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January 24, 2018  
FIFTEENTH DAY



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Wednesday, January 24, 2018

**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 23, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**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. 4077**, Commissioner of Agriculture, rule relating to schedule of charges for inspection services: fruit,

**H. B. 4078**, Commissioner of Agriculture, rule relating to inspection of nontraditional, domesticated animals,

**H. B. 4079**, Commissioner of Agriculture, rule relating to West Virginia apiary law,

**H. B. 4080**, Commissioner of Agriculture, rule relating to inspection of meat and poultry,

**H. B. 4081**, Commissioner of Agriculture, rule relating to noxious weeds,

And,

**H. B. 4083**, Commissioner of Agriculture, rule relating to animal disease control,

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. 4077, H. B. 4078, H. B. 4079, H. B. 4080, H. B. 4081 and H. B. 4083) 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. 4082**, Commissioner of Agriculture, rule relating to auctioneers,

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. 4082) 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. 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in 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 Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 2995) was referred to the Committee on Government Organization.

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

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. 2546**, Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned,

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

**Com. Sub. for H. B. 2546** - "A Bill to amend and reenact §21-5-4 of the Code of West Virginia, 1931, as amended, all relating to the Wage Payment and Collection Act; relating to allowing actual cash value of employer provided property to be deducted from an employee's final paycheck if the property is not returned; setting forth conditions upon which an employer may withhold, deduct or divert the actual cash value of employer provided property that has not been timely returned; requiring written agreements before withholding or deductions for the actual cash value of employer provided property may be made; specifying certain contents of such written agreements; authorizing withholding, deduction or diversion of actual cash value of employer provided property with consent of employee; requiring employer to provide notice of intent to withhold, deduct or divert actual cash value of employer provided property; specifying contents of that notice; requiring employer to relinquish withheld wages if the employee provides the employer provided property by the deadline contained in the notice; providing exceptions; providing option to employee to object to actual cash value of employer provided property to be withheld, deducted or diverted; providing that employer place contested amounts in interest bearing escrow account; requiring employee to file civil action to

recoup contested amounts within three months or contested amount in escrow account reverts to employer; providing that new subsection does not abolish or limit any other remedies available to employers under law; exempting collective bargaining agreements; and defining terms,”

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. 4001**, Relating to eligibility and fraud requirements for public assistance,

**H. B. 4199**, Permitting a nursing home to use trained individuals to administer medication,

**H. B. 4217**, Permitting an attending physician to obtain a patient’s autopsy report,

And,

**H. B. 4218**, Relating to medical professional liability,

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. 4001, H. B. 4199, H. B. 4217 and H. B. 4218) 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, to take effect from passage, 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 §22-15-10 of the Code of West Virginia, 1931, as amended, relating to correcting technical errors within the Solid Waste Management Act”; which was referred to the Committee on the Judiciary.

### **Resolutions Introduced**

Delegates Wagner, Westfall, Hamilton, Jennings, McGeehan and Queen offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 30** - “Requesting the Division of Highways name bridge number 10573, carrying Route 93 over Beaver Creek in Tucker County, the ‘U. S. Army PFC Victor Allen Mazitis, Jr. Memorial Bridge’.”

Whereas, Victor Allen Mazitis, Jr. was born in Hambleton, Tucker County, West Virginia, July 26, 1947, to Victor Allen Mazitis and Anna Margaret Mazitis. He grew up in Tucker County and attended school in Thomas and high school in Davis, where he played football and basketball. He graduated from Mountaineer High School in 1965. In the fall of that year he enrolled in Fairmont State College, but before he finished he was called to active duty by the United States Army; and

Whereas, U. S. Army PFC Victor Allen Mazitis, Jr. completed basic training and then attended airborne training. Upon being awarded his jump wings and promotion to Private First Class he was sent to Vietnam and assigned to the 101st Airborne Division HC, 2nd BN, 502nd Infantry; and

Whereas, On December 8, 1967, at age 20, U. S. Army PFC Victor Allen Mazitis, Jr. was killed in action in the Lam Dong Province, South Vietnam. His remains were returned to West Virginia and received full military honors. He was buried in the Thomas, West Virginia, Catholic Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army PFC Victor Allen Mazitis, Jr. and 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 0573, carrying Route 93 over Beaver Creek in Tucker County, the "U. S. Army PFC Victor Allen Mazitis, Jr. 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 PFC Victor Allen Mazitis, Jr. 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 Rodighiero, Eldridge and R. 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. 31** - "Requesting the Division of Highways to remove one of the two current signs that designates an approximate nine-mile section of WV Route 14 beginning at the Lowe Family Cemetery and ending at the intersection of WV Route 14 and WV Route 10 in Logan County as the 'Lowe Mountain Memorial Highway' and keep a single sign at the Lowe Family Cemetery designating the highway as the 'Lowe Mountain Memorial Highway'."

