

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2016
FIFTIETH DAY

Charleston, W. Va., Wednesday, March 2, 2016

The Senate met at 11 a.m.

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

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Tom Takubo, a senator from the seventeenth district.

Pending the reading of the Journal of Tuesday, March 1, 2016,

At the request of Senator Karnes, 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 558, Maintaining solvency of Unemployment Compensation Fund.

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 2665—A Bill to amend and reenact §17C-5-2b of the Code of West Virginia, 1931, as amended, relating to participation in Motor Vehicle Alcohol Test and Lock Program; limiting eligibility for participation in the program and for dismissal and discharge of charges.

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 2849—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3 and §61-14-4, all relating to creating the West Virginia Sentencing Commission; establishing composition and membership of commission; providing legislative findings and purpose; setting forth objectives for the commission to pursue; and providing powers and duties of the commission.

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 2963—A Bill to amend and reenact §61-2-14a of the Code of West Virginia, 1931, as amended, relating to criminal offense of kidnapping; making unlawful the taking or gaining custody of, confining or concealing another person by force or threat of force, or by duress, fraud, deceit, misrepresentation or enticement; and providing penalties.

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 4176—A Bill to amend and reenact §62-15A-1, §62-15A-2 and §62-15A-3 of the Code of West Virginia, 1931, as amended, all relating to the addiction treatment pilot program; defining terms; permitting the Regional Jail and Correctional Facility Authority to participate in the pilot program; establishing criteria for participants; and including the Director of the Regional Jail and Correctional Facility Authority and The Secretary of the Department of Military Affairs and Public Safety in the list of recipients of the report required to be made by the Department of Health and Human Resources.

Referred to the Committee on Health and Human Resources; and then 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 4183—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-4C-24; and to amend and reenact §60A-9-4, all relating generally to reporting opioid overdoses; requiring emergency medical service agencies and emergency medical service providers to report nonlethal opioid overdoses to the Board of Pharmacy; establishing that the information reported be added to the West Virginia Controlled Substance Monitoring Program.

Referred to the Committee on Health and Human 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 4225—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-6-17, relating to patriotic displays at public buildings; providing legislative findings; allowing for the national motto, "In God We Trust", to be

displayed on public buildings; allowing for the display of the POW-MIA flag at public buildings; authorizing costs associated with display of national motto or POW-MIA flag may be paid with any private donation, gifts, grants and bequests received by the governing authority; and requiring the Department of Administration to develop guidelines for appropriate display of the motto and flag.

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 4240—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-406b, all relating to the Uniform Controlled Substances Act; offenses and penalties; providing mandatory minimum sentences for trafficking drugs into the state and for other drug offenses; increasing period of ineligibility for parole for certain violations of possession or distribution of controlled substances and establishing applicable conditions; increasing period of ineligibility for parole for transporting certain controlled substances into the state and establishing applicable conditions; prohibiting application of alternative sentences; and increasing the penalties for transporting controlled substances into the state.

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 4248—A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-5Y-1, all relating to methadone regulation; requiring the secretary of Health and Human Resources to propose legislative rules for the regulation of opioid treatment programs; requiring the Health Care Authority to develop new certificate of need standards; prohibiting the Health Care Authority from approving applications of certificate of need for opioid treatment programs; imposing a moratorium on licensure of certain new opioid treatment programs; providing the secretary monitor opioid treatment programs; requiring program staff to receive minimum training; setting forth standards for initial assessment to admission to a program; setting forth criteria to be admitted to a treatment program; requiring a program to develop individualized treatment plans; providing for random drug testing for program patients; enunciating consequences for positive drug tests, including mandatory counseling; requiring mandatory statistical reporting to the Department of Health and Human Resources and the Legislative Oversight Commission on Health and Human Resources; prescribing times programs must be open; setting forth certain staff requirements for programs; requiring programs to establish peer review committees that include a physician member; and requiring the secretary to prescribe the procedure for peer review.

