

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE  
REGULAR SESSION, 2016  
FORTY-FOURTH DAY

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Charleston, W. Va., Thursday, February 25, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Keith Tyler, State Director of the Fellowship of Christian Athletes, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Kent Leonhardt, a senator from the second district.

Pending the reading of the Journal of Wednesday, February 24, 2016,

At the request of Senator Hall, 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 concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 341**, Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 351**, Dedicating severance tax proceeds.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 449**, Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 450**, Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect from passage, of

**Eng. Senate Bill 451**, Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs.

A message from The Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 462**, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

On motion of Senator Carmichael, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Senate Bill 462**—A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to the West Virginia Infrastructure Fund; reducing the distributions to the West Virginia Infrastructure Fund to \$30 million for fiscal year 2017 and increasing the percentage of funds available for grants therefrom.

On motion of Senator Carmichael, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Senate Bill 462, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 462) passed with its House of Delegates amended title.

Senator Carmichael moved that the bill take effect from passage.

On this question, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins,

Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 462) takes effect from passage.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

A message from The Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Senate Bill 509**, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Arvon, Stansbury and P. White.

On motion of Senator Carmichael, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Cole (Mr. President) appointed the following conferees on the part of the Senate:

Senators Blair, Ferns and Snyder.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

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 2823**—A Bill to amend and reenact §11-13-2d of the Code of West Virginia, 1931, as amended, relating to eliminating a certain tax on persons engaging or continuing within this state in the service or business of street and interurban and electric railways.

Referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 414**, Relating to Juvenile Justice Reform Oversight Committee.

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

**Com. Sub. for Senate Bill 414** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §49-2-913 of the Code of West Virginia, 1931, as amended; to amend said code by

adding thereto a new section, designated §49-2-914; and to amend and reenact §49-5-106 of said code, all relating to Juvenile Justice Reform Oversight Committee and averted costs reinvestment; requiring additional information for annual report; creating a special revenue account, known as the Juvenile Justice Account and providing its purpose, sources of funding and allowable disbursements; and requiring new data to be collected and compiled to allow calculation of juvenile recidivism and the outcome of programs and making this information available to the public.

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,

Ryan J. Ferns,  
*Vice Chair.*

The bill (Com. Sub. for S. B. 414), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 637**, Creating WV Uniform Fiduciary Access to Digital Assets Act of 2016.

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

**Com. Sub. for Senate Bill 637** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18 and §44-5B-19, all relating to the West Virginia Uniform Fiduciary Access to Digital Assets Act of 2016; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets; addressing terms of service agreements; setting forth a procedure for disclosing digital assets; providing for disclosure of the content of electronic communications and other digital assets of deceased users; providing for disclosure of content of electronic communications of a principal; addressing disclosure of digital assets of a principal; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of digital assets held in trust when the trustee is not an original owner or user; addressing disclosure of digital assets to a conservator of a protected person; setting forth a fiduciary's duties and authority; providing for a custodian's compliance and immunity; providing for the uniformity of the application and construction of the article; addressing the relation of the article to electronic signatures in global and national commerce act; providing for the severability of the article; and setting a date when the article takes effect.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan J. Ferns,  
*Vice 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

**Senate Bill 670**, Relating to filling vacancies in elected offices.

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.*

Senator Karnes, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Joint Resolution 14** (originating in the Committee on Agriculture and Rural Development)—Proposing an amendment to the Constitution of the State of West Virginia amending article III thereof, by adding a new section, designated section twenty-three, relating to the right to farm and ranch; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Robert Karnes,  
*Chair.*

On motion of Senator Carmichael, the resolution (S. J. R. 14) contained in the foregoing report from the Committee on Agriculture and Rural Development was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

Senators Ferns and Stollings offered the following resolution:

**Senate Concurrent Resolution 48**—Requesting the Joint Committee on Government and Finance to study the addition of medical review panels in West Virginia in medical malpractice cases.

