

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Tuesday, February 6, 2018

The Senate met at 11:13 a.m.

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

Prayer was offered by the Reverend Frank Miller, Director of Operations, West Virginia Baptist Conference Center in Ripley, West Virginia.

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

Pending the reading of the Journal of Monday, February 5, 2018,

At the request of Senator Beach, 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 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.

Referred to the Committee on the Judiciary.

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 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.

Referred to the Committee on Natural Resources.

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 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.

Referred to the Committee on the Judiciary.

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 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.

Referred to the Committee on Government Organization.

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 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.

Referred to the Committee on Education.

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 78, Continuing personal income tax adjustment for certain retirees.

Com. Sub. for Senate Bill 271, Creating centralized Shared Services Section of Department of Administration.

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

And,

Senate Bill 346, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

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

Respectfully submitted,

Craig Blair,
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 87, Allowing purchase of Class XS resident senior hunting, fishing and trapping licenses at age 65.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 151, Creating Appropriation Supremacy Act of 2018.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 335, Protecting employees' wages or salaries from being withheld or diverted for political activities.

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

Com. Sub. for Senate Bill 335 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-1A-4 of said code; and to amend and reenact §21-5-1 and §21-5-3 of said code, all relating to withholding or diverting an employee's wages or salary; prohibiting any person from coercing or intimidating any employee into making a political contribution or engaging in any form of political activity; prohibiting employers and any other persons responsible for the disbursement of wages and salaries from withholding or diverting any portion of an employee's wages or salary for political activities without express, written authorization; providing that the prohibition against withholding or diverting wages for political activities applies to any written or oral contract or agreement entered into, modified, renewed, or extended on or after July 1, 2018, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2018; providing that violations are not subject to civil and criminal penalties set forth in the section; providing that violations of the subsection are governed under the Wage Payment and Collections Act; making it an unfair labor practice under the Labor-Management Relations Act for the Private Sector for a labor organization to use agency shop fees paid by nonmembers for political activities, unless affirmatively authorized by the individual; providing that an authorization is valid for no more than 12 months from the date it is made; defining "agency shop fees"; providing that the provisions shall not otherwise apply to or abrogate a written or oral contract of agreement or any provisions in effect on or before June 30, 2018; modifying the definitions of "wages," "deductions," and "fringe benefits"; removing the requirement that an assignment or order be acknowledged by the party making the same before a notary public or other official authorized to take acknowledgments; requiring that an assignment or order shall be in writing; and providing that the changes made to the assignment of wages during the 2018 West Virginia Legislature in SB335 apply to any written or oral contract or agreement entered into, modified, renewed, or extended on or after July 1, 2018, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2018.

And,

Senate Bill 395, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board.

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

Com. Sub. for Senate Bill 395 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §22B-1-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22B-2-3 of said code; to amend and reenact §22B-3-3 of said code; and to amend and reenact §22B-4-3 of said code, all relating to the general provisions for judicial review of final orders of various

environmental boards; providing for appeal directly to the West Virginia Supreme Court, except in certain cases; requiring petition be filed within 30 days of entry of the final order; providing that appeal does not automatically stay any final order or action approved by a board; authorizing the chief or director to employ outside legal counsel without approval of the Attorney General; and providing that decisions of the Air Quality Board, Environmental Quality Board, and Surface Mine Board may be directly appealed to the Supreme Court of Appeals, except in certain cases.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 370, Exempting nonpaid volunteers at ski areas from workers compensation benefits.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 379, Supplemental appropriation from State Excess Lottery Revenue Fund to DHHR.

And,

Senate Bill 382, Supplemental appropriation of Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 406, Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 404, Relating to sex offender registry information.

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

Com. Sub. for Senate Bill 404 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15-12-2 and §15-12-4 of the Code of West Virginia, 1931, as amended, all relating to the sex offender registry, generally; adding required information to be provided to the registry by offenders; and clarifying the duration of registration for qualifying offenders as related to offenses involving perceived minors is life.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
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 451, Permitting Sunday hunting on public lands.

And reports the same back with the recommendation that it 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, under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Senate Joint Resolution 12, Acknowledging Legislative Authority Relating to Protection of Innocent Life Amendment.

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

Com. Sub. for Senate Joint Resolution 12 (originating in the Committee on the Judiciary)—Proposing an amendment to the Constitution of the State of West Virginia, amending article VI thereof, by adding thereto a new section, designated section 57, relating to clarifying that nothing in the Constitution of West Virginia secures or protects a right to abortion, and nothing in the Constitution requires the funding of an abortion; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

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

And,

Eng. House Bill 4146, Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act.