Referred to the Committee on Health and Human Resources.

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

Eng. Com. Sub. for House Bill 4271—A Bill to amend and reenact §29-22A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all relating to ending transfers to the Licensed Racetrack Modernization Fund; transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the General Revenue Fund of the state during the fiscal year ending June 30, 2016; providing exceptions for recoupment of certain expenditures for eligible facility modernization improvements from the Licensed Racetrack Modernization Fund; and closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund.

Referred to the Committee on Finance.

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 4307—A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to carrying a firearm for self-defense in a state park, state forest, state wildlife management area, or state rail trail, and providing an exception.

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 4314—A Bill to amend and reenact §60-1-5, §60-3-11, §60-6-7 and §60-6-8 of the Code of West Virginia, 1931, as amended, all relating to prohibiting the sale of powdered or crystalline alcohol; and to amend said code by adding thereto a new section, designated §61-10-33, all relating to prohibiting the sale of pure caffeine products; defining terms; prohibiting the commissioner from listing or stocking powdered alcohol in inventory; creating a criminal offense for anyone who manufactures or sells, aids or abets in the manufacture or sale of powdered alcohol, or possesses, uses or in any other manner provides or furnishes powdered alcohol; making a second and subsequent offense a felony and providing for increased penalties; creating a criminal offense for any licensee who sells, possesses, possesses for sale, furnishes or provides any powdered alcohol; making a second and subsequent offense a felony and providing for increased penalties; defining terms; creating a criminal offense for the sale and possession of pure caffeine products; providing exclusions; and providing penalties.

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. House Bill 4428—A Bill to amend and reenact §30-8-9 of the Code of West Virginia, 1931, as amended, relating to clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified as a Schedule II substance.

Referred to the Committee on Health and Human Resources.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2016, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4466—A Bill to amend and reenact §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-8a, §18-9A-9 and §18-9A-10 of the Code of West Virginia, 1931, as amended, all relating to public school support; basing the allowable number of state aid professional educators on a ratio basis, rather than the number employed subject to a limit; providing a certain salary level be used when the number of professional positions exceed the number employed in a county; basing minimum professional instructional personnel required to be on a ratio basis of funded professional educators; providing for prorating professional instructional personnel among participating counties in a joint school or in joint programs and services; deleting obsolete language and mandated periodic legislative review; basing the allowable number of service personnel on a ratio basis, rather than number employed subject to a limit; providing a certain salary level be used when the number of service positions exceed the number employed in a county; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance to calculation of teachers retirement fund

allowance; updating employer retirement contribution rate percentage used for calculating retirement allowance to reflect both plans; allowing a limited portion of funds for bus purchases to be used for certain facility, equipment and other current expense priorities if requested and approved; reducing maximum amount of foundation allowance for regional education service agencies; reducing percent of growth in local share amount for improving instructional programs; removing authorization for use of instructional improvement funds for implementation and maintenance of regional computer information system; increasing percent of growth in local share amount for improving instructional technology; increasing base dollar amount to be distributed to each county; authorizing the use of instructional technology improvement funds for employment of technology system specialist subject to a limit and authorization by state superintendent; and specifying when certain debt service funds payments are to be made into school building capital improvement fund.

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

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 4480—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-51-1 and §16-51-2, all relating to prescribing certain controlled substances; defining terms; limiting to whom certain drugs may be prescribed; requiring notification; requiring a physician to prescribe certain drugs; limiting the prescription of drugs containing buprenorphine; setting a titration procedure; providing exemption to the titration procedure; and requiring chart notations.