Whereas, During the 2017 Legislative Session House Concurrent Resolution 50 was passed naming the highway as the "Lowe Mountain Memorial Highway" that honored the Lowe Family Cemetery located at the top of Lowe Mountain, elevation 2,177 feet, as the final resting place of the following brave veterans: Jerry Lowe, U. S. Army, Vietnam; Roy Lowe, U. S. Army, (KIA) World War I; Nolan Porter, U. S. Army, World War I; Cecil Porter, U. S. Army, World War II; George Porter, U. S. Army, World War II; Wetzel Lowe, U. S. Army, World War I; James Roberts, Sr., U. S. Army; James Roberts, Jr., U. S. Army, Vietnam; Elbert Kilgore, U. S. Army, Korea; Ira Ramsey, U. S. Army, World War I; Virgil Mullins, Sr., U. S. Army, World War II; Herbert Ferrell, U. S. Army, World War II; Hubert Lowe, U. S. Army; J. B. Lowe; and Darrell Lowe; U. S. Air Force; and

Whereas, The sign for the "Lowe Mountain Memorial Highway" nine miles away from the cemetery has caused some confusion with many residents because it is too close to a preexisting sign for Rum Creek; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to remove one of the two current signs that designates an approximate nine-mile section of WV Route 14 beginning at the Lowe Family Cemetery and ending at the intersection of WV Route 14 and WV Route 10 in Logan County as the "Lowe

Mountain Memorial Highway” and keep a single sign at the Lowe Family Cemetery that designated the highway as the “Lowe Mountain Memorial Highway”; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to remove the sign for the “Lowe Mountain Memorial Highway” that currently exists nine miles away from the Lowe Family Cemetery on WV Route 19; 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.

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

**H. C. R. 32** - “Making Apple Cider West Virginia’s State Beverage.”

Whereas, The Romney Middle School Eighth Grade in Romney has requested that the West Virginia Legislature adopt Apple Cider as West Virginia’s State Beverage; and

Whereas, The adoption of Apple Cider as West Virginia’s State Beverage would instill a sense of pride in the heritage of frontier self-reliance in that since the earliest settlements of the region, Apple Cider was made to preserve the rich nutrients of the apple for leaner times; and

Whereas, The adoption of Apple Cider as West Virginia’s State Beverage would accentuate the character of cider presses and cideries within West Virginia that are enjoying a renaissance as a feature of the agri-tourism portfolio of the region; and

Whereas, The adoption of Apple Cider as West Virginia’s State Beverage would reflect the support and commitment that West Virginia has toward supporting tourism and the craft industries of West Virginia; and

Whereas, The adoption of Apple Cider as West Virginia’s State Beverage would go far in enhancing the current and welcomed period of stability the fruit growing industry is enjoying; and

Whereas, West Virginia does not currently have a state beverage; and

Whereas, The adoption of Apple Cider as West Virginia’s State Beverage would reflect positively on the rural nature of our state and the many fairs and festivals that feature apple products; and

Whereas, The adoption of Apple Cider as West Virginia’s State Beverage would honor an industry that has employed many and sustained families through the best of times and the worst of times in our country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That Apple Cider is of important historic and cultural significance to the State of West Virginia and its citizens; and

*Further Resolved*, As a show of respect to our heritage and a warm embrace of our ancestors, Apple Cider should be declared West Virginia’s State Beverage; and

*Further Resolved*, That the Clerk of the House of Delegates forward copies of this resolution to the Eighth Grade of Romney Middle School, Kent Leonhardt, Commissioner of the West Virginia Department of Agriculture and Randall Reid-Smith, Commissioner of the Division of Culture and History.