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

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

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

By Senators Stollings, Takubo, Unger, Jeffries, Beach, and Prezioso:

Senate Bill 488—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the Excess Lottery Fund, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2018, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

By Senators Boso, Stollings, Takubo, Unger, Rucker, Weld, Baldwin, Sypolt, Jeffries, Cline, and Maroney:

Senate Bill 489—A Bill to amend and reenact §5H-1-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-21-25, all relating to creating the West Virginia Volunteer First Responder Act of 2018; increasing the death benefit for survivors of firefighters, EMS, or law-enforcement providers killed in the performance of his or her duties; and authorizing a tax credit for certain volunteers.

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

By Senators Gaunch and Boso:

Senate Bill 490—A Bill to amend and reenact §30-39-1, §30-39-2, §30-39-3, §30-39-4, §30-39-5, §30-39-6, §30-39-7, §30-39-9, §30-39-10, §30-39-11, §30-39-12, §30-39-13, §30-39-14, §30-39-15, §30-39-16, §30-39-19, and §30-39-21 of the Code of West Virginia, 1931, as amended, all relating to adopting the Revised Uniform Athlete Agents Act of 2015; modifying and adding definitions; granting rule-making authority to the Secretary of State; appointing Secretary of State as agent for service of process on nonresident athlete agent; establishing seven-day limit on athlete agent to register; requiring additional information in registration process; allowing for reciprocal registration; allowing the Secretary of State to consider whether the athlete agent has pled guilty or no contest to a crime of moral turpitude in its decision to issue registration; providing requirements for reciprocal renewals of registration; providing Secretary of State authority to suspend or revoke registration for same reasons as would justify refusal to issue certificate of registration; increasing fees; adding information to required contract terms; requiring certain notices by athlete agent to educational institutions; allowing parent and guardian of student athlete ability to cancel contract; requiring athlete agent to create certain sources of information; expanding scope of who might engage in prohibited conduct under the act; expanding scope of who can be charged with a criminal violation of the act; enabling student athletes to bring civil action for act or omission of athlete agent; making a civil violation an unfair trade or deceptive practice under West Virginia law; establishing relation to the Electronic Signatures in Global and National Commerce Act; and modifying effective date.

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

By Senators Boso and Cline:

Senate Bill 491—A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to establishing a fee for the expungement of certain criminal convictions upon proper petition.

Referred to the Committee on the Judiciary.

By Senators Trump, Boso, Gaunch, Maroney, Rucker, Takubo, Stollings, Unger, and Cline:

Senate Bill 492—A Bill to amend and reenact §30-30-16 and §30-30-18 of the Code of West Virginia, 1931, as amended, all relating to provisionally licensed social workers with the Department of Health and Human Resources; eliminating special requirements for department provisionally licensed social workers; requiring amendment of a legislative rule of the Board of Social Work; repealing a rule of the department; clarifying an individual's voluntary pursuit of provisional license; grandfathering those department employees with a provisional license; and exempting from licensure persons employed as children and adult services workers with the department except for certain senior and supervisory staff.

Referred to the Committee on Government Organization.

By Senator Azinger:

Senate Bill 493—A Bill to repeal §33-26B-1, §33-26B-2, §33-26B-3, §33-26B-4, §33-26B-5, §33-26B-6, §33-26B-7, §33-26B-8, §33-26B-9, §33-26B-10, §33-26B-11, §33-26B-12, §33-26B-13, §33-26B-14, §33-26B-15, and §33-26B-16 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-26A-2, §33-26A-3, §33-26A-5, §33-26A-6, §33-26A-7, §33-26A-8, §33-26A-9, §33-26A-11, §33-26A-12, §33-26A-14, and §33-26A-19 of this code, all relating to the West Virginia Life and Health Insurance Guaranty Association Act.

Referred to the Committee on Banking and Insurance.

By Senators Azinger and Ferns:

Senate Bill 494—A Bill to amend and reenact §18-7A-17 of the Code of West Virginia, 1931, as amended, relating to providing that members of the State Teachers Retirement System shall be considered absent from service as a teacher or nonteacher while serving as an officer with a statewide professional teaching association, or who have served in that capacity; and providing that retirants, who served in that capacity while members, shall be considered to have been absent from service as a teacher by reason of that service.

Referred to the Committee on Pensions.