Referred to the Committee on Health and Human 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 4500—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-6C-1, §22-6C-2, §22-6C-3, §22-6C-4, §22-6C-5 and §22-6C-6, all relating to oil and gas royalty owner protections; providing methods of ensuring transparency in determining the amount paid to a royalty interest owner by requiring certain information be attached to the payment instrument provided to the interest owner by the producer; defining terms; establishing a general rule for the accumulation of proceeds from production and the payment of funds therefrom; requiring the timely payment of royalties and establishing interest penalty for failure to timely pay an interest owner; requiring oil and gas producers to report to the Department of Environmental Protection on a quarterly basis all production data associated with a given well; requiring the Department of Environmental Protection to collect all quarterly production data and organize such data on the Department of Environmental Protection website; resolving conflicts between division orders and leases; and providing for rulemaking.

Referred to the Committee on Energy, Industry and Mining; and then 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 4507—A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §5-11-9a, all relating to granting preference in hiring to a veteran or disabled veteran; establishing that an employer granting preference in hiring a veteran or disabled veteran does not violate the state Human Rights Act under certain circumstances; providing that an employer may grant preference in hiring to a veteran or disabled veteran who has been honorably discharged from the United States

Armed Services when the veteran or disabled veteran meets all of the knowledge, skills, and eligibility requirements of the job if granting said preference does not violate any state equal employment opportunity law; and defining the term “veteran”.

Referred to the Committee on Military; and then 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 4517—A Bill to amend and reenact §39B-1-114 of the Code of West Virginia, 1931, as amended; and to amend and reenact §39B-2-101 of said code, all relating to limiting the ability of an agent under a power of attorney to take self-benefiting actions; creating a presumption that an act is not within the scope of authority granted in a power of attorney when an agent benefits from the act to the detriment of an ancestor, spouse, heir, or descendant, unless the authority to perform the act is expressly provided with particularity in identifying the existing property interest in the power of attorney; and prohibiting an agent from exercising authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal’s property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise, unless the power of attorney expresses in the grant of authority the specific act and identifies the existing property interest with particularity, rather than in general terms.

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 4542—A Bill to amend and reenact §8-15-3 of the Code of West Virginia, 1931, as amended, relating to the imposition of fire fees on non-residents of a municipality who are users of that municipality’s fire service; capping the amount of such fees which can be imposed, providing for a referendum on this issue of fire service, and petition requirements for triggering the same.

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 4561—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to requiring the Commissioner of the Division of Highways and the Director of the Division of Personnel to collaborate to develop a special hiring procedure for hourly personnel positions in the Division of Highways; establishing requirements for the special hiring procedure; exempting the Division of Highways and the division of Personnel from classified service hiring procedures upon implementation of the special hiring process; exceptions; establishing reporting requirements; and requiring emergency and legislative rulemaking.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2016, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4566—A Bill to amend and reenact §18-4-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §18A-2-2, §18A-2-5a, §18A-2-6, §18A-2-7 and §18A-2-8a of said code; to amend said code by adding thereto a new section, designated §18A-2-

7b; to amend and reenact, §18A-4-7a, §18A-4-8b and §18A-4-8e of said code; and to amend and reenact §18A-5-8 of said code, all relating to school personnel; including assistant and associate superintendents under provisions for permanent administrative certification for superintendents; changing deadline for county board vote on termination of continuing contracts of teachers; requiring the department to report on database system certain disqualifications to teach; changing deadlines for teachers and service personnel to give notice of retirement to qualify for early notification payment; changing deadline for county board vote on termination of continuing contracts of service persons; changing deadline for notice of consideration for transfer; changing deadline for hearing on proposed transfer; changing deadline to provide list of employees considered for transfer to county board; changing method of notification and documentation of receipt of notice to employees recommended for transfer; making technical alignment of dates on personnel action and foreseen need for personnel; consolidating limitations on employee transfers after twentieth day prior to instructional term; removing reports to state superintendent; removing exemption for position vacated but not posted; changing transfer limit to twentieth day for prior for service person employed and assigned as autism mentor or certain aid, paraprofessional, interpreter or early childhood assistant teacher; limiting transfers service persons after the twentieth day prior with certain exceptions; changing deadline providing county board list of probationary teachers recommended for rehire; providing for filling position known on or before March 1 to exist for the next school year and requiring employees subject to release to be considered prior to posting for application for nonemployees; removing requirement to submit lateral transfer policies to state board to be complied for reports to LOCEA; facilitating postings for longer than the five-day minimum; removing requirement to any applicant of status of his or her application after hiring decision made; changing requirements for notice and receipt notification to persons on preferred recall of all position openings; requiring periodic review and update of service personnel competency tests; removing requiring requirement for minimum one day in-service training to assist preparation for competency tests; removing obsolete language and making technical improvements.

