

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
TWENTY-SECOND DAY

Charleston, West Virginia, Wednesday, January 31, 2018

The Senate met at 11:13 a.m.

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

Prayer was offered by Pastor Dana Gatewood, Summersville Baptist Church, Summersville, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan J. Ferns, a senator from the first district.

Pending the reading of the Journal of Tuesday, January 30, 2018,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2799—A Bill to amend and reenact §21-6-3 of the Code of West Virginia, 1931, as amended, all relating generally to the issuance of a minor's work permit; prohibiting the superintendent of schools from requiring a physical examination to be included with the application for a minor's work permit unless required by the prospective employer; and removing the requirement that the superintendent of schools certify that the minor personally appeared before him or her prior to the issuance, modification, or rejection of a work permit.

Referred to the Committee on Education.

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

Eng. House Bill 4010—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-2-406, relating to providing that a religious representative or spiritual assembly, church or religious organization is not required to solemnize a marriage and a spiritual assembly, church or religious organization is not required to allow any building or property of the organization to be used to host a marriage ceremony if the marriage does not conform to the religious representative or spiritual assembly, church or religious organization's sincerely held religious beliefs, to provide that a religious representative or spiritual assembly, church or religious organization is not subject to civil or criminal liability for such a denial, and to provide that the state and political subdivisions may not penalize or withhold benefits to any religious representative or spiritual assembly, church or religious organization for such a denial.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 244, Specifying conditions for unlawful possession of firearm at school-sponsored activities.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 244 (originating in the Committee on Education)—A Bill to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to specifying the conditions under which it is unlawful to possess a firearm or other deadly weapon at school-sponsored functions; revising the conditions under which a retired law-enforcement officer may possess a firearm or other deadly weapon on a school bus, in a public primary or secondary education building, structure, facility or grounds or at certain school sponsored functions; and revising conditions for which certain persons holding a valid concealed handgun permit can possess a concealed handgun in a motor vehicle in in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Kenny Mann,
Chair.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

Senator Takubo, from 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

Senate Bill 272, Relating generally to drug control.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 272 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-5T-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-5T-6; to amend and reenact §16-46-4; and to amend said code by adding thereto a new section, designated §16-46-7, all relating generally to drug control; requiring hospital emergency rooms and departments, as well as certain other law-enforcement and medical care providers, to report suspected or confirmed drug overdoses, and other drug-related instances, to the Office of Drug Control Policy; allowing the Office of Drug Control Policy to establish a pilot program for community response to a persons who have experienced a recent overdose; requiring local and state governmental agencies to require first responders, regardless of frequency of drug overdoses in their communities, to carry Naloxone and be trained in its use subject to funding and availability; and providing for a statewide standing order for Naloxone by the state health officer.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Tom Takubo,
Chair.

The bill (Com. Sub. for S. B. 272), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 283, Relating generally to procurement by state agencies.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 283 (originating in the Committee on Government Organization)—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-3-10b, §5A-3-10c, §5A-3-10e, §5A-3-33d, §5A-3-33f, §5A-3-37, and §5A-3-45 of said code; to amend said code by adding thereto a new section, designated §5A-3-61; to amend and reenact §5G-1-3 of said code; to amend and reenact §6D-1-1; and to amend and reenact §18B-5-4 of said code, all relating generally to procurement by state agencies; defining terms; authorizing competitive bidding of certain open-ended repair and maintenance contracts; modifying use and consideration of alternates in solicitations; prohibiting alternates from being accepted out of order; modifying criteria to be considered in best value procurement awards; eliminating sole source procurement; establishing direct award procurement requirements; establishing prequalification agreements and their requirements and procedures; authorizing agency delegated bidding and its procedure; increasing certain cost limits from \$50,000 to \$1

million; authorizing awarding contracts without competitive bidding if certain requirements are met; eliminating master contracts and direct ordering process; expanding the scope of those who may be debarred; eliminating preferences for resident vendors, vendors employing state residents, and veteran residents; establishing the concept of "reciprocal preference" for an in-state vendor over an out-of-state vendor from any state that gives or requires a preference to bidders from that state and setting forth its requirements; modifying the value determination of certain motor vehicles that are to be sold; permitting funds from sale of surplus property be deposited in alternate fund if original fund no longer exists; permitting spending units to use a standardization process to purchase commodities and setting forth its requirements; permitting an architectural or engineering firm to be selected without bidding if certain conditions exist; increasing certain contract limits from \$100,000 to \$1 million; requiring certain reporting; and authorizing rulemaking.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,
Chair.