By Senator Azinger:

Senate Bill 495—A Bill to amend and reenact §33-20-4 of the Code of West Virginia, 1931, as amended, relating to commercial insurance rates; and designating specific insurance coverages which are exempt from rate filing requirements under this article.

Referred to the Committee on Banking and Insurance.

Senators Gaunch, Jeffries, Plymale, Stollings, Unger, Boso, Baldwin, Cline, Beach, and Drennan offered the following resolution:

Senate Resolution 28—Designating February 6, 2018, as West Virginia State University Day at the Legislature.

Whereas, West Virginia State University offers award-winning academics, exceptional athletics, and ground-breaking research; and

Whereas, The University was founded as the West Virginia Colored Institute by the West Virginia Legislature 127 years ago on March 17, 1891, as a public historically black college and university in Institute, West Virginia; and

Whereas, It was one of the original group of African-American land-grant colleges established by the second Morrill Act of 1890; and

Whereas, Along with existing academic programs, military education became an integral part of the curriculum, with the Legislature passing a bill to admit up to 60 cadets in 1899; and

Whereas, In 1927, under the leadership of President John W. Davis, through the expansion of academic programs and the construction of new buildings, the institution was accredited by the North Central Association of Colleges and Schools making it the first of 17 original African-American land-grant schools to be certified by a regional association and one of only four African-American colleges to gain such status. It became the first public college in West Virginia to be accredited by the North Central Association of Colleges and Schools, holding the longest continuous accreditation of any public college or university in West Virginia; and

Whereas, In 1929, the institution became known as West Virginia State College and was recognized as one of the leading public institutions of higher education for African-Americans; and

Whereas, In 1954, the United States Supreme Court gave its historic decision outlawing school segregation and West Virginia State College rapidly transitioned to an integrated institution; and

Whereas, Under the leadership of President William J. L. Wallace, the motto "A Living Laboratory of Human Relations," was adopted and West Virginia State College garnered national attention, hailing, "a tribute to the character and courage of the people of Kanawha Valley," for the resulting substantial enrollment increases after the removal of racial barriers; and

Whereas, In 2004, the West Virginia Legislature approved the transition to university status; and

Whereas, West Virginia State University now offers 77 academic program options leading to 23 baccalaureates and five masters degrees; and

Whereas, West Virginia State University is actively working with other state institutions of higher education to create additional pathways for degree-seeking students; and

Whereas, As one of only two land-grant institutions in the state, West Virginia State University's Extension Service serves 38 counties. These services aid approximately 20,000 people throughout the year; and

Whereas, As a regional research institution, West Virginia State University contributes significantly to state economic development efforts in the areas of biotechnology, plant, microbial, and animal research, amassing \$15 million in research funding; and

Whereas, With every dollar the state invests in West Virginia State University, the university generates nearly \$16 spent in the West Virginia economy, resulting in an estimated economic output of \$254 million per year; and

Whereas, College Choice, based on data provided by U. S. News & World Report, National Center on Educational Statistics, and Payscale, ranked West Virginia State University the second-best public college or university in the State of West Virginia; and

Whereas, Prominent alumni from West Virginia State University include scholars, celebrities, politicians, business people, athletes, and leaders, who have distinguished themselves across the globe and changed the world, such as the Tuskegee Airmen; Colonel “Spanky” Roberts; NBA legend, Earl Lloyd; and NASA mathematician, Katherine Johnson, who inspired the film, “Hidden Figures”, and continues to lead the nation, state, and countless local communities, spurring essential cultural and economic change for the betterment of all; and

Whereas, Since its founding 127 years ago, West Virginia State University has always proven to be a community of students and outstanding faculty and staff, devoted to helping people find their passion and gain the education needed to launch successful careers and change the world. Students like Taylor Conaway, the Student Government President for the 2017-2018 academic year, who exhibits a passion for instilling initiatives that strengthened the power of the constituent’s voice. It is a passion that drives her aspiration to become Chief Justice of the United States Supreme Court of Appeals, and, like many West Virginia State University students, strives to leave a lasting impact in the world; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 6, 2018, as West Virginia State University Day at the Legislature; and, be it

Further Resolved, That the Senate hereby recognizes West Virginia State University for its tremendous contributions to the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Dr. Anthony L. Jenkins, President of West Virginia State University.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Gaunch and Drennan regarding the adoption of Senate Resolution 28 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:30 a.m., the Senate recessed to present Senate Resolution 28.