### **Bills Introduced**

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

**By Delegates Anderson, Kelly, Zatezalo, Westfall, Fast, Higginbotham, Ward, Hollen, Atkinson, Foster and Lane:**

**H. B. 4268** - "A Bill to amend and reenact §22C-9-3 and §22C-9-4 of the Code of West Virginia, 1931, as amended, to amend and reenact §37-7-2 of said code; and to amend said code by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, §37B-1-4, §37B-1-5, §37B-1-6, §37B-1-7, §37B-2-1, §37B-2-2, §37B-2-3, §37B-2-4, §37B-2-5, §37B-2-6, §37B-2-7, §37B-2-8, and §37B-2-9, all relating generally to real property; providing an exception to waste and trespass for certain oil or natural gas developments; providing short titles; providing declarations of public policy and legislative findings; providing definitions; providing that consent for the lawful use and development of oil or natural gas mineral property by the persons owning an undivided three fourths of the royalty interests, as defined, in an oil or natural gas mineral property is permissible, is not waste, and is not trespass; providing that nonconsenting cotenants may elect a production royalty interest or a working interest share of production; providing that interests owned by unknown or unlocatable owners be reserved, reported, and deposited in a fund hereby created, known as the Unknown and Unlocatable Interest Owners Fund, to be administered by the State Treasurer in conjunction with the West Virginia Uniform Unclaimed Property Act until said reserved interests are claimed or transferred to the Oil and Gas Reclamation Fund for the plugging of oil and gas wells; providing methods for determination of leasehold and contractual terms, including reviews and determinations by the Oil and Gas Conservation Commission; empowering the Oil and Gas Conservation Commission to enforce certain provisions hereof; providing liability protection for damages resulting from the lawful use or development of oil or natural gas mineral property; requiring surface use agreements in specified circumstances; preserving common law rights; providing for severability of provisions; providing reporting requirements and administrative duties, including civil penalties for noncompliance under the West Virginia Uniform Unclaimed Property Act; and providing for rule-making authority"; to the Committee on Energy then the Judiciary.

**By Delegates Kelly, Anderson, Zatezalo, Lane, Harshbarger, Shott, C. Romine, Maynard, C. Miller, Statler and Nelson:**

**H. B. 4269** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, §37-16-2, §37-16-3, §37-16-4, §37-16-5, §37-16-6, §37-16-7, §37-16-8, §37-16-9, §37-16-10, §37-16-11, §37-16-12 and §37-16-13, all relating to enacting the Uniform Partition of Heirs Property Act; defining terms; providing for a court hearing to determine if the partition action concerns heirs' property; providing for notice by publication in a partition action; providing for requirements for commissioners; providing procedures for a court to follow in determining the value of the property and factors for a court to consider for certain types of partitions; providing procedures for cotenant buyout; providing for alternatives to a partition action; providing for certain factors for the court to consider in determining whether partition in kind is appropriate; providing for open-market sales, sealed bids, or auctions; providing reporting requirements for an open-market sale; providing for uniformity of application and construction; and modifying, limiting and superseding the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 *et seq.*"; to the Committee on Energy then the Judiciary.

**By Delegates Deem, Kelly, Zatezalo, Anderson, R. Romine, Hollen, A. Evans, White, Lane, Harshbarger and Shott:**

**H. B. 4270** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, and §37B-1-4, all relating generally to real property; providing for timely payment of moneys owed from oil and natural gas production; establishing interest penalties for certain late payments; requiring specified information to be remitted with payments; requiring quarterly reporting of production data to Department of Environmental Protection for horizontal wells; and providing for rule-making authority"; to the Committee on Energy then the Judiciary.

**By Delegates Fast, Sobonya, Butler, Hanshaw, Kessinger, Howell, Martin, Criss, Byrd, Maynard and Rodighiero:**

**H. B. 4271** - "A Bill to amend and reenact §47-15-1 and §47-15-2 of the Code of West Virginia, 1931, as amended, relating to pyramid promotional schemes; definitions, and unlawful acts"; to the Committee on the Judiciary.

**By Delegate Nelson:**

**H. B. 4272** - "A Bill to amend and reenact §5-16D-1, §5-16D-3, §5-16D-4, and §5-16D-6 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Retirement Health Benefit Trust Fund within the Public Employees Insurance Agency, modifying definitions to provide flexibility for compliance with the government accounting standards board guidance, and allowing the current allocation process for unfunded liability to continue"; to the Committee on Pensions and Retirement then Finance.