Whereas, The overly litigious environment of West Virginia does not promote better care for our citizens, nor does it promote a healthy legal environment; and

Whereas, Medical review panels may be a solution to reduce the number of unwarranted lawsuits, allowing for lower health care costs; and

Whereas, Medical review panels are designed to ensure that a health care provider receive a venue to validate their actions before the commencement of a legal action; and

Whereas, Medical review panels are designed to ensure that a legitimate victim of medical malpractice has a proper source of inquiry as to whether the standard of care was violated; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the addition of medical review panels in West Virginia in medical malpractice cases; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 44**, US Marine Corps SGT Mike Plasha Memorial Bridge.

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

**Senate Concurrent Resolution 45**, US Army SGT Deforest Lee Talbert Memorial Bridge.

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

**Senate Concurrent Resolution 46**, Requesting US General Services Administration support KVC Health Systems, Inc., plan to reuse Navy Information Operations Command Sugar Grove Support Facility.

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

**Senate Concurrent Resolution 47**, WV State Police SGT Harold E. Dailey Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 94**, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 94) 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 476**, Relating to driving restrictions in school zones.

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: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—33.

The nays were: None.

Absent: Yost—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 476) passed.

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

**Eng. Senate Bill 476**—A Bill to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating to driving restrictions in school zones; authorizing county boards of education to expand school zones to a road adjacent to school property by formal request; requiring Division of Highways to expand school zones accordingly; and requiring Division of Highways to erect new signage to indicate expanded school zone's location and speed limit within thirty days of receiving the formal request.

*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 3019**, Requiring official business and records of the state and its political subdivisions be conducted in English.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 3019 pass?"

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams and Cole (Mr. President)—27.

The nays were: Beach, Gaunch, Kessler, Laird, Miller and Woelfel—6.

Absent: Yost—1.

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. 3019) passed with its title.

*Ordered*, That The Clerk communicate to the House of Delegates the action of the Senate.

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senators Facemire and Snyder regarding the passage of Engrossed Committee Substitute for House Bill 3019 were ordered printed in the Appendix to the Journal.

At the request of Senator Facemire, unanimous consent being granted, the remarks by Senator Romano regarding the passage of Engrossed Committee Substitute for House Bill 3019 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 106**, Waiver of warranty on sale of used manufactured home under certain circumstances.

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 525**, Relating to WV Insurance Guaranty Association Act.

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

**Senate Bill 538**, Relating to salaries of appointed officers fixed by Governor.

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 593**, Clarifying disqualification from unemployment benefits.

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

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

On page four, section three, line sixty-nine, by striking out the word "For" and inserting in lieu thereof the words "Upon the determination of the facts by the commissioner, an individual is disqualified for benefits for".

The bill (Com. Sub. for S. B. 593), as amended, was then ordered to engrossment and third reading.

**Senate Bill 613**, Defining total capital for purposes of calculating state-chartered bank's lending limit.

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

**Eng. Com. Sub. for House Bill 2511**, Health Care Sharing Ministries Freedom to Share Act.

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

On motion of Senator Carmichael, the bill was referred to the Committee on Rules.

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 116**, Increasing number of limited video lottery terminals allowed at retail location.

**Com. Sub. for Senate Bill 344**, Clarifying composition and chairmanship of Commission on Special Investigations.

**Com. Sub. for Senate Bill 411**, Creating Second Chance for Employment Act.

**Com. Sub. for Senate Bill 421**, Terminating behavioral health severance and business privilege tax.

**Senate Bill 455**, Allowing person to be both limited video lottery operator and retailer.

**Senate Bill 461**, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act.

**Com. Sub. for Senate Bill 468**, Allowing lender charge and receive interest on rescindable loan during rescission period.