The bill (Com. Sub. for S. B. 283), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 322, Relating to employees of Department of Agriculture.

And,

Senate Bill 343, Limiting expenses in preparing list for notice to redeem.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 347, Relating to operation of motorboats.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 347 (originating in the Committee on Natural Resources)—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 and regulation of motorboats, personal watercrafts, water skiing and surfboarding; defining the term “state of principle operation”; exempting motorboats of less than seventy pounds of thrust from state numbering requirements; changing the triggering event for certain motorboats to comply with numbering requirement; amending the basis for triggering the Commissioner of the Division of Motor Vehicle’s obligation to report certain information to county assessors regarding vessels and other boats; amending certain equipment requirements for Class A motorboats; clarifying and incorporating certain state and federal requirements to current specifications on motorboat numbering, lighting, fire extinguishers, engine bilges, and flotation device requirements; increasing the financial amount of property damage before certain accidents must be reported; clarifying the requirements for the operation of personal watercrafts; limiting the hours during the day water skiing and surfboarding are permitted; and authorizing rulemaking.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 347), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 364, Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle.

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

Respectfully submitted,

Kenny Mann,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 400, Prohibiting state licensing boards from hiring lobbyists.

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 3, Michael Angiulli Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 3 (originating in the Committee on Transportation and Infrastructure)—Requesting Division of Highways to name bridge number 17-50/59-0.01 (17A227), locally known as Northview Overpass, carrying County Route 50/59 over U. S. Route 50 in Harrison County, West Virginia, the “USMC PFC Michael Angiulli Memorial Bridge”.

Whereas, Michael “Mike” Angiulli was born in North View in Harrison County, West Virginia, on September 1, 1924. He was the son of the late John and Mary Agnes Checchia Angiulli; and

Whereas, In 1942, he received his high school diploma from Victory High School; and

Whereas, Mike was married to Roanna Gay Snyder and had five children: John Michael Angiulli, Michael “Mike” Angiulli, Mary Ann Preston, Cheryl Angiulli, and Kenneth Snyder; and

Whereas, In 1943, Mike joined the United States Marine Corps and began serving in E Company, 9th Marine Regiment, 3rd Marine Division. During his time with the Marine Corps, he attained the rank of Private First Class. Throughout his time serving in World War II, he took part in three beach landings - Guam, Bougainville, and Iwo Jima in the Pacific; and

Whereas, In 1945, upon returning from World War II, Mike became a Clarksburg firefighter and later retired due to an injury; and

Whereas, In 1957, he and a small group formed the North View Athletic Club (NVAC) and at one time had three playgrounds in North View. Mike was awarded the Clarksburg Man of the Year Award in 1958 and remained active in the NVAC his entire life; and

Whereas, In the early 1980’s, Mike built one of the first signs entering the North View community with the help of Roger Diaz; and

Whereas, In the 1990’s, Mike worked with Pete Iquinto and Liberty Baseball. Mike was given the name the Grass Doctor by Pete; and

Whereas, During the 1990’s and early 2000’s, Mike made notebooks of World War II which he gave to area high schools and colleges, and he also gave talks about World War II; and

Whereas, Mike became ill in 2006 and was cared for by his family until he entered the West Virginia Veterans Nursing Facility in 2012; and

Whereas, Mike passed away on Thursday, July 23, 2015, at the Louis A. Johnson Veterans Administration Hospital in Clarksburg; and

Whereas, Mr. Angiulli was preceded in death by his wife, Roanna Gay Snyder Angiulli, on February 14, 2004, and son, Kenneth Snyder; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his community and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-50/59-0.01 (17A227), locally known as Northview Overpass, carrying County Route 50/59 over U. S. Route 50 in Harrison County, West Virginia, the "USMC PFC Michael Angiulli Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "USMC PFC Michael Angiulli Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4020, Making technical corrections in the code when referencing chapter 49.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

By Senators Takubo, Trump, Karnes, Rucker, Azinger, Maroney, Cline, Ferns, and Boso:

Senate Bill 431—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-3-7, relating to requiring the Department of Health and Human Resources to phase in a statewide program implementing work requirements for applicants of the Supplemental Nutrition Assistance Program (SNAP); limiting SNAP recipients to three months of benefits in any 36-month period unless the recipient is working or participating in a work, educational, or volunteer program for at least 20 hours a week; and requiring discontinuance of a federal waiver.