**By Delegates Pack, Cooper, Moye and Bates:**

**H. B. 4273** - "A Bill to amend and reenact §50-1-9a of the Code of West Virginia, 1931, as amended, relating to creating an additional magistrate court deputy clerk position for Raleigh County"; to the Committee on the Judiciary then Finance.

**By Delegates Hamilton, Wagner, A. Evans, R. Romine, Criss, Diserio and Rodighiero:**

**H. B. 4274** - "A Bill to amend and reenact §20-7-11, §20-7-12, §20-7-13, §20-7-14, §20-7-18, §20-7-18d, and §20-7-19 of the Code of West Virginia, 1931, as amended, all relating to the operation of motorboats; defining the term 'state of principle operation'; establishing a fee schedule for motorboat registration; establishing motorboat numbering, lighting, fire extinguishers, engine bilges and flotation device requirements; increasing the financial amount of property damage before certain accidents need to be reported; clarifying the requirements for the operation of personal watercrafts; limiting the hours during the day water skiing and surfboarding is permitted; and authorizing rulemaking"; to the Committee on Agriculture and Natural Resources then Finance.

**By Delegates Shott, Hanshaw and Cowles:**

**H. B. 4275** - "A Bill to amend and reenact §15-2D-2 and §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to the law-enforcement authority of the director and officers of the division of protective services; exempting certain safety and security information from disclosure under the West Virginia Freedom of Information Act; and clarifying that agencies installing electronic security systems designed to connect with the division's command center must be approved prior to installation"; to the Committee on the Judiciary.

**By Delegates Canestraro, Hanshaw, Shott, Isner and R. Miller:**

**H. B. 4276** - "A Bill to amend and reenact §62-11A-1 of the Code of West Virginia, 1931, as amended, relating to allowing magistrates to grant work release privileges"; to the Committee on the Judiciary.

**By Delegates Folk, Butler, Paynter, McGeehan, Martin, Rohrbach, Upson, Blair, Espinosa, Statler and E. Evans:**

**H. B. 4277** - "A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to allowing individuals who have completed home school to be eligible for the PROMISE scholarship without having to obtain a diploma equivalent such as a general equivalency degree (GED)"; to the Committee on Education then Finance.

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

**H. B. 4278** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-63, relating to exempting volunteer firefighters from fees for hunting, fishing and trapping licenses and permits; providing that fees for hunting, trapping and fishing licenses and permits are waived for volunteer firefighters; including eligibility requirements; requiring compliance with all other requirements to obtain license; and granting rule-making authority"; to the Committee on Fire Departments and Emergency Medical Services then Finance.

**By Delegates Rowan, Fast, Moye and Paynter:**

**H. B. 4279** - "A Bill to amend and reenact §9-6-1 and §9-6-2 of the Code of West Virginia, 1931, as amended, relating to adult protective services system; defining 'financial exploitation'; proposal of legislative rules regarding the organization and procedures of the adult protective services system; providing that goals of the rules include the preventing, reducing and eliminating financial exploitation of residents in nursing homes or facilities"; to the Committee on Senior Citizen Issues then Health and Human Resources.

**By Delegates Iaquinta, Hamilton, A. Evans, Maynard, R. Romine, Ferro and Pushkin:**

**H. B. 4280** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, §31A-8G-8, §31A-8G-9, §31A-8G-10, §31A-8G-11, §31A-8G-12, §31A-8G-13, §31A-8G-14, §31A-8G-15, §31A-8G-16, §31A-8G-17, §31A-8G-18, §31A-8G-19, §31A-8G-20, §31A-8G-21, §31A-8G-22, §31A-8G-23, §31A-8G-24, §31A-8G-25, §31A-8G-26, §31A-8G-27, §31A-8G-28, and §31A-8G-29, all relating to creating the 'State Bank of West Virginia' that is owned, controlled and operated by the state for the purpose of encouraging and promoting agriculture, commerce and industry"; to the Committee on Banking and Insurance then Finance.