Referred to the Committee on Education.

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

Eng. Com. Sub. for House Bill 4575—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5 and §61-14-6, all relating to laundering and concealment of proceeds from criminal activity; defining terms; creating felony crime of conducting financial transactions involving proceeds of criminal activity; creating felony crime of transporting, transmitting or transferring monetary instruments or property involving proceeds of criminal activity; providing for penalties; providing for presumptions when law enforcement or persons acting at the direction of law enforcement are involved with proceeds of criminal activity; denying availability of certain defenses; providing for seizure and forfeiture of property or monetary instruments; clarifying conduct that constitutes separate offenses; and setting forth venue for offenses.

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 4577—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to use of a firearm during, in relation to, or in furtherance of a violation of certain offenses of the Uniform Controlled Substances Act; creating the felony offense of use or possession of a firearm; providing penalties;

clarifying that the offense is separate and distinct from other offenses; denying eligibility for sentencing alternatives; and clarifying the term "convicted".

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. House Bill 4578—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to conspiracy to commit violations of the Uniform Controlled Substances Act; creating the felony offense of conspiracy; providing penalties; establishing a sentencing guideline based upon quantity for certain controlled substances; authorizing the court to make the determination of applicable quantity; and authorizing the aggregation of quantities from all participants and members of the conspiracy.

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 4625—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-30; to amend said code by adding thereto a new section, designated §29-22-31; to amend said code by adding thereto a new section, designated §29-22A-20; and to amend said code by adding thereto a new section, designated §29-22C-35, all relating to redirecting certain racing and gaming revenues from greyhound development funds to the State Road Fund.

Referred to the Committee on Finance.

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 4633—A Bill to amend and reenact §49-4-720 and §49-4-722 of the Code of West Virginia, 1931, as amended, all relating to requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday; requiring transfer of juvenile in adult jurisdiction upon reaching eighteen years of age if he or she has either been convicted or is in a pretrial status; directing the Division of Juvenile Services to notify the circuit court of the age of a juvenile reaching the age of eighteen years of age; authorizing the circuit court to conduct a hearing as to alternative placement; mandating that the position of victim be taken under consideration by the court in considering disposition or alternative placement; prohibiting juveniles that commit an adult offense while under the custody of the Division of Juvenile Services from returning back to the placement in a juvenile facility if the juvenile has attained the age of eighteen years; and requiring the court to conduct a hearing as to placement of a juvenile that has turned eighteen years of age and is remanded back to the custody of the Division of Juvenile Services after completion of an adult sentence.

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. House Bill 4644—A Bill to amend and reenact §52-1-17 of the Code of West Virginia, 1931, as amended, relating to deleting subsection (e) therein which provides the sheriff to pay into the State Treasury all jury costs received from the court clerks and that the sheriff shall be held to account in the sheriff's annual settlement for all the moneys.

Referred to the Committee on Government Organization.

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

Eng. House Bill 4654—A Bill to amend and reenact §30-7-4 of the Code of West Virginia, 1931, as amended, relating to the Executive Secretary of the Board of Registered Professional Nurses; and removing the executive secretary experience requirements.

