

West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Third Legislature  
Second Regular Session

Held at Charleston  
Published by the Clerk of the House



January 31, 2018  
TWENTY-SECOND DAY



---

Wednesday, January 31, 2018

**TWENTY-SECOND DAY**

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

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

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

The Clerk proceeded to read the Journal of Tuesday, January 30, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

Delegate Statler, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

**H. B. 4197**, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4197) was referred to the Committee on Health and Human Resources.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

**H. B. 4099**, Division of Highways, rule relating to disposal, lease and management of real property and appurtenant structures and relocation assistance,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4099) was referred to the Committee on the Judiciary.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

**H. B. 2694**, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas,

And,

**H. B. 4022**, Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft,

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

In accordance with the former direction of the Speaker, the bills (H. B. 2694 and H. B. 4022) were each referred to the Committee on Finance.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

**H. C. R. 9**, U. S. Air Force Major Neil L. Ferrell Memorial Bridge,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 9) was referred to the Committee on Rules.

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. 4251**, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors,

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

**Com. Sub. for H. B. 4251** - "A Bill to amend and reenact §18B-2A-1 of the Code of West Virginia, 1931, as amended, relating to permitting employees of higher education institutions outside of this state to be appointed to a board of governors of a state institution of higher education,"

With the recommendation that the committee substitute do pass.

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

Your Committee on Education has had under consideration:

**H. B. 2809**, Relating to basic state aid to public education,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2809) 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. 4220**, Relating generally to grounds for revocation of a teaching certificate,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4220) 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. 3061**, Encouraging mastery-based education through the Innovation In Schools program,

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

Pursuant to House Rule 80, the Speaker referred the bill (H. B. 3061) to the Committee on Finance.

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. 4166**, Establishing a special revenue fund to be known as the “Capital Improvements Fund — Department of Agriculture Facilities”,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4166) was referred to the Committee on Finance.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

**H. B. 4107**, Division of Natural Resources, rule relating to hunting, fishing and other outfitters and guides,

**H. B. 4108**, Division of Natural Resources, rule relating to controlling the public land corporation’s sale, lease, exchange or transfer of land or minerals,

**H. B. 4109**, Division of Natural Resources, rule relating to general hunting,

**H. B. 4110**, Division of Natural Resources, rule relating to special migratory game bird hunting,

**H. B. 4111**, Division of Natural Resources, rule relating to miscellaneous permits and licenses,

And,

**H. B. 4112**, Division of Natural Resources, rule relating to wildlife disease management,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4107, H. B. 4108, H. B. 4109, H. B. 4110, H. B. 4111 and H. B. 4112) were each referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

**H. B. 4185**, Awarding service weapons to special natural resources police officers upon retirement,

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. 4185) was referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

**H. B. 4235**, Permitting full-time nonresident students attending an in-state college or university to purchase lifetime resident hunting, trapping, and fishing licenses,

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. 4235) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

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

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

**Com. Sub. for H. B. 4162** - "A Bill to amend and reenact §19-21A-4 of the Code of West Virginia, 1931, as amended, relating to the duties and powers conferred upon the State Conservation Committee; granting authority to the State Conservation Committee to contract for services directly related to natural disaster recovery and stream restoration related to flooding, on an as needed basis; permitting the State Conservation Committee to comply with present and future federal aid statutes and regulations including execution of contracts or agreements with programs of the United States government and its proper departments, bureaus or agencies relating to natural disaster response, recovery or stream restoration related to flooding; permitting the State Conservation Committee to promulgate emergency and legislative rules to effectuate the provisions as amended during the 2018 regular session of the Legislature; and removing references to outdated and incorrect code citations,"

**H. B. 2655**, Defining and establishing the crime of cyberbullying,

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

**Com. Sub. for H. B. 2655** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3C-14c, relating to defining and establishing the crime of cyberbullying; defining terms; providing exceptions; and establishing a criminal penalty,"

