to maintain a centralized computerized information system that allows the public access to information about tax liens recorded by the commissioner"; to the Committee on Government Organization then Finance.

**By Delegates Hamilton, Frich, R. Romine, A. Evans, Ambler, Cooper, Lynch, Pyles, Sponaugle, Iaquina and Marcum:**

**H. B. 4222** - "A Bill to amend and reenact §20-7-12 of the Code of West Virginia, 1931, as amended, relating to requiring the owners of motorboats to carry liability insurance, regardless of the horsepower or length of the motorboat"; to the Committee on Banking and Insurance then the Judiciary.



**By Delegates Rowan, Rohrbach, R. Romine, Wagner, Cooper, Ambler, Moye and Kelly:**

**H. B. 4223** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-20, relating to selection of language developmental milestones to develop a resource for use by parents to monitor and track deaf and hard-of-hearing children's receptive and expressive language acquisition in the language(s) and communication mode chosen by the parents, and developmental stages toward English literacy"; to the Committee on Education.

**By Delegates Shott, Ellington and Gearheart:**

**H. B. 4224** - "A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended, relating to establishing an eight-hour work day for school service personnel"; to the Committee on Industry and Labor then Education.

**By Delegates Shott, Gearheart and Ellington:**

**H. B. 4225** - "A Bill to amend and reenact §18A-4-8, of the Code of West Virginia, 1931, as amended; relating to eliminating the written consent requirement for relegating any condition of employment for service personnel"; to the Committee on Education.

**By Delegates Shott, Ellington and Gearheart:**

**H. B. 4226** - "A Bill to amend and reenact §18A-4-8e, of the Code of West Virginia, 1931, as amended; relating to eliminating the competency testing requirement for school service personnel"; to the Committee on Education.

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

**H. B. 4227** - "A Bill to amend and reenact §16-5T-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-5T-6, all relating generally to drug control; requiring hospital emergency rooms and departments, as well as certain other law-enforcement and medical care providers, report suspected or confirmed drug overdoses, and other drug-related instances, to the Office of Drug Control Policy; permitting counties experiencing drug overdoses at rates higher than the national average to establish certain community-based recognition and response efforts; permitting those counties to seek federal and private funding to implement those efforts; and requiring all first responders, regardless of frequency of drug overdoses in their communities, to carry Naloxone and be trained in its use"; to the Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

**By Delegates Brewer, Sponaugle, Robinson, Isner, Canestraro, Williams, E. Evans, R. Miller, Ferro, Caputo and Diserio:**

**H. B. 4228** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto five new sections, designated §5-22-4, §5-22-5, §5-22-6, §5-22-7 and §5-22-8, all relating to requiring the use of items of goods and equipment manufactured in the United States in government construction contracts; specifying the types of public entities and the types of contracts to which provisions apply; setting forth duties and responsibilities of public entities and bidders on contracts; providing conditions upon which provisions may be waived; setting forth the duties and responsibilities of the Division of Labor; providing for violations and penalties; providing for hearings; defining terms; and requiring rule-making"; to the Committee on Industry and Labor then the Judiciary.

**By Mr. Speaker (Mr. Armstead) and Delegate Miley:**

**H. B. 4229** - "A Bill to amend and reenact §5A-3-33c, §5A-3-33d, §5A-3-33e, and §5A-3-33f of the Code of West Virginia, 1931, as amended, all relating to debarment of vendors seeking to provide goods and services to the state and its subdivisions; updating the duties of the Director of Purchasing; specifying additional grounds for debarment of a vendor; providing that actions of an individual may be imputed to a vendor under certain circumstances; providing for the debarment of individuals in

addition to vendor businesses; providing for the debarment of subcontractors; specifying mandatory conditions for the initiation of debarment proceedings; prohibiting vendor employment of debarred individuals; and prohibiting the state from contracting with, or soliciting bids from, certain parties related to debarred vendors”; to the Committee on Government Organization then Finance.