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

By Senators Gaunch, Weld, Boso, and Jeffries:

Senate Bill 432—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to municipal home rule; establishing the Municipal Home Rule Pilot Program as a permanent program identified as the Municipal Home Rule Program; providing that any ordinance, act, resolution, rule, or regulation enacted pursuant to the Municipal Home Rule Pilot Program shall continue until repealed; clarifying the authority of the Municipal Home Rule Board; providing a funding mechanism for the board; creating a special revenue account for the Municipal Home Rule Board; allowing all municipalities to participate in the Municipal Home Rule Program; requiring certain notice prior to passing of an ordinance; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation that is contrary to certain laws governing the professional licensing or certification of public employees; prohibiting certain ordinances, acts, resolution, rules, or regulations in violation of federal law, regulation, or standard that may impact federal funding or compliance requirements; providing for petition procedures to protest enacted or amended ordinances; requiring ratification of certain ordinances by the voters in a municipal election; and eliminating the automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Trump, Gaunch, Palumbo, Prezioso, and Boso:

Senate Bill 433—A Bill to amend and reenact §47-15-1 and §47-15-2 of the Code of West Virginia, 1931, as amended, all relating to pyramid promotional schemes; definitions; and unlawful acts.

Referred to the Committee on the Judiciary.

By Senators Trump and Boso:

Senate Bill 434—A Bill to amend and reenact §30-3C-1 and §30-3C-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3C-5, all relating to discovery in certain proceedings; defining terms; specifying certain documents that are not subject to discovery; and addressing original source materials.

Referred to the Committee on the Judiciary.

By Senator Ojeda:

Senate Bill 435—A Bill to amend and reenact §6-6-7 of the Code of West Virginia, 1931, as amended, relating to removing elected or appointed officers; expanding removal procedures to

apply to all county, school district, municipal, judicial, legislative, or statewide office; detailing process for removal of a legislator; detailing process for removal of a statewide official; and adjusting relevant language to conform.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Karnes, Azinger, and Boso:

Senate Bill 436—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-54-1, §16-54-2, §16-54-3, and §16-54-4, all relating to creating the Nondiscrimination in Involuntary Denial of Treatment Act; requiring the provision of medical treatment under certain circumstances; requiring the disclosure of policies related to the life-preserving treatment a patient may receive or be denied; and requiring the Department of Health and Human Resources to maintain and report on certain information.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

By Senators Blair and Boso:

Senate Bill 437—A Bill to amend and reenact §17C-14-1 of the Code of West Virginia, 1931, as amended, relating to penalties for leaving a motor vehicle unattended; and exempting a person from leaving the engine running in an unattended motor vehicle that employs a modern remote start system.

Referred to the Committee on the Judiciary.

By Senators Maynard, Prezioso, Beach, Plymale, and Jeffries:

Senate Bill 438—A Bill to amend and reenact §29-22-18e of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §31-15-16d, all relating to debt service on bonds secured by the State Excess Lottery Revenue Fund; and clarifying the timing of debt service payments to the State Parks Lottery Revenue Debt Service Fund.

Referred to the Committee on Finance.

By Senators Plymale, Boso, and Jeffries:

Senate Bill 439—A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating to exempting vehicles engaged in nonemergency transportation of Medicaid members by centers for independent living from permit requirements.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

By Senators Gaunch, Cline, Plymale, Boso, and Jeffries:

Senate Bill 440—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-24, relating to establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance, and improvement projects; setting forth general structure of fund and distribution of funds; and providing for rulemaking.

Referred to the Committee on Government Organization.

By Senators Takubo, Maroney, Stollings, Woelfel, and Plymale:

Senate Bill 441—A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating to health care provider taxes; extending the directed payment program tax on certain eligible acute care hospitals for three years; and providing an expiration date for the tax.

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

By Senators Takubo, Maroney, Stollings, Woelfel, and Plymale:

Senate Bill 442—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating to regulating prior authorizations; defining terms; providing for electronically transmitted universal prior authorization forms; establishing procedures for submission and acceptance of forms; and setting deadlines.