**Com. Sub. for Senate Bill 542**, Admissibility of certain evidence in civil action on use or nonuse of safety belt.

**Senate Bill 578**, Protecting utility workers from crimes against person.

**Com. Sub. for Senate Bill 595**, Relating to retirement credit for members of WV National Guard.

**Senate Bill 618**, Allowing Economic Development Authority to make loans to certain whitewater outfitters.

**Com. Sub. for Senate Bill 619**, 2016 Regulatory Reform Act.

**Senate Bill 627**, Permitting physician to decline prescribing controlled substance.

**Com. Sub. for Senate Bill 634**, Creating WV Second Chance Driver's License Act.

**Com. Sub. for Senate Bill 641**, Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.

**Eng. Com. Sub. for House Bill 2444**, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

And,

**Eng. Com. Sub. for House Bill 4163**, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate recessed until 5 p.m. today.

Upon expiration of the recess, the Senate reconvened and, at the request of Senator Carmichael, and by unanimous consent, returned to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 47** (originating in the Committee on Health and Human Resources), Rewriting licensing requirements for practice of medicine and surgery and podiatry.

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

**Com. Sub. for Com. Sub. for Senate Bill 47** (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-3-13 of the Code of West Virginia, 1931, as amended, relating to practice of medicine; rewriting licensing requirements for practice of medicine and surgery or podiatry; making exceptions; providing for unauthorized practice; requiring notice; establishing criminal penalties; making exceptions; and defining terms.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Ferns, from the Committee on Labor, submitted the following report, which was received:

Your Committee on Labor has had under consideration

**Senate Bill 287**, Creating West Virginia Safer Workplaces Act.

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

**Com. Sub. for Senate Bill 287** (originating in the Committee on Labor)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8, §21-3E-9, §21-3E-10, §21-3E-11, §21-3E-12, §21-3E-13, §21-3E-14, §21-3E-15, §21-3E-16 and §21-3E-17, all relating to creating West Virginia Safer Workplaces Act; permitting employers to test employees and prospective employees for drugs and alcohol; providing a short title; defining terms; making findings; declaring public policy; clarifying exceptions to the applicability of the West Virginia Safer Workplaces Act for employers covered by other drug and alcohol testing statutes; determining a collection of samples, scheduling of tests and testing procedures; providing for ability to request split sample be tested to challenge a positive test result; establishing responsibility for cost of split sample testing; setting forth testing policy requirements; providing for disciplinary procedures; providing for sensitive employees; providing for preemption; providing protection from liability; establishing causes of action; providing exceptions; providing for confidentiality; providing for termination of employment; providing for forfeiture of certain benefits; clarifying that the drug and alcohol testing provisions of the West Virginia Safer Workplace Act cannot be used to show intoxication pursuant to section two, article four, chapter twenty-three of this code; and requiring employers to have drug and alcohol testing policies and procedures when implementing drug and alcohol testing.

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,

Ryan J. Ferns,  
*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 Labor.

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 303** (originating in the Committee on Natural Resources), Providing for 5-day resident fishing license.

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

**Com. Sub. for Com. Sub. for Senate Bill 303** (originating in the Committee on Government Organization)—A Bill to amend and reenact §20-2-42o of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §20-2-42z; and to amend and reenact §20-2B-9 of said code, all relating to fishing licenses; and providing Class L resident five-day fishing license.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Boso, from the Committee on Energy, Industry and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry and Mining has had under consideration

**Senate Bill 337**, Creating 5-year tax credit for businesses on post-mine sites.

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

**Com. Sub. for Senate Bill 337** (originating in the Committee on Energy, Industry and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2 and §11-28-3, all relating to creating five-year tax credit for new businesses locating on post-mine sites; defining terms; setting eligibility requirements for credit; establishing the amount of tax credit allowed; and establishing how credit may be applied.

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,

Gregory L. Boso,  
*Chair.*

The bill (Com. Sub. for S. B. 337), under the original double committee reference, was then referred to the Committee on Finance.

Senator Boso, from the Committee on Energy, Industry and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry and Mining has had under consideration

**Senate Bill 370**, Authorizing local units of government adopt local energy efficiency partnership program.

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,

Gregory L. Boso,  
*Chair.*

At the request of Senator Blair, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Energy, Industry and Mining.

On motion of Senator Carmichael, the bill (S. B. 370) was then referred to the Committee on Rules.