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. House Bill 4655—A Bill to amend and reenact §33-25E-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-25E-5; all relating to vision care insurance plans; defining terms; prohibiting plans from requiring vision care providers to provide discounts on noncovered services or materials; prohibiting eye care providers from charging more to enrollees for noncovered services than the normal and customary fee; providing that plans may not provide for a nominal reimbursement in order to claim that a service or material is covered; prohibiting plans from falsely representing benefits provided to sell coverage or communicate benefits to enrollees; prohibiting the requirement that eye care providers be credentialed through a designated vision plan; providing pay parity for optometrist and ophthalmologists; providing that optometrist and ophthalmologist be held to the same credentialing standards; prohibiting eye care providers from being required to accept all plan and discount plans offered by plans in order to be on a panel for the plan; prohibits the plans from changing the terms of an agreement with an eye care provider without communication with and agreement from the eye care provider; permitting eye care providers to use any lab or supplier and notification of contract changes; creating a private right of action for eye care providers; placing limits on charge backs of administrative fees and other recoupments; providing that a plan may not discriminate against a provider based on geographic location of the eye care provider; and authorizing suits for injunctions by persons aggrieved or by Insurance Commissioner and recovery of monetary damages, costs and attorney's fees.

Referred to the Committee on Banking and Insurance; and then 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 4659—A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended, relating to local health departments; and authorizing local health departments to bill for medical services without obtaining approval from the commissioner.

Referred to the Committee on Health and Human 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 4660—A Bill to amend and reenact §24-2-11 of the Code of West Virginia, 1931, as amended, relating to Public Service Commission certificates of convenience and necessity for water, sewer and/or stormwater service projects; requiring a preliminary engineering report and financial analysis of the proposed project; prohibiting the Public Service Commission from requiring final design materials to be submitted in support of an application; permitting an entity to

pursue a further rate increase through the normal rate changing process if an increase is needed exceeding fifteen percent above the rates already approved; prohibiting the Public Service Commission from modifying the scope of a project to which a certificate was previously granted; and prohibiting the rescinding of a previously granted certificate if the rates expected to go in effect upon substantial completion of the project have increased by less than fifteen percent.

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

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of, to take effect July 1, 2016, of

Eng. Com. Sub. for House Bill 4662—A Bill to amend and reenact §17C-16-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-16-6 of said code, all relating to permitting the Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers to purchase, equip and maintain vehicles; increasing the allowable fee for vehicle inspection and any necessary headlight adjustment.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

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 4673—A Bill to amend the Code of West Virginia, 1931 as amended, by adding thereto a new section, designated §20-2-7a, relating to making unlawful the theft, damage or release of deer from private game farms; providing definitions; creating a crime for the taking or carrying away, or intentionally injuring or releasing any captive cervid that is the property of another person; providing a criminal penalty; and providing for restitution to be paid to the victim.

Referred to the Committee on Natural Resources; and then 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. House Bill 4685—A Bill to amend and reenact §30-1-4a of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto four new sections, designated §30-1-21, §30-1-22, §30-1-23 and §30-1-24, all relating to professional and occupational board members; providing for the disqualification of lay members who become licensees; indemnification of board members; prohibiting impersonation of a board licensee; requiring boards use the sunrise process to expand their scope of practice; and requiring boards to submit names of qualified individuals to the Governor for possible appointment.

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. House Bill 4696—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-1D-1 and §30-1D-2, all relating to creation of the unlicensed practice review board; providing requirements for membership on the board; providing that licensing boards shall submit complaints they receive to the board; requiring the board to conduct hearings to determine if probable cause exists to take action; providing for alternative actions the board may take in making various determinations; and, establishing the board's authority and scope.