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

By Senators Arvon, Azinger, Cline, Gaunch, Maynard, Rucker, and Smith:

Senate Bill 443—A Bill to amend and reenact §49-4-605 of the Code of West Virginia, 1931, as amended, relating to requiring the department file a petition to terminate parental rights when parents have not seen child in 18 months from the removal order; and allowing tolling of 18-month period if parent incarcerated or in rehabilitation facility.

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

By Senator Trump:

Senate Bill 444—A Bill to repeal §17C-15-29 and §17C-15-38 of the Code of West Virginia, 1931, as amended, relating to repealing antiquated and inoperative provisions of the code regarding approval of safety glass and lighting in motor vehicles.

Referred to the Committee on Transportation and Infrastructure.

By Senators Ojeda and Rucker:

Senate Joint Resolution 11—Proposing an amendment to the Constitution of the State of West Virginia, amending section six, article IV thereof, relating to removal of officials; authorizing the recall of any elected official for any reason; requiring the Legislature to enact laws to implement the recall procedure; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

Senators Trump, Woelfel, Unger, Stollings, Cline, Rucker, Plymale, Beach, and Boso offered the following resolution:

Senate Resolution 22—Designating January 31, 2018, as Nurses Unity Day at the Legislature.

Whereas, One in 43 West Virginians is a nurse; and

Whereas, Nurses make a significant contribution of time, energy, heart, and care toward the healing of our residents who are ill and suffering; and

Whereas, Nurses are powerful advocates for the health and well-being of all West Virginians, providing education, screening, nursing intervention, evaluation, and research to improve the health of West Virginia residents throughout the life span from pre-birth to the end of life; and

Whereas, Nurses meet the health needs of West Virginians not only in hospitals and long-term care facilities, but conveniently in their homes, at school, at work, at church, in community health centers, on the phone, and on the Internet; and

Whereas, The Institute of Medicine recognizes nurses as key to solving our current rising cost of chronic illness through their expanding leadership as coordinators and collaborators of interdisciplinary health care teams; and

Whereas, The expanding roles of Advanced Practice Registered Nurses as Nurse Anesthetists, Nurse Midwives, and Certified Nurse Practitioners in a variety of specialties provide improved cost-effective access to health services in our rural state; and

Whereas, The American public has voted to acknowledge nurses as the Most Trusted Professional for 12 years; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 31, 2018, as Nurses Unity Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of West Virginia Nurses Unity Day.

At the request of Senator Trump, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Ferns, at 11:27 a.m., the Senate recessed to present Senate Resolution 22.

The Senate reconvened at 11:31 a.m. today and resumed business under the sixth order.

Petitions

Senator Takubo presented a petition from Samantha Burdette and 169 Browns Creek area residents, requesting the reevaluation of the Tornado Volunteer Fire Department's district to include some, if not all, of Browns Creek.

Referred to the Committee on Government Organization.

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the fourth order of business.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 445 (originating in the Committee on Transportation and Infrastructure)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-17a; and to amend and reenact §17-4-17b of said code, all relating to utility relocation; stating legislative findings; defining term; authorizing the Division of Highways to acquire real or personal property for utility accommodation; authorizing the division to lease real property to utilities; allowing the division to pay for utility relocation costs subject to reimbursement agreement; specifying methods of preliminary engineering design work completion and utility relocation construction work payment; and providing legislative and emergency rulemaking authority.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Boso, and by unanimous consent, the bill (S. B. 445) contained in the foregoing report from the Committee on Transportation and Infrastructure was then referred to the Committee on Government Organization.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 11, Evans Center for Excellence in Aircraft Maintenance.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 46, Permitting pharmacists to inform customers of lower-cost alternative drugs.

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

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

The nays were: None.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 46) passed with its title.

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

Eng. Com. Sub. for Senate Bill 71, Defining “veteran” as it pertains to veteran-owned business.

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

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

The nays were: None.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 71) passed with its title.

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

Eng. Com. Sub. for Senate Bill 184, Authorizing DOT promulgate legislative rules.

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

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

The nays were: None.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 184) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 184) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 237, Authorizing Department of Revenue promulgate legislative rules.

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

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

The nays were: None.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 237) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 237) takes effect from passage.

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

Eng. Senate Bill 242, Requiring health insurance providers provide coverage for certain Lyme disease treatment.