The Senate reconvened at 11:35 a.m. today and resumed business under the sixth order.

Senators Carmichael (Mr. President), Drennan, Plymale, Stollings, Palumbo, Unger, Boso, and Beach offered the following resolution:

Senate Resolution 29—Congratulating the Hurricane High School boys’ soccer team for winning the 2017 Class AAA state championship.

Whereas, The Hurricane High School boys’ soccer team had an outstanding season, posting a 19-1-4 record, on its way to winning the school’s second state championship in soccer; and

Whereas, The Hurricane High School boys' soccer team is led by head coach, Jim Dagosteen, and assistant coaches, Braeden Collins, Kent Bailey, and Drue Smith, and includes players: Anele Nnachi; Dalton Burch; Huston Peyton; Lucas Torres; Jacob Perdew; Colton Jones; Alik Assi; Reece Moss; Michael Mohebbi; Noah Ferrell; Jake Smith; Ethan Wood; Ryan Fisher; Drake Lester; Jackson Snavely; Alex Foose; Nick Eskins; Alex Torres; Trey Wilcox; Andrew Linville; Sawyer White; Braden Lowe; Bryce Underwood; Andrew Harper; Caleb White; Connor Briggs; Carter Maddox; Chance Burch; Drew Altizer; Zach Green; Ben Altizer; Ethan Boyd; Isaiah Gillespie; Gabe Burch; Seth Phillips; and Noah Wolford; and

Whereas, The Hurricane High School boys' soccer team displayed talent and determination for an entire season and is a shining example of what can be accomplished with teamwork, dedication, and spirit; and

Whereas, The 2017 Hurricane High School boys' soccer team will be remembered as one of the best soccer teams in West Virginia history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Hurricane High School boys' soccer team for winning the 2017 Class AAA state championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Hurricane High School boys' soccer team.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Drennan and Boso regarding the adoption of Senate Resolution 29 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:38 a.m., the Senate recessed to present Senate Resolution 29.

The Senate reconvened at 11:42 a.m. today and proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 102, Creating WV Uniform Fiduciary Access to Digital Assets Act.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—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. 102) 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 181, Authorizing MAPS 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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—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. 181) passed with its title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—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. 181) 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 244, Specifying conditions for unlawful possession of firearm at school-sponsored activities.

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

At the request of Senator Trump, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motions of Senators Trump, Azinger, Rucker, and Palumbo, the following amendment to the bill was reported by the Clerk and adopted:

On pages one and two, section eleven-a, lines eight through eighteen, by striking out all of subdivision (1) and inserting in lieu thereof a new subdivision, designated subdivision (1), to read as follows:

(1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type; *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds thereof;

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board or local public school for the actual period of time the function is occurring.

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 244 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—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. 244) 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 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 Blair, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Blair, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page four, section four, lines twenty-four and twenty-five, by striking out the words “all five members of” and inserting in lieu thereof the words “two additional members to occupy the two newly created positions on”;

And,

On page four, section four, line twenty-five, after the word “above.” by inserting the following: The current members of the commission as of the effective date of the 2018 amendment shall retain their seats: *Provided*, That each member of the commission who is reappointed after the effective date of the 2018 amendment must be qualified according to at least one of the five classifications above, so that each of the five fields of knowledge relevant to racing is represented on the commission.

The bill, as just amended, was again ordered to engrossment.

Engrossed Senate Bill 393 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 393) 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 425, Removing sunset dates which members of policemen’s or firemen’s pension fund elect to participate in deferred retirement option plan.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 425) 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 430, Encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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 referred to the Committee on Rules.

Eng. Senate Bill 462, Establishing contribution holiday for public pension plans funded at 130 percent or more.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 462) 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 463, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture.

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: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Prezioso, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Beach, Romano, and Stollings—3.