Senator Ferns, 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 384**, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation.

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,

Ryan J. Ferns,  
*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 Health and Human Resources.

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 399**, Establishing personal and corporate income tax credits for farmers donating edible agricultural products.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 435**, Allowing farm winery enter alternating wine proprietorship agreements with farm owners.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Ferns, 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 460**, Repealing regulation of opioid treatment programs and creating licenses for all medication-assisted programs.

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

**Com. Sub. for Senate Bill 460** (originating in the Committee on Health and Human Resources)—  
A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5, §16-5Y-6, §16-5Y-7, §16-5Y-8, §16-5Y-9, §16-5Y-10, §16-5Y-11, §16-5Y-12 and §16-5Y-13; and to amend and reenact §60A-9-5 of said code, all relating to licensing and regulation of medication-assisted treatment programs for substance use disorders; repealing regulation of opioid treatment programs; setting out a purpose; providing definitions; creating licenses for opioid treatment programs; creating categories of licenses; setting out licensing requirements; providing for registration of office based medication-assisted programs; providing for application, fees and inspections of office based medication-assisted programs; setting operational requirements for medication-assisted treatment programs; providing for a program sponsor and medical director; setting forth staffing requirements; providing for regulation and oversight by Office of Health Facility Licensure and Certification; designating necessity for a medical director and prescribing minimum training and performance requirements; allowing enrollment as a Medicaid provider; providing billing requirements; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards and patient treatment standards for any medication-assisted treatment program prescribing or dispensing medication-assisted treatment medications; requiring review of the Controlled Substances Monitoring Database for each patient at least quarterly; setting compliance requirements for a medication-assisted treatment program; providing for patient protocols, treatment plans and profiles; allowing liquid methadone to be prescribed and dispensed only as allowed by legislative rule; setting notification requirements of operation changes; restricting the location of medication-assisted treatment programs; allowing for waivers and variances from certification or licensure standards; permitting inspection warrants; providing for an administrative review and appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules, including emergency rules; providing advertisement requirements; creating a moratorium on new opioid treatment programs; establishing state authority and state oversight authority for medication-assisted treatment programs; mandating data collection; and granting Office of Health Facility Licensure and Certification access to the Controlled Substances Monitoring Database for use in certification, licensure and regulation of health facilities.

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,

Ryan J. Ferns,  
*Chair.*

The bill (Com. Sub. for S. B. 460), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 594**, Requiring State Auditor consider for payment claim submitted by electronically generated invoice.

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

**Com. Sub. for Senate Bill 594** (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-3-10g, relating to requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*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

**Senate Bill 596**, Permitting natural gas companies enter upon real property in certain instances.

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

**Com. Sub. for Senate Bill 596** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, relating to landowner protection by setting forth written notice from natural gas companies prior to entry for studies and surveys; permitting natural gas companies to enter upon real property only in certain instances for limited purposes; setting forth those instances and purposes; making legislative findings; establishing a procedure to enter upon the property; requiring the company to pay for damages; excluding certain activities; exempting the company and its agents from trespass penalties if certain conditions are met; and providing that certain other rights are not impaired.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Ferns, 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 626**, Requiring DHHR secretary seek waiver within Supplemental Nutrition Assistance Program limiting purchases under WIC program.

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

Respectfully submitted,

Ryan J. Ferns,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 647**, Exempting certain complimentary hotel rooms from occupancy tax.

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

**Com. Sub. for Senate Bill 647** (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-18-2 of the Code of West Virginia, 1931, as amended, relating to exempting certain complimentary hotel rooms from the hotel occupancy tax.

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,

Craig Blair,  
*Chair.*

The bill (Com. Sub. for S. B. 647), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 700** (originating in the Committee on Government Organization)—A Bill to authorize the Berkeley County Council to own or operate a drug treatment or drug rehabilitation facility within the city limits of the City of Martinsburg.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Joint Resolution 1**, County Economic Development Amendment.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Mike Hall,  
*Chair.*

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

Your Committee on Natural Resources has had under consideration

**Senate Concurrent Resolution 49** (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study funding options for all-terrain vehicle and off-highway recreational vehicle trail development, establishing an ATV and ORV Recreation Commission and identifying state and federal lands that may be developed for ATV and ORV adventure trails.