**By Delegates Walters, Higginbotham, Westfall, Lane, Storch, Harshbarger, Williams, Miley, Moore, Hartman and Pyles:**

**H. B. 4281** - "A Bill to amend and reenact §61-6-21 of the Code of West Virginia, 1931, as amended, relating to prohibiting civil rights violations based on gender identity, or sexual orientation; criminal penalties; when evidence of constitutionally protected speech or associations is not admissible in criminal prosecutions; exceptions; providing for sentencing alternatives for persons convicted of violations; and designating amendments to this section as the 'Justice Through Grace in Communities Act'; to the Committee on the Judiciary then Finance.

**By Delegates Marcum, Hicks, Isner, Rodighiero, Eldridge, R. Miller and Campbell:**

**H. B. 4282** - "A Bill to amend and reenact §61-2-30 of the Code of West Virginia, 1931, as amended, relating to changing the Unborn Victims of Violence Act to the Unborn Victims of Abuse Act; adding that a 'person' is also exempt from a certain provision of the act; and defining the term 'person'; to the Committee on the Judiciary.

**By Delegates Marcum, Hicks, Love, Phillips, Thompson, Hamilton, R. Romine, A. Evans, Hamrick, Gearheart and E. Evans:**

**H. B. 4283** - "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 eastern

Kentucky to Beckley, West Virginia; requiring the Commissioner of Highways to determine how the highway can be best funded and constructed; and requiring regular submission of reports”; to the Committee on Roads and Transportation then Finance.

**By Delegates Ward, Howell, Hollen, Lane, Frich, Martin, Hamrick, Hamilton, Butler, Fast and McGeehan:**

**H. B. 4284** - “A Bill to amend and reenact §6-9A-3 of the Code of West Virginia, 1931, as amended, relating to providing minimum periods in which a governing body must make the agenda for its meetings available to the public and news media under the Open Governmental Proceedings Act”; to the Committee on the Judiciary.

**By Delegates Frich, Westfall, White and A. Evans:**

**H. B. 4285** - “A Bill to amend and reenact §31-17A-4, §31-17A-6 and §31-17A-9 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Safe Mortgage Licensing Act; modernizing and standardizing licensing requirements for mortgage loan originators; and increasing the application fee to fully cover administrative costs”; to the Committee on Banking and Insurance then Finance.

**By Delegates Wagner, Phillips, Criss and Paynter:**

**H. B. 4286** - “A Bill to repeal §11-6A-5a of the Code of West Virginia, 1931, as amended, relating to wind power projects”; to the Committee on Energy then Finance.

**By Delegates Howell, Summers, Sobonya, C. Miller, Westfall, Lovejoy, Rohrbach, White and Ellington:**

**H. B. 4287** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-51-9, relating to pharmacy benefit managers; prohibiting fees; prohibiting contractual provisions; and prohibiting certain information on cards”; to the Committee on Health and Human Resources then the Judiciary.

**By Delegates Howell, Foster, Statler, Espinosa, Hamrick, Butler, Kessinger, Brewer, Lynch, Pyles and Ferro:**

**H. B. 4288** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-11-21; and to amend said code by adding thereto a new section, designated §29-3-33, all relating to requiring contractors to provide all required information on a construction project to the State Fire Commission or the State Fire Marshall; relieving the person who has hired the contractor from submitting the same information twice; and requiring the State Fire Commission and the State Fire Marshall to create forms and provide them to the West Virginia Contractor Licensing Board for contractors to use”; to the Committee on Government Organization.

**By Delegates Walters, Pethtel, Anderson, Hamilton, Hollen and E. Evans:**

**H. B. 4289** - “A Bill to amend and reenact §8-22-24 of the Code of West Virginia, 1931, as amended, relating to disability pensions of municipal employees; removing provision relating to limitation of nonduty disability retirement; increasing amount of income that may be earned before an offset of benefits is required; and increasing that limit automatically when the minimum wage increases”; to the Committee on Pensions and Retirement then Finance.

**By Delegate Walters:**

**H. B. 4290** - “A Bill to amend and reenact §8-22-22 of the Code of West Virginia, 1931, as amended, relating to requiring certain funds held by a board of trustee of a policeman’s pension and relief fund or a firemen’s pension and relief fund be invested with the West Virginia Investment Management Board”; to the Committee on Pensions and Retirement then Finance.