**H. B. 2662**, Prohibiting the waste of game animals, game birds or game fish,

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

**Com. Sub. for H. B. 2662** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i, relating to and prohibiting the waste of game animals, game birds or game fish and creating a misdemeanor with criminal penalties for the violation thereof,"

And,

**H. B. 2696**, Relating to crossbow hunting,

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

**Com. Sub. for H. B. 2696** - "A Bill to amend and reenact §20-2-42a, §20-2-42q, §20-2-42s and §20-2-42v of the Code of West Virginia, 1931, as amended, all relating to crossbow hunting; clarifying that the use of crossbows with Class A hunting and trapping license during big game seasons requires additional licenses, stamps or permits (with exception of buck firearms seasons); permitting crossbow hunting with Class RB and Class RRB licenses; permitting crossbow hunting with Class UU licenses; and permitting crossbow hunting with Class BG stamp,"

With the recommendation that the committee substitutes each do pass.

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

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

**H. B. 4125**, Department of Health and Human Resources, rule relating to West Virginia clearance for access: registry and employment screening,

**H. B. 4128**, Department of Health and Human Resources, rule relating to food establishments,

And,

**H. B. 4130**, Health Care Authority, rule relating to financial disclosure,

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. 4125, H. B. 4128 and H. B. 4130) 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. 4120**, Department of Health and Human Resources, rule relating to informal and relative family child care home registration requirements,

**H. B. 4122**, Department of Health and Human Resources, rule relating to family child care home registration requirements,

**H. B. 4123**, Department of Health and Human Resources, rule relating to family child care facility licensing requirements,

**H. B. 4124**, Department of Health and Human Resources, rule relating to child care centers licensing,

**H. B. 4126**, Department of Health and Human Resources, rule relating to emergency medical services,

**H. B. 4127**, Department of Health and Human Resources, rule relating to public water systems,

**H. B. 4129**, Department of Health and Human Resources, rule relating to hospital licensure,

And,

**H. B. 4133**, Department of Health and Human Resources, rule relating to out-of-school-time child care center licensing requirements, ,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4120, H. B. 4122, H. B. 4123, H. B. 4124, H. B. 4126, H. B. 4127, H. B. 4129 and H. B. 4133) were each referred to the Committee on the Judiciary.

Delegate Anderson, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

**H. B. 4268**, Co-tenancy Modernization and Majority Protection Act,



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

In accordance with the former direction of the Speaker, the bill (H. B. 4268) was referred to the Committee on the Judiciary.

Delegate Anderson, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

**H. B. 4074**, Department of Environmental Protection, rule relating to standards of performance for new stationary sources,

**H. B. 4084**, Department of Environmental Protection, rule relating to underground storage tanks,

**H. B. 4088**, Department of Environmental Protection, rule relating to control of air pollution from combustion of solid waste,

**H. B. 4090**, Department of Environmental Protection, rule relating to control of air pollution from hazardous waste treatment, storage and disposal facilities,

**H. B. 4091**, Department of Environmental Protection, rule relating to emission standards for hazardous air pollutants,

**H. B. 4092**, Department of Environmental Protection, rule relating to ambient air quality standards,

And,

**H. B. 4106**, Office of Miners' Health Safety and Training, rule relating to operating diesel equipment in underground mines,

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. 4074, H. B. 4084, H. B. 4088, H. B. 4090, H. B. 4091, H. B. 4092 and H. B. 4106) were each referred to the Committee on the Judiciary.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 4089**, Department of Environmental Protection, rule relating to control of air pollution from municipal solid waste landfills,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4089) was referred to the Committee on the Judiciary.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 2743**, Requiring the release of an unemancipated minor's medical records for drug testing,

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. 2743) was referred to the Committee on the Judiciary.