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

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Boso, Clements, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger—1.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 242) passed.

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

Eng. Senate Bill 242—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-38; to amend said code by adding thereto a new section, designated §33-15-4p; to amend said code by adding thereto a new section, designated §33-16-3zz; and to amend said code by adding thereto a new section, designated §33-25A-8p, all relating to requiring health insurance providers to provide coverage for long-term antibiotic therapy for a patient with Lyme disease.

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

Eng. Com. Sub. for Senate Bill 327, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty.

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

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

The nays were: None.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 327) passed with its title.

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

Eng. Senate Bill 385, Decreasing and adding appropriations out of Treasury to DHHR and MAPS.

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

Pending extended discussion,

The question being “Shall Engrossed Senate Bill 385 pass?”

Senator Woelfel requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is the legal guardian of a sibling who receives Medicaid benefits.

The Chair replied that any impact on Senator Woelfel would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Ferns, Gaunch, Karnes, Mann, Maynard, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Drennan, Facemire, Jeffries, Ojeda, Palumbo, Romano, Stollings, Unger, and Woelfel—11.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 385) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Drennan, Ferns, Gaunch, Karnes, Mann, Maynard, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Romano, Stollings, Unger, and Woelfel—10.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Ferns' aforesated motion had not prevailed.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senators Stollings, Romano, and Woelfel regarding the passage of Engrossed Senate Bill 385 were ordered printed in the Appendix to the Journal.

Eng. Senate Bill 388, Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration.

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

Pending extended discussion,

The question being "Shall Engrossed Senate Bill 388 pass?"

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

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Romano, Stollings, Unger, and Woelfel—10.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 388) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Drennan, Ferns, Gaunch, Karnes, Mann, Maynard, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Romano, Stollings, Unger, and Woelfel—10.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Ferns' aforestated motion had not prevailed.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senators Woelfel, Stollings, Ojeda, and Unger regarding the passage of Engrossed Senate Bill 388 were ordered printed in the Appendix to the Journal.

Eng. Senate Bill 393, Relating to compensation and composition of WV Racing Commission.

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

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 10, Relating generally to PSC jurisdiction.

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

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

Com. Sub. for Senate Bill 267, Increasing salaries of certain state employees.

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

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

Com. Sub. for Senate Bill 336, Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 384, Decreasing and increasing appropriations from State Fund, General Revenue to DHHR.

On second reading, coming up in regular order, was read a second time.

On motions of Senators Stollings and Prezioso, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page three, line three, after the word “appropriation” by inserting the words “and adding new items of appropriation”;

On page three, item fifty-seven, line thirteen, by striking out “34,627,000” and inserting in lieu thereof “7,167,000”;

On page three, item fifty-seven, after line thirteen, by inserting three new line items to read as follows:

<u>25a CARDIAC Project – Surplus (R).....</u>	<u>37500</u>	<u>\$</u>	<u>250,000</u>
<u>25b Center for End of Life – Surplus (R)</u>	<u>54500</u>	<u>\$</u>	<u>150,000</u>
<u>25c Tobacco Education Program – Surplus (R)</u>	<u>90600</u>	<u>\$</u>	<u>1,500,000</u>

On page three, lines fifteen and sixteen, by striking out the words “an existing item” and inserting in lieu thereof the words “existing items”;

And,

On page three, item sixty, after line twenty-six, by inserting a new line item to read as follows:

<u>12 I/DD Waiver – Surplus (R).....</u>	<u>46600</u>	<u>\$</u>	<u>25,560,000</u>
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Following extended discussion,

The question being on the adoption of the amendments offered by Senators Stollings and Prezioso to the bill (Eng. S. B. 384), and on this question, Senator Stollings demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Romano, Stollings, Takubo, Unger, and Woelfel—12.

The nays were: Azinger, Blair, Boley, Boso, Clements, Drennan, Ferns, Gaunch, Karnes, Mann, Maynard, Rucker, Smith, Swope, Sypolt, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: Arvon, Cline, Maroney, and Prezioso—4.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendments offered by Senators Stollings and Prezioso to the bill rejected.

Senator Jeffries requested unanimous consent that the bill be advanced to third reading with the right for further amendments to be considered on that reading.

On motion of Senator Ferns, at 12:56 p.m., the Senate recessed until 1:15 p.m. today.