**By Delegates Cowles, Moore and Phillips:**

**H. B. 4291** - "A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating to creating an exemption from certain contract and common carrier laws for motor vehicles used by contract carriers exclusively for the transportation of railroad personnel"; to the Committee on Roads and Transportation then the Judiciary.

**By Delegates Frich, Butler, Kessinger, Overington, Fast, Foster, Higginbotham, Harshbarger, Deem, Sobonya and Hollen:**

**H. B. 4292** - "A Bill to amend and reenact §19-23-3, §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-8, §29-22C-10, §29-22C-27 and §29-22C-27a of said code, all relating generally to horse and dog racing lottery; modifying certain definitions; discontinuing the West Virginia Racing Commission special account known as the West Virginia Greyhound Breeding Development Fund; transferring all moneys in the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon transfer of moneys from the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund, a certain amount be withheld and deposited in the special account known as the Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs to include Spaying and Neutering Account; requiring that all moneys previously required to be directed to the West Virginia Greyhound Breeding Development Fund be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that all moneys previously required to be directed into any fund or paid for the purpose of funding purses, awards or providing any other funding for greyhound races be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to qualify for such license; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to contract to receive telecasts and accept wagers; providing that a dog racetrack is required to hold a racing license to conduct simulcast racing regardless of whether the racetrack continues to conduct live dog racing; authorizing the West Virginia Racing Commission to promulgate rules, including emergency rules, regarding licensure of dog racetracks conducting only simulcast racing; eliminating the requirement that a video lottery licensee at a dog track must hold a racing license to renew a video lottery license or racetrack table games license; requiring the Lottery Commission to transfer a percentage of gross terminal revenue derived from racetrack video lottery at thoroughbred racetracks, and deducted for administrative costs and expenses, to the Racing Commission's General Administrative Account; eliminating the requirement that an applicant for a video lottery license or license renewal at a dog racetrack must provide evidence of the existence of an agreement regarding proceeds from video lottery terminals with certain parties; providing that a percentage of net terminal income originating at dog racetracks will be deposited in the State Excess Lottery Revenue Fund; providing that a percentage of net terminal income originating at thoroughbred racetracks will be deposited in the West Virginia Thoroughbred Development Fund; permitting a dog racetrack to continue to operate operational video lottery and racetrack table games in a location where live racing was previously conducted or in an alternate location within the county as approved by the Lottery Commission; and eliminating the requirement that a racetrack table games licensee at a dog racetrack must race a minimum number of dates"; to the Committee on the Judiciary then Finance.

**By Delegates Frich, Hollen, Fast, Kessinger, Butler, Overington, Foster, Paynter, Higginbotham, Harshbarger and Deem:**

**H. B. 4293** - "A Bill to amend and reenact §19-23-26 of the Code of West Virginia, 1931, as amended, relating to prohibiting the use of anabolic steroids and certain Class I drugs on racing dogs;

providing criminal penalties for violators; making dogs temporarily ineligible to race when testing positive for the drugs; and requiring the Racing Commission to publish certain information regarding the presence of drugs in racing dogs on its website each month and in its annual report"; to the Committee on the Judiciary.

### House Calendar

#### Third Reading

**Com. Sub. for H. B. 2607**, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations; 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 79, nays 17, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Diserio, Fleischauer, Fluharty, Hornbuckle, Isner, Lynch, Marcum, McGeehan, Miley, Pushkin, Pyles, Rowe, Sponaugle, Upson and Wilson.

Absent and Not Voting: Caputo, Gearheart and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2607) 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. 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; 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 96, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Gearheart and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2822) 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. 2838**, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician; 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 96, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Gearheart and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2838) 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. 263**, Eliminating film tax credits; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for H. B. 2916**, Authorizing certain first responders to carry firearms; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Kelly, the bill was amended on page four, after the chapter heading, by inserting the following:

#### **“ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

##### **§7-1-3tt. Authority of county homeland security emergency management personnel to carry firearm.**

Notwithstanding any provision of this code to the contrary, the county commission may designate and authorize county personnel whose duties include homeland security emergency management to carry a handgun in the course of performing his or her official duties if the person has first successfully completed an initial firearms training course equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy, and thereafter, successfully completes an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule.”

The bill was then ordered to engrossment and third reading.