**By Delegates Westfall, Frich, White and Upson:**

**H. B. 4230** - “A Bill to amend and reenact §33-4-15a of the Code of West Virginia, 1931, as amended, relating to credit for reinsurance; setting forth the purpose of the legislation; describing where assets that provide security to fund United States obligations are to be maintained by a non-United States insurer or reinsurer; providing for the filing and valuation of claims, and the distribution of assets, regarding an insolvent non-United States insurer or reinsurer; describing the circumstances under which credit for reinsurance of a domestic ceding insurer will be allowed; providing for an asset or reduction from liability for reinsurance ceded by a domestic insurer when certain requirements are not met; defining a qualified United States financial institution; providing authority for the Insurance Commissioner to promulgate legislative and emergency rules; and providing for an effective date”; to the Committee on Banking and Insurance then the Judiciary.

**By Delegates Shott, Gearheart and Ellington:**

**H. B. 4231** - “A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement to pay service personnel for at least a full day of work when he or she has worked more than three and one-half hours on any Saturday or Sunday”; to the Committee on Education then Finance.

### House Calendar

#### Third Reading

**Com. Sub. for H. B. 4020**, Making technical corrections in the code when referencing chapter 49; 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 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Anderson, Ellington, Moore, Nelson and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4020) 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. 3089**, Relating to the adoption of instructional resources for use in the public schools,

**Com. Sub. for H. B. 4002**, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020,

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

And,

**H. B. 4026**, Exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act.

### **First Reading**

**Com. Sub. for H. B. 2028**, Relating to the venue for suits and other actions against the state; 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 Anderson, Ellington, Moore and Wilson.

### **Miscellaneous Business**

Delegate Nelson attended part of the session but noted to the Clerk that he was absent on today when the vote was taken on Roll No. 4, and that had he been present, he would have voted "Yea" thereon.

Delegate Rowan filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4035.

Delegate Westfall filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 2868.

At 11:41 a.m., the House of Delegates adjourned until 11:00 a.m., Monday, January 22, 2018.

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**HOUSE OF DELEGATES**  
**STEPHEN J. HARRISON, Clerk**  
**Building 1, Room M-212**  
**1900 Kanawha Blvd., East**  
**Charleston, WV 25305-0470**

## HOUSE CALENDAR

Monday, January 22, 2018

13<sup>th</sup> Day

11:00 A. M.

### THIRD READING

- Com. Sub. for H. B. 3089 - Relating to the adoption of instructional resources for use in the public schools (ESPINOSA) (REGULAR)
- Com. Sub. for H. B. 4002 - Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020 (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4013 - Clarifying venue in West Virginia state courts as it applies to nonresidents of the state (SHOTT) (REGULAR)
- H. B. 4026 - Exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act (ELLINGTON) (REGULAR)

### SECOND READING

- Com. Sub. for H. B. 2028 - Relating to the venue for suits and other actions against the state

### FIRST READING

- Com. Sub. for H. B. 2607 - Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations (SHOTT) (REGULAR)
- H. B. 2822 - Allowing honorably discharged veterans who possess certain military ratings to qualify to take an examination for licensing as a plumber, electrician, and sprinkler fitter (COOPER) (REGULAR)
- H. B. 2838 - Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician (COOPER) (REGULAR)

**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**MONDAY, JANUARY 22, 2018**

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**HOUSE CONVENES AT 11:00 A.M.**

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

**ROADS AND TRANSPORTATION  
1:00 P.M. – ROOM 215E**

**COMMITTEE ON FINANCE  
2:00 P.M. – ROOM 464M**

**COMMITTEE ON EDUCATION  
2:00 P.M. – ROOM 434M**

**COMMITTEE ON GOVERNMENT ORGANIZATION  
3:00 P.M. – ROOM 215E**

**FIRE DEPARTMENTS AND EMERGENCY MEDICAL SERVICES  
4:00 P.M. – ROOM 215E**





HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
Building 1, Room M-212  
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