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. House Bill 4726—A Bill to repeal §22-3A-1, §22-3A-2, §22-3A-3, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-7, §22-3A-8, §22-3A-9 and §22-3A-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-6c of said code; to amend and reenact §22-1-7 of said code; to amend and reenact §22-3-2, §22-3-4, §22-3-13, §22-3-13a, §22-3-22a, §22-3-30a of said code; to amend said code by adding thereto six new sections, designated §22-3-34, §22-3-35, §22-3-36, §22-3-37, §22-3-38 and §22-3-39; to amend and reenact §22-11-6 of said code; to amend and reenact §22A-1-13, §22A-1-14, §22A-1-15, §22A-1-19, §22A-1-20, §22A-1-31 and §22A-1-35 of said code; to amend and reenact §22A-1A-2 of said code; to amend and reenact §22A-2-3, §22A-2-8, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36, §22A-2-55, §22A-2-66 and §22A-2-77 of said code; to amend and reenact §22A-7-7 of said code, all relating generally to coal mining; making findings; eliminating the Department of Environmental Protection Office of Explosives and Blasting and consolidating the remaining duties and responsibilities related to blasting to the Department of Environmental Protection Division of Mining and Reclamation; adding blasting oversight; providing that the Department of Environmental Protection to revise rules on hydrologic protection and stormwater runoff analyses on mining operations and to promulgate rules that conform with the federal regulations requirements to minimize the disturbances to the prevailing hydrologic balance at a mine site and in associated off-site areas; providing that cumulative hydrologic impact assessment may be conducted; requiring a statement of probable hydrologic consequences and to prevent flooding; modifying certain findings, ventilation requirements, and roof or rib requirements; requiring the Department of Environmental Protection to follow deadlines for approving or denying applications for site specific water quality criteria; providing that state mine rescue teams may serve as backup mine rescue teams for mines in this state; providing that the Board of Mine Health and Safety to have the authority to propose rules for the use of diesel equipment in the state's mines; transferring certification authority to the Director of the Office of Miners' Health Safety and Training for mining emergency medical technicians; requiring the State Board of Appeals to allow evidence of testing procedures and test results be introduced through notarized affidavits from Medical Review Officers and testify if necessary; providing for telephonic testimony under oath; providing that the penalty for not reporting accidents in fifteen minutes to the Office of Miners' Health, Safety and Training be modified to "up to \$100,000"; providing that the Director of Office of Miners' Health, Safety and Training shall have the authority to modify assessed penalties and penalties may be modified by the State Board of Appeals based on a vote of two Board members; providing a method incase a miners' wireless emergency communications device fails; and allowing company input into state supervisory training and how it is scheduled during the year.

Referred to the Committee on Energy, Industry and Mining.

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

Eng. House Bill 4734—A Bill to amend and reenact §33-30-6 of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-30-8 of said code, all relating to mine subsidence insurance; increasing the maximum amount of the total insured value reinsured by the Board of Risk Management.

Referred to the Committee on Banking and Insurance; and then 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. House Bill 4735—A Bill to amend and reenact §55-7B-2 of the Code of West Virginia, 1931, as amended, relating to the definition of health care provider, and clarifying that speech-language pathologists and audiologists are two separate providers.

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. House Bill 4739—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §33-13D-1 and §33-13D-2, relating to the creation of the Unclaimed Life Insurance Benefits Act; providing definitions; regulating insurer conduct; requiring insurers to perform an annual comparison of its insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File; requiring the Insurance Commissioner to promulgate rules requiring a comparison against a Death Master File to be completed on policies issued prior to 2000 if the Commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective; providing that the annual comparison of insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File shall not apply to those accounts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of payment within eighteen months immediately preceding the Death Master File comparison; requiring reasonable steps to be taken to locate and contact beneficiaries or other authorized representatives regarding the insurer's claims process; and authorizing the Insurance Commissioner to promulgate rules that may be reasonably necessary to implement the Unclaimed Life Insurance Benefits Act.

Referred to the Committee on the Judiciary.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 2, 2016, he had approved **Enr. Committee Substitute for Senate Bill 309, Enr. Senate Bill 341, Enr. Senate Bill 449, Enr. Senate Bill 450 and Enr. Senate Bill 451.**

The Senate proceeded to the fourth order of business.