Whereas, A great number of West Virginia residents and visitors enjoy participating in all-terrain vehicle (ATV) and off-highway recreational vehicle (ORV) recreational activities; and

Whereas, The Hatfield-McCoy Regional Recreation Area has proven to be a very successful model for ATV trail development and has spurred legislation to permit the formation of other regional recreation areas for ATV and ORV trails and economic development; and

Whereas, There is little public access to ATV and ORV trails other than the Hatfield-McCoy trail system; and

Whereas, It is estimated that the average adventure traveler will spend over \$200 per person per overnight visit, which will spur economic development in rural areas perfect for ATV and ORV adventure trails; and

Whereas, Other states have used ATV and ORV vehicle registration fees, apportionment of gas taxes, ATV and ORV parking permits and other means to raise funds dedicated to ATV and ORV trail development; and

Whereas, Other states have tasks forces and commissions developing ATV and ORV trail systems, managing dedicated funds, awarding grants for development and establishing websites and guidebooks for adventure travelers to promote ATV and ORV adventure trails; and

Whereas, Other states have dedicated state and federal lands for ATV and ORV trail systems, which provides more permanent trail systems than voluntary leases that can be cancelled; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study funding options for all-terrain vehicle and off-highway recreational vehicle trail development, establishing an ATV and ORV Recreation Commission and identifying state and federal lands that may be developed for ATV and ORV adventure trails; and, be it



*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with any drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Roberts Karnes,  
*Chair.*

On motion of Senator Carmichael, the resolution (S. C. R. 49) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

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

Your Committee on Natural Resources has had under consideration

**Senate Concurrent Resolution 50** (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the fiscal impact of permitting lineal ascendants and descendants of a landowner to hunt, trap and fish on such landowner's property without obtaining a license.

Whereas, A great number of West Virginia residents and visitors enjoy participating in the recreational activities of hunting, trapping and fishing; and

Whereas, West Virginia residents' and nonresidents' participation in these activities has a large impact on the West Virginia economy and the budget of the Division of Natural Resources; and

Whereas, An estimated 2,744 residents and 2,398 nonresidents may take advantage of this benefit with an estimated \$1 million decrease in combined lost license revenue and federal funds; and

Whereas, The division estimates that forty-three percent of all hunters and anglers currently do not purchase a hunting or fishing license, which calls into question whether legislation legally permitting ascendant and descendants of landowners to hunt, trap and fish without a license would have such a substantial fiscal impact; and

Whereas, The division will conduct a deer hunter survey in 2016 that will help answer questions about the number of residents and nonresidents who hunt on family land and the fiscal impact of permitting ascendants and descendants to hunt, trap and fish without a license; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the fiscal impact of permitting lineal ascendants and descendants of a landowner to hunt, trap and fish on such landowner's property without obtaining a license; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with any drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Robert Karnes,  
*Chair.*

On motion of Senator Carmichael, the resolution (S. C. R. 50) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

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 2852**, Relating to legalizing and regulating the sale and use of fireworks.

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.*

Senator Hall, 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 4366**, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

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

Respectfully submitted,

Mike Hall,  
*Chair.*

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Walters.

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

**Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 5:47 p.m. today:

**Eng. Com. Sub. for House Bill 2800**, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Friday, February 26, 2016, at 11 a.m.

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## **SENATE CALENDAR**

**Friday, February 26, 2016  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 48 - Requesting Joint Committee on Government and Finance study addition of medical review panels in medical malpractice cases.

### **THIRD READING**

Eng. Com. Sub. for S. B. 106 - Waiver of warranty on sale of used manufactured home under certain circumstances (original similar to HB4205).

Eng. Com. Sub. for S. B. 525 - Relating to WV Insurance Guaranty Association Act.