The Senate reconvened at 1:44 p.m. today and resumed consideration of

Senate Bill 384, Decreasing and increasing appropriations from State Fund, General Revenue to DHHR.

The question now being on the adoption of Senator Jeffries' request that the bill be advanced to third reading with the right for further amendments to be considered on that reading, the same was put and prevailed.

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Com. Sub. for Senate Bill 258, Exempting honorably discharged veterans from fees for license to carry deadly weapons.

Com. Sub. for Senate Bill 268, Eliminating requirement that certain agencies purchase commodities produced on institutional farms.

Senate Bill 324, Removing restrictions where certain traditional lottery games may be played.

Senate Bill 345, Authorizing DNR establish procedures and fee schedule for limited permit hunts.

Senate Bill 350, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State.

Senate Bill 357, Relating generally to limited video lottery.

Com. Sub. for Senate Bill 386, Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission.

And,

Senate Bill 430, Encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

At the request of Senator Stollings, and by unanimous consent, the Senate returned to the sixth order of business, which agenda includes the making of main motions.

On motion of Senator Stollings, the Senate reconsidered its action by which in earlier proceedings today it rejected Senator Ferns' motion that **Senate Bill 385** (*Decreasing and adding appropriations out of Treasury to DHHR and MAPS*) be made effective from passage.

The vote thereon having been reconsidered,

Thereafter, Senator Stollings moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Drennan, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Facemire and Romano—2.

Absent: Arvon, Cline, Maroney, Prezioso, and Unger—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 385) takes effect from passage.

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

On motion of Senator Stollings, the Senate reconsidered its action by which in earlier proceedings today it rejected Senator Ferns' motion that **Senate Bill 388** (*Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration*) be made effective from passage.

The vote thereon having been reconsidered,

Thereafter, Senator Stollings moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Drennan, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Facemire and Romano—2.

Absent: Arvon, Cline, Maroney, Prezioso, and Unger—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 388) takes effect from passage.

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

On motion of Senator Ferns, a leave of absence for the day was granted Senators Cline, Arvon, Maroney, and Prezioso.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Ferns, at 1:51 p.m., the Senate adjourned until tomorrow, Thursday, February 1, 2018, at 11 a.m.

SENATE CALENDAR

**Thursday, February 01, 2018
11:00 AM**

UNFINISHED BUSINESS

Com. Sub. for S. C. R. 3 - Michael Angiulli Memorial Bridge

THIRD READING

Eng. Com. Sub. for S. B. 336 - Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance

S. B. 384 - Decreasing and increasing appropriations from State Fund, General Revenue to DHHR - (With right to amend) (original similar to HB4383)

Eng. S. B. 393 - Relating to compensation and composition of WV Racing Commission

SECOND READING

Com. Sub. for S. B. 10 - Relating generally to PSC jurisdiction (original similar to HB4355)

Com. Sub. for Com. Sub. for S. B. 258 - Exempting honorably discharged veterans from fees for license to carry deadly weapons

Com. Sub. for S. B. 267 - Increasing salaries of certain state employees (original similar to HB4145)

Com. Sub. for S. B. 268 - Eliminating requirement that certain agencies purchase commodities produced on institutional farms (original similar to HB4143)

S. B. 324 - Removing restrictions where certain traditional lottery games may be played

S. B. 345 - Authorizing DNR establish procedures and fee schedule for limited permit hunts

S. B. 350 - Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State

S. B. 357 - Relating generally to limited video lottery (original similar to HB4303)

Com. Sub. for S. B. 386 - Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission (original similar to HB4388)

S. B. 430 - Encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs

FIRST READING

- Com. Sub. for S. B. 244 - Specifying conditions for unlawful possession of firearm at school-sponsored activities (original similar to HB4139)
- S. B. 322 - Relating to employees of Department of Agriculture
- S. B. 343 - Limiting expenses in preparing list for notice to redeem
- S. B. 364 - Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle
- S. B. 400 - Prohibiting state licensing boards from hiring lobbyists - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4020 - Making technical corrections in the code when referencing chapter 49 - (Com. amend. and title amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Thursday, February 1, 2018

9:30 a.m.	Finance	(Room 451M)
10 a.m.	Judiciary	(Room 208W)
1 p.m.	Health & Human Resources	(Room 451M)
2 p.m.	Education	(Room 451M)
5 p.m.	LOCEA	(Room 451M)