Absent: Clements, Ojeda, Plymale, and Unger—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 463) 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 House Bill 4013, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Clements, Ojeda, Plymale, and Unger—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 H. B. 4013) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4013—A Bill to amend and reenact §6-9A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §14-2-2 and §14-2-2a of said code, and to amend and reenact §56-1-1 of said code, all relating to venue in West Virginia state courts; providing that the circuit court in the county where the public agency regularly meets is a proper venue for certain claims; providing that any suit for which insurance coverage administered by the state board of risk and insurance management exists may be brought in the circuit court of Kanawha County or in the circuit court of any county where the acts of omissions giving rise to the suit occurred; providing that certain suits filed against a state agency may be brought in the circuit court of Kanawha County or in circuit court of any county where the state agency regularly meets; providing that any civil action in which the governing board of any state institution of higher education or any state institution of higher education is made a party defendant shall be brought in the circuit court of the county wherein the cause of action arose, unless otherwise agreed upon; providing that nonresidents may not bring actions in the courts of this state unless all or a substantial part of the acts or omissions giving rise to the claim occurred in the state; providing an effective date; providing that nonresidents may file actions in the state courts if they cannot otherwise obtain jurisdiction in the state where the action arose, unless barred by the statute of limitations in the state the action arose; requiring the filing of an affidavit; providing that the provisions do not apply to actions filed against West Virginia citizens, residents, corporations, or other corporate entities; providing that each plaintiff must establish venue; providing that persons may not intervene or join in a pending action as plaintiff unless they independently establish venue; providing that courts shall dismiss claims without prejudice if venue is not proper as to a nonresident plaintiff; providing that venue is proper as to other defendants if venue is proper as to one defendant with respect to all actions arising out of the same transaction or occurrence; providing a definition of “nonresident”; and providing exceptions for members of the armed forces of the United States and students of any college or university of this state.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 94, Prohibiting counties from regulating fireworks.

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 referred to the Committee on the Judiciary.

Com. Sub. for Com. Sub. for Senate Bill 141, Expanding county assessment and collection of head tax on breeding cows.

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

Com. Sub. for Senate Bill 230, Authorizing Department of Commerce promulgate legislative rules.

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

Com. Sub. for Senate Bill 361, Relating to treatment supervision under Drug Offender Accountability and Treatment Act.

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

Senate Bill 371, Relating to proceedings for voluntary custody for examination.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Palumbo, Maynard, Romano, and Smith.

At the request of Senator Smith, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of a coal mining fatality at Sentinel Mine in Barbour County, West Virginia, today.

At the request of Senator Beach, and by unanimous consent, the remarks by Senator Palumbo were ordered printed in the Appendix to the Journal.

At the request of Senator Karnes, unanimous consent being granted, the remarks by Senator Romano were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, and by unanimous consent, the remarks by Senator Smith were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, the name of Senator Plymale was removed as a sponsor of **Senate Bill 487** (*Relating to WV Medical Cannabis Act*).

At the request of Senator Ferns, unanimous consent being granted, leaves of absence for the day were granted Senators Clements, Unger, Plymale, and Ojeda.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 12:21 p.m., the Senate adjourned until tomorrow, Wednesday, February 7, 2018, at 11 a.m.

SENATE CALENDAR

Wednesday, February 07, 2018
11:00 AM

THIRD READING

- Eng. Com. Sub. for Com. Sub. for S. B. 141 - Expanding county assessment and collection of head tax on breeding cows
- Eng. Com. Sub. for S. B. 230 - Authorizing Department of Commerce promulgate legislative rules (original similar to HB4108)
- Eng. Com. Sub. for S. B. 361 - Relating to treatment supervision under Drug Offender Accountability and Treatment Act
- Eng. S. B. 371 - Relating to proceedings for voluntary custody for examination

FIRST READING

- S. B. 78 - Continuing personal income tax adjustment for certain retirees
- Com. Sub. for S. B. 271 - Creating centralized Shared Services Section of Department of Administration (original similar to HB4188)
- Com. Sub. for S. B. 283 - Relating generally to procurement by state agencies (original similar to HB4261)
- Com. Sub. for S. B. 335 - Protecting employees' wages or salaries from being withheld or diverted for political activities
- S. B. 346 - Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses
- S. B. 379 - Supplemental appropriation from State Excess Lottery Revenue Fund to DHHR (original similar to HB4377)
- S. B. 382 - Supplemental appropriation of Lottery Net Profits to Bureau of Senior Services, Lottery Senior Citizens Fund (original similar to HB4378)
- Com. Sub. for S. B. 395 - Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board
- Com. Sub. for S. B. 404 - Relating to sex offender registry information
- Com. Sub. for S. J. R. 12 - No Constitutional right to abortion Amendment
- Eng. Com. Sub. for H. B. 4135 - Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act
- Eng. H. B. 4146 - Updating meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Wednesday, February 7, 2018

10 a.m.	Workforce	(Room 208W)
1 p.m.	Economic Development	(Room 208W)
2 p.m.	Pensions	(Room 451M)
2 p.m.	Agriculture & Rural Development	(Room 208W)