**Com. Sub. for H. B. 3004**, Relating to filling vacancies in offices of state officials, United States Senators, Justices, judges, and magistrates; 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 amendment pending and the restricted right to amend by Delegate Hanshaw, and the rule was suspended to permit the consideration of amendments on that reading.

**Com. Sub. for H. B. 3005**, Relating to regulation of unmanned aircraft systems; 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. 4150**, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Hanshaw, the bill was amended on page three, section 501, line fifty-six, after the word “solicitation” and the period, by inserting the following proviso, “*Provided*, That the provisions of this subsection do not apply to a communications service provider that delivers a communication originated by another person or entity.”

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

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

**Com. Sub. for H. B. 4135**, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act,

**H. B. 4144**, Relating to the elimination of film tax credits,

**H. B. 4146**, Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act,

**Com. Sub. for H. B. 4169**, Requiring certain establishments and facilities to post human trafficking assistance notices,

**Com. Sub. for H. B. 4174**, Designating the placement of nonpartisan judicial offices on the primary election ballot,

And,

**H. B. 4207**, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

### **Leaves of Absence**

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

### **Miscellaneous Business**

Delegate Frich asked and obtained unanimous consent that the remarks of Delegate Canestraro regarding Com. Sub. for H. B. 2607 and the remarks of Delegate Cooper during Remarks by Members be printed in the Appendix to the Journal.

Delegate Bates asked and obtained unanimous consent that the remarks of Delegate Upson regarding the death of Nancy Tonkin be printed in the Appendix to the Journal.

Delegate Hornbuckle asked and obtained unanimous consent that the remarks of Delegates Sponaule and McGeehan during Remarks by Members be printed in the Appendix to the Journal.

Unanimous consent having been obtained, the remarks of Delegate Summers during Remarks by Members were ordered printed in the Appendix to the Journal.

Delegate Gearheart announced that he was absent on today when the votes were taken on Roll Nos. 10, 11 and 12, and that had he been present, he would have voted "Yea" thereon.

Delegates that requested to be added as a cosponsor to bills, pursuant to House Rule 94b, were as follows:

Delegate Frich to H. B. 4199, H. B. 4217 and H. B. 4218,

Delegate Cowles to H. B. 2123,

And,

Delegate Robinson to H. B. 4276.

At 1:02 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, January 25, 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

Thursday, January 25, 2018

16<sup>th</sup> Day

11:00 A. M.

### THIRD READING

- S. B. 263 - Eliminating film tax credits (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2916 - Authorizing certain first responders to carry firearms (SHOTT) (REGULAR)
- Com. Sub. for H. B. 3004 - Relating to filling vacancies in offices of state officials, United States Senators, Justices, judges, and magistrates (SHOTT) (REGULAR) (AMENDMENT PENDING) [RIGHT TO AMEND BY DELEGATE HANSHAW]
- Com. Sub. for H. B. 3005 - Relating to regulation of unmanned aircraft systems (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4150 - Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient (SHOTT) (REGULAR)

### SECOND READING

- Com. Sub. for H. B. 2483 - Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4035 - Creating a legislative coalition to study and report to the Legislature on palliative care (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4135 - Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 4144 - Relating to the elimination of film tax credits (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 4146 - Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act (NELSON) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 4169 - Requiring certain establishments and facilities to post human trafficking assistance notices (SHOTT) (REGULAR)

Com. Sub. for H. B. 4174 - Designating the placement of nonpartisan judicial offices on the primary election ballot (SHOTT) (REGULAR)

H. B. 4207 - Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement (SHOTT) (REGULAR)

### **FIRST READING**

Com. Sub. for H. B. 2546 - Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned (SHOTT) (REGULAR)

H. B. 4183 - Relating generally to standardized testing requirements for nonpublic schools (ESPINOSA) (REGULAR)

**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**THURSDAY, JANUARY 25, 2018**

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

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**BANKING & INSURANCE  
10:00 A.M. – ROOM 215E**

**SENIOR CITIZEN ISSUES  
1:00 P.M. – ROOM 215E**

**COMMITTEE ON ENERGY  
2:00 P.M. – ROOM 418M**

**COMMITTEE ON HEALTH & HUMAN RESOURCES  
2:00 P.M. – ROOM 215E**

**PREVENTION & TREATMENT OF SUBSTANCE ABUSE  
4:00 P.M. – ROOM 215E**

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