Eng. S. B. 538 - Relating to salaries of appointed officers fixed by Governor - (Com. title amend. pending).

Eng. Com. Sub. for S. B. 593 - Clarifying disqualification from unemployment benefits.

Eng. S. B. 613 - Defining total capital for purposes of calculating state-chartered bank's lending limit (original similar to HB4621).

### **SECOND READING**

Com. Sub. for Com. Sub. for S. B. 116 - Increasing number of limited video lottery terminals allowed at retail location (original similar to HB4523).

Com. Sub. for S. B. 344 - Clarifying composition and chairmanship of Commission on Special Investigations (original similar to HB4302).

Com. Sub. for S. B. 411 - Creating Second Chance for Employment Act.

Com. Sub. for S. B. 421 - Terminating behavioral health severance and business privilege tax (original similar to HB4486).

S. B. 455 - Allowing person to be both limited video lottery operator and retailer.

S. B. 461 - Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act - (Com. amend. pending) (original similar to HB4396).

Com. Sub. for S. B. 468 - Allowing lender charge and receive interest on rescindable loan during rescission period (original similar to HB4495).

Com. Sub. for S. B. 542 - Admissibility of certain evidence in civil action on use or nonuse of safety belt.

S. B. 578 - Protecting utility workers from crimes against person.

- Com. Sub. for S. B. 595 - Relating to retirement credit for members of WV National Guard.
- S. B. 618 - Allowing Economic Development Authority to make loans to certain whitewater outfitters (original similar to SB622).
- Com. Sub. for S. B. 619 - 2016 Regulatory Reform Act.
- S. B. 627 - Permitting physician to decline prescribing controlled substance.
- Com. Sub. for S. B. 634 - Creating WV Second Chance Driver's License Act (original similar to HB4683).
- Com. Sub. for S. B. 641 - Transferring revenues from certain greyhound racing funds to State Excess Lottery Revenue Fund.
- Eng. Com. Sub. for H. B. 2444 - Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.
- Eng. Com. Sub. for H. B. 4163 - Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes - (Com. amend. pending).

### **FIRST READING**

- Com. Sub. for Com. Sub. for S. B. 47 - Rewriting licensing requirements for practice of medicine and surgery and podiatry .
- Com. Sub. for S. B. 287 - Creating West Virginia Safer Workplaces Act.
- Com. Sub. for Com. Sub. for S. B. 303 - Providing for 5-day resident fishing license.
- S. B. 384 - Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation .
- Com. Sub. for S. B. 399 - Establishing personal and corporate income tax credits for farmers donating edible agricultural products (original similar to SB418).
- S. B. 435 - Allowing farm winery enter alternating wine proprietorship agreements with farm owners (original similar to HB4539).
- Com. Sub. for S. B. 594 - Requiring State Auditor consider for payment claim submitted by electronically generated invoice (original similar to HB4608, SB174).
- Com. Sub. for S. B. 596 - Permitting natural gas companies enter upon real property in certain instances (original similar to SB698).
- S. B. 626 - Requiring DHHR secretary seek waiver within Supplemental Nutrition Assistance Program limiting purchases under WIC program.

- Com. Sub. for S. B. 637 - Creating WV Uniform Fiduciary Access to Digital Assets Act of 2016.
- S. B. 670 - Relating to filling vacancies in elected offices - (Com. amend. and title amend. pending).
- S. B. 700 - Authorizing Berkeley County Council own or operate a drug treatment or drug rehabilitation facility.
- Com. Sub. for S. J. R. 1 - County Economic Development Amendment.
- Eng. Com. Sub. for H. B. 2852 - Relating to legalizing and regulating the sale and use of fireworks - (Com. amend. and title amend. pending).
- Eng. Com. Sub. for H. B. 4366 - Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2016**

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**Friday, February 26, 2016**

9:30 a.m.	Judiciary	(Room 208W)
2 p.m.	Government Organization	(Room 208W)
2 p.m.	Education	(Room 451M)