Delegate Fast, Chair of the Committee on Industry and Labor, submitted the following report, which was received:

Your Committee on Industry and Labor has had under consideration:

**H. B. 4093**, Department of Environmental Protection, rule relating to hazardous waste management system,

**H. B. 4094**, Department of Environmental Protection, rule relating to voluntary remediation and redevelopment,

**H. B. 4113**, Division of Labor, rule relating to registration of weighing and measuring devices used by businesses in commercial transactions,

**H. B. 4114**, Division of Labor, rule relating to registration of service persons and service agencies,

**H. B. 4115**, Division of Labor, rule relating to employer wage bonds,

**H. B. 4116**, Division of Labor, rule relating to Elevator Safety Act,

**H. B. 4117**, Division of Labor, rule relating to amusement rides and amusement attractions safety act,

**H. B. 4118**, Division of Labor, rule relating to bedding and upholstered furniture,

And,

**H. B. 4119**, Division of Labor, rule relating to zipline and canopy tour responsibility act,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4093, H. B. 4094, H. B. 4113, H. B. 4114, H. B. 4115, H. B. 4116, H. B. 4117, H. B. 4118 and H. B. 4119) 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. 163** - "A Bill to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating generally to authorizing the Department of Environmental Protection to promulgate certain legislative rules as filed, as modified, and as amended and to repeal certain legislative and procedural rules; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to hazardous waste management system; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to underground storage tanks; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to West Virginia surface mining reclamation; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from combustion of solid waste; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from municipal solid waste landfills; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of air pollution from hazardous waste treatment, storage, and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to voluntary remediation and redevelopment; directing the Department of Environmental Protection to repeal a legislative rule relating to state construction grants program rule; and directing the Department of Environmental Protection to repeal a procedural rule relating to Freedom of Information Act requests"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

**Com. Sub. for S. B. 165** - "A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, relating generally to authorizing various health agencies to promulgate certain legislative rules as filed, modified, and amended by the legislature; authorizing various health agencies to repeal certain legislative rules; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to hospital licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to public water systems; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access: registry and employment screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to development of methodologies to examine needs for substance use disorder treatment facilities within the state; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to collection and exchange of data related to overdoses; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care centers licensing; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care facility licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to family child care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to informal and relative family child care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to out-of-school-time child care center licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to pilot program for drug screening of applicants for cash assistance; directing the Department of Health and Human Resources to repeal a legislative rule relating to

regulation of opioid treatment programs; authorizing the Health Care Authority to promulgate a legislative rule relating to financial disclosure; and repealing a Health Care Authority legislative rule relating to certificate of need”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2018, and requested the concurrence of the House of Delegates in the passage, of

**Com. Sub. for S. B. 284** - “A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; establishing Advanced Career Education (ACE) programs and pathways; providing that certain individuals who have completed a secondary education program in a public, private, or home school shall be considered adults enrolled in regular secondary programs for funding purposes; requiring community and technical colleges establish partnerships with career technical education centers, county boards of education, or both that provide for ACE programs; providing requirements for ACE programs and pathways; requiring the Board of Education and the West Virginia Council for Community and Technical College Education promulgate joint guidelines; requiring the Division of Vocational Education and the council maintain and annually report certain information; providing that community and technical colleges and career technical education centers shall participate in one or more ACE partnership in order to receive certain funding; establishing the WV Invests Grant Program; defining terms; authorizing the council to award WV Invests Grants under certain terms and conditions; requiring the council to report certain information on the WV Invests Grant Program; requiring the council to propose legislative rules; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund”; which was referred to the Committee on Education then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

**Com. Sub. for S. B. 285** - “A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10, and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4, and §20-15-5 of said code, all relating to establishing regional recreation authorities and areas; providing for reimbursement by authority for natural resources police officers; adding Division of Natural Resources police officers to class of law-enforcement officers whose pension benefits are exempt from state income taxation; modifying the amount and timing of subsistence payments to natural resource police officers; setting forth findings and definitions; providing for creation of regional recreation authorities as joint development entities formed by a prescribed number of contiguous counties; providing for establishment of new trail systems for off-highway recreational vehicle use; providing for board to govern regional recreation authorities; providing for the appointment and terms of board members; providing for quorum, executive director, and expenses of board; providing for financial review and oversight of regional recreation authorities; establishing powers and duties of regional recreation authority boards; establishing powers of regional recreation authorities; prohibiting certain conduct in regional recreation areas; providing civil and criminal penalties; limiting liability of certain landowners; establishing requirements for bidding and purchasing; prohibiting contracts that pose conflicts of interests; providing civil remedies for unlawful purchasing contracts; and incorporating references to new code sections and regional recreation authorities and areas into the