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

Eng. Com. Sub. for House Bill 4146, Providing insurance cover abuse-deterrent opioid analgesic drugs.

With amendments from the Committee on Banking and Insurance pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Banking and Insurance to which the bill was first referred.

Respectfully submitted,

Ryan J. Ferns,
Chair.

The Senate proceeded to the sixth order of business.

Senators Williams, Sypolt, Stollings, Ashley, Unger and Plymale offered the following resolution:

Senate Concurrent Resolution 56—Requesting Division of Highways to name future bridge, located at latitude 39.14167, longitude -79.42482, to carry currently unassigned county route over the Blackwater River in Tucker County from its junction with county route 32/18, the “Judge Ronald G. Pearson Bridge”.

Whereas, Ronald G. Pearson was born June 15, 1942, in Fairmont, West Virginia, to Gilbert Sidney and Catherine Evans Pearson; and

Whereas, Ronald G. Pearson received his college education at West Virginia University where, among other achievements, he distinguished himself by becoming chair of the Interfraternity Council in 1965, being inducted into the Summit of Mountain Honor Society in 1966 and by chairing the statue committee that selected the sculptor, Donald DeLue, to create the West Virginia Mountaineer statue; and

Whereas, After graduating with a Bachelor of Science in Industrial Engineering, Ronald G. Pearson continued his education at the West Virginia University College of Law, where he received a Juris Doctor degree in 1968; and

Whereas, Ronald G. Pearson began a distinguished career in law and government following his admission to the West Virginia Bar in 1968, including service as the Director of Local Government Relations for the State Tax Department, the Commissioner of the Department of Finance and Administration, the State Treasurer and culminating in his appointment as a United States Bankruptcy Judge, serving in this position for thirty-two years; and

Whereas, In his service with the state, Ronald G. Pearson oversaw the inventory and mapping of all land and mineral resources of the state, calculated actuarial values for all state pension and compensation funds to report, monitor and control the state’s long-term debt and he identified and invested previously unvested funds now amounting to \$400,000,000 which continue to yield ongoing income for the state; and

Whereas, In his service as Judge of the United States Bankruptcy Court for the Southern District of West Virginia, Judge Pearson also served as Treasurer for the National Conference of Bankruptcy Judges, President of the Bankruptcy Judges Council for the Fourth Circuit, and as a member of the Fourth Circuit Judicial Council and the Committee on the Administrative Office of the Judicial Conference of the United States, and he was also honored with the Bierce Distinguished Service Award by the National Conference of Bankruptcy Judges; and

Whereas, Judge Pearson has also volunteered substantial amounts of his time to the operation and success of the National Youth Science Foundation, an organization that he helped to found in 1983 and that he has continued to serve as a member of its board of trustees since its founding; and

Whereas, The National Youth Science Foundation, based here in West Virginia, operates the renowned National Youth Science Camp and, this fall, will implement the Youth Science Discovery Experience program for West Virginia students to last through the academic year; and

Whereas, The National Youth Science Foundation inspires lifelong engagement and ethical leadership in science, technology, engineering, mathematics, and related professions through its proven educational model for mentoring, challenging, and motivating students; and

Whereas, A bridge is now being built over the Blackwater River to provide access to the newly established National Youth Science Center, a facility dedicated to state and national education

programs in science, technology, engineering and mathematics and a facility that would not exist without the dedication and efforts of Judge Ronald Pearson through many years; and

Whereas, It is fitting that Judge Pearson be honored by dedicating this bridge in recognition of his contributions to law, government, finance, education and to the people of West Virginia and the youth of this country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name a future bridge, located at latitude 39.14167, longitude -79.42482, to carry a currently unassigned county route over the Blackwater River in Tucker County from its junction with county route 32/18, as the "Judge Ronald G. Pearson Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Judge Ronald G. Pearson Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the honoree, Judge Ronald G. Pearson.