ATV Responsibility Act”; which was referred to the Committee on Agriculture and Natural Resources then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

**S. B. 338** - “A Bill to amend and reenact §11-21-74 of the Code of West Virginia, 1931, as amended, relating generally to employer withholding taxes; changing due date for employers to file annual reconciliation and withholding statements with Tax Commissioner to January 31; requiring certain employers to file withholding return information electronically with the Tax Commissioner; and deleting obsolete language”; which was referred to the Committee on Finance.

### Resolutions Introduced

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

**By Delegates Cowles, Folk, Frich, Westfall, Maynard, Pack, Criss, Ellington, Dean, Nelson and Butler:**

**H. J. R. 109** - “Proposing an amendment to the Constitution of the State of West Virginia amending section fifty-one, article VI thereof, relating to authorizing legislative review of the judiciary budget; and providing a summarized statement of the purpose of such proposed amendment”; to the Committee on Finance then the Judiciary.

### Bills Introduced

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

**By Delegates Westfall, Frich and Ellington:**

**H. B. 4004** - “A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend said code by adding thereto a new section, designated §3-5-6e; to amend and reenact §3-5-7 and §3-5-13 of said code; to amend and reenact §3-10-3 and §3-10-3a of said code; to amend and reenact §6-5-1 of said code; to amend said code by adding thereto a new article, designated §51-1B-1, §51-1B-2, §51-1B-3, §51-1B-4, §51-1B-5, §51-1B-6, §51-1B-7, §51-1B-8, §51-1B-9, §51-1B-10, §51-1B-11 and §51-1B-12; and to amend and reenact §58-5-1 of said code, all relating to creating a new court to be known as West Virginia Intermediate Court of Appeals; requiring election of Judges of the Intermediate Court of Appeals be on nonpartisan basis; requiring elections be on a division basis when more than one judge is to be elected; providing for timing and frequency of election; providing for commencement of terms of office; establishing ballot design and printing; providing that elections be held on same date as primary election; requiring nonpartisan ballots; establishing filing announcement of candidacies, including timing, location and necessary information; providing for order of appearance of offices on the ballot; establishing ballot content; providing procedures for filling of vacancies; providing occasions for special elections to be held to fill vacancies; requiring Intermediate Court of Appeals be operational by July 1, 2019; establishing northern and southern districts; providing three judges for each district; establishing qualifications for judges; establishing court jurisdiction; providing for deflective review; providing West Virginia Supreme Court of Appeals will either keep an appeal or transfer it to Intermediate Court; designating the clerk of the Supreme Court as the clerk of the Intermediate Court of Appeals; providing that certain appeals to be reviewed as a matter of right and those matters in which the appeals are discretionary; providing appeals in certain administrative cases are discretionary; authorizing appeals from Intermediate Court to Supreme Court; authorizing Governor

make initial appointments by July 1, 2018; creating staggered terms; providing for elections for ten-year terms after initial appointments; authorizing a Chief Judge; authorizing staff for court and judges; providing for compensation and expenses of judges and staff; providing for temporary assignment of circuit court judges; authorizing Supreme Court to provide facilities, furniture, fixtures and equipment for Intermediate Court; establishing precedential effect of Intermediate Court orders and decisions; providing budget of Intermediate Court be part of Supreme Court budget; and providing for severability”; to the Committee on the Judiciary then Finance.

**By Delegates Criss, Walters, Frich, Westfall, Pack, Ambler, Maynard, Atkinson, Ellington, Rowan and Mr. Speaker (Mr. Armstead):**

**H. B. 4017** - “A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting percentages of social security benefits from personal income tax for certain taxpayers beginning after specified date; and increasing to one hundred percent the percentage of social security benefits to which exemption applies for those certain taxpayers over three-year period”; to the Committee on Finance.

**By Delegates Moore, Westfall, Frich, Ellington and Cowles:**

**H. B. 4367** - “A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating to admissibility of certain evidence in a civil action for damages; and allowing the admission of the use or nonuse of a safety belt on the issues of negligence, contributory negligence, comparative negligence and failure to mitigate damages”; to the Committee on the Judiciary.

**By Delegates Westfall, Frich and Lane:**

**H. B. 4368** - “A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to voluntary assignments of wages by state employees who have been overpaid; removing exemption from wages; and requiring written acknowledgement and waiver as part of a voluntary authorization or order”; to the Committee on Industry and Labor then the Judiciary.

**By Delegates Sobonya, C. Miller, C. Romine, Frich, Rowan and Ward:**

**H. B. 4369** - “A Bill to amend and reenact §21-3A-2 of the Code of West Virginia, 1931, as amended, relating to making the Division of Corrections and the Division of Health, and their respective workplaces, subject to the Occupational Safety and Health Act”; to the Committee on Industry and Labor then the Judiciary.

**By Delegates Sobonya, C. Miller, C. Romine, Frich, Butler, Rowan, Ward and Householder:**

**H. B. 4370** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-1-23, relating to requiring the West Virginia Supreme Court of Appeals to maintain a searchable, criminal database containing copies of all arrests and convictions by all the courts in the state”; to the Committee on the Judiciary then Finance.

**By Delegates Sobonya, C. Miller, C. Romine, Frich, Overington, Butler, Rowan and Ward:**

**H. B. 4371** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-2-15, relating to prohibiting school employees from counseling, referring, transporting, or assisting any student to obtain an abortion; providing that a violation of the section is a misdemeanor and; providing that nothing in the section may be construed as approving of abortion”; to the Committee on Education then the Judiciary.

**By Delegates Sobonya, C. Miller, C. Romine, Frich, Butler, Summers, Rowan, Ward and Householder:**

**H. B. 4372** - “A Bill to amend and reenact §30-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-5-25a, all relating generally to requiring the Board of Pharmacy to review, investigate, and make appropriate

referrals of reports of suspicious orders of controlled substances; authorizing the board to investigate suspicious orders by controlled substances registrants and to conduct hearings on the denial, suspension or revocation of registrations; directing the board to maintain a log of reports of suspicious orders; requiring reports to be reviewed by the Attorney General; and directing reports of suspicious orders to be referred to agencies and authorities with appropriate jurisdiction”; to the Committee on Health and Human Resources then the Judiciary.

**By Delegates Jennings, Martin, Wagner, Rowan, E. Evans and R. Romine:**

**H. B. 4373** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-27; to amend said code by adding thereto a new section, designated §26-5-2; and to amend said code by adding thereto a new section, designated §26-9-3, all relating to providing long-term care and substance abuse treatment; authorizing the Secretary of the Department of Health and Human Resources to modernize or build new facilities; requiring certified beds for long-term care and substance abuse treatment; requiring facilities for outpatient substance abuse treatment; and requiring the hiring of adequate professional classified staff; and replacing an outdated reference in said code to ‘Pinecrest Hospital’ with the correct name of ‘Jackie Withrow Hospital’”; to the Committee on Health and Human Resources then Finance.

**By Delegates Sobonya, Butler, Ward and Rowan:**

**H. B. 4374** - “A Bill to amend and reenact §4-2-6 of the Code of West Virginia, 1931, as amended, relating to providing a mechanism for the independent evaluation of revenue estimates by West Virginia and Marshall Universities’ business colleges”; to the Committee on Education then Finance.

**By Delegates Sobonya, Butler, Rowan, Ward and Householder:**

**H. B. 4375** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-14, relating generally to benefits provided by the Department of Health and Human Resources; requiring benefit access devices to have a photograph of the person to whom a device was issued; permitting a benefit access device to be used by another authorized individual on the device holder’s behalf; defining terms; and providing for rule-making”; to the Committee on the Judiciary.

## House Calendar

### Third Reading

**Com. Sub. for H. B. 2831**, Relating to the reconstitution of the Driver’s Licensing Advisory Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 32**), and there were—yeas 95, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Canestraro, Capito, C. Miller and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2831) passed.

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

**Com. Sub. for H. B. 4006**, Revising the processes through which professional development is delivered for those who provide public education; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 33**), and there were, including pairs—yeas 60, nays 36, absent and not voting 3, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was announced by the Clerk:

Paired:

Yea: C. Miller      Nay: Caputo

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Canestraro, Capito and White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4006) passed.

Delegate Cowles moved that the bill take effect July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 34**), and there were, including pairs—yeas 61, nays 35, absent and not voting 3, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: C. Miller      Nay: Caputo

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Williams.

Absent and Not Voting: Canestraro, Capito and White.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

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

### **Second Reading**

**Com. Sub. for H. B. 3020**, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person; on second reading, coming up in regular order, was reported by the Clerk.



At the request of Delegate Shott, and by unanimous consent, the bill was recommitted to the Committee on the Judiciary.

**Com. Sub. for H. B. 4233**, Relating generally to fraudulent transfers; 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. 4242**, Clarifying the jurisdictional amount for removal of a civil action from magistrate court to circuit court; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Hanshaw, the bill was amended on page one, section eight, lines five and six, by striking out the words "Any action for wrongful occupation of residential rental property or unlawful detainer may be removed to circuit court upon payment of the circuit court filing fee by any party" and the period, and inserting in lieu thereof a colon and the following proviso: "*Provided*, That at any time before trial in any action for wrongful occupation or unlawful detainer involving \$2,500 or more any party may, upon payment of the circuit court filing fee, cause such action to be removed to circuit court."

The bill was then ordered to engrossment and third reading.

### **First Reading**

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

**H. B. 2612**, Repealing section relating to unattended motor vehicles and penalties,

**Com. Sub. for H. B. 4138**, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors,

And,

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

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Canestraro, Capito, C. Miller and White.

### **Miscellaneous Business**

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Hamrick during Remarks by Members
- Delegate Kessinger during Remarks by Members
- Delegate R. Miller during Remarks by Members

Delegate Fleischauer filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2534.

Delegate Nelson filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 2955.

At 1:14 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 1, 2018.

---

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





## HOUSE CALENDAR

Thursday, February 1, 2018

23<sup>rd</sup> Day

11:00 A. M.

### THIRD READING

- Com. Sub. for H. B. 4233 - Relating generally to fraudulent transfers (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4242 - Clarifying the jurisdictional amount for removal of a civil action from magistrate court to circuit court (SHOTT) (REGULAR)

### SECOND READING

- H. B. 2612 - Repealing section relating to unattended motor vehicles and penalties (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4138 - Requiring certain public or private schools and daycare centers to install carbon monoxide detectors (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4199 - Permitting a nursing home to use trained individuals to administer medication (SHOTT) (REGULAR)

### FIRST READING

- Com. Sub. for H. B. 2655 - Defining and establishing the crime of cyberbullying (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2662 - Prohibiting the waste of game animals, game birds or game fish (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2696 - Relating to crossbow hunting (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4162 - Granting authority to the State Conservation Committee to contract for flood response (SHOTT) (REGULAR)
- Com. Sub. for H. B. 4251 - Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors (ESPINOSA) (REGULAR)



**WEST VIRGINIA  
HOUSE OF DELEGATES**

---

**THURSDAY, FEBRUARY 1, 2018**

---

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

---

**SMALL BUSINESS, ENTREPRENEURSHIP & ECONOMIC DEVELOPMENT**

**9:00 A.M. – ROOM 434M**

**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**

**2:30 P.M. – ROOM 215E**

**COMMITTEE ON THE JUDICIARY**

**4:30 P.M. – ROOM 418M**

---

**FRIDAY, FEBRUARY 2, 2018**

---

**COMMITTEE ON FINANCE**

**9:00 A.M. – ROOM 460M**

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