Which, under the rules, lies over one day.

Senators Unger and Stollings offered the following resolution:

Senate Concurrent Resolution 57—Requesting the Joint Committee on Government and Finance to authorize a study on county animal shelter dog and cat population and operational costs.

Whereas, West Virginia Code §19-20C-1 created the West Virginia Spay Neuter Assistance Program to reduce the population of homeless dogs and cats; and

Whereas, The Legislature, through Senate Bill 199 in the 2015 regular session, authorized the legislative rules, now published as Title 61, Series 9 of the Code of State Rules, proposed by the Commissioner of Agriculture for the West Virginia Spay Neuter Assistance Program, relieving the burden to county budgets; and

Whereas, A funding mechanism has not been established as set forth in the approved rules; and

Whereas, Independent research from thirty-eight reporting counties has suggested approximately fifty thousand homeless pets require shelter-provided care at a cost of \$10,000,000 annually in West Virginia; and

Whereas, West Virginia shelters continue to euthanize nearly half of the homeless dogs and cats; and

Whereas, The West Virginia Spay Neuter Assistance Program is required to produce grants to nonprofit organizations specializing in spay and neuter assistance within communities statewide; and

Whereas, It is in the best interest of the citizens of this state to reduce the population of unwanted and stray dogs and cats in this state, thereby reducing the cost of animal shelter operations; and

Whereas, Determination of the most effective, humane and cost efficient means of reducing the population of unwanted and stray dogs and cats in this state, including, but not limited to, the gathering of information upon which an accurate projection of the costs of achieving this goal can be made and upon which the most fair allocation of the burden of those costs can be devised would

assist the Legislature in the formulation of substantial and continuous funding most appropriate to accomplish that goal; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the most effective, humane and cost efficient means of reducing the population of unwanted and stray dogs and cats in this state; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the 2017 regular session of the Legislature, 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, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Sypolt and Stollings offered the following resolution:

Senate Concurrent Resolution 58—Requesting the Joint Committee on Government and Finance study the issue and advantages of tax map legislation.

Whereas, Tax map legislation will create a stable funding source for court house facilities and for each county assessor to maintain and update paper and digital tax maps; and

Whereas, Tax map legislation will promote the sale and distribution of paper and digital tax maps for the benefit of the public; and

Whereas, Tax map legislation will override any nonconformity between the language of the statute and the associated legislative rules; and

Whereas, Tax map legislation will help existing businesses conduct commerce, assist with infrastructure and other economic development projects; and

Whereas, Tax map legislation will aid in attracting new business and industry into the state and counties, all of which will serve to increase revenues for all involved; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Government and Finance study the issue and advantages of tax map legislation; 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 and conclusions; 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.

Senators Miller, Laird, Stollings, Unger and Plymale offered the following resolution:

Senate Concurrent Resolution 59—Requesting Division of Highways name the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056), latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U. S. Army SPC 4 Everette R. Johnson Memorial Bridge”.

Whereas, Everette R. Johnson was born on November 7, 1947, in Beckley, West Virginia, the son of John C. and Minnie Louise Johnson. He lived most of his life in Monroe County and was educated in Monroe County schools, graduating from Greenville High School in 1965. He was married to Sue G. Loan and they were expecting their first child when Everette was killed in Vietnam on February 7, 1968; and

Whereas, Everette R. Johnson was survived by his widow and son, Everette Robert Johnson, Jr., who was born in August, 1968, and his mother and father, sister Darlene Johnson and three brothers, Wayne, David and Maury; and

Whereas, Naming the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056) latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U. S. Army SPC 4 Everette R. Johnson Memorial Bridge” is an appropriate recognition of his contributions and his supreme sacrifice to his country, state, community and Monroe County; therefore, be it

Resolved by the West Virginia Legislature:

That the Division of Highways is hereby requested to name the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056) latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U. S. Army SPC 4 Everette R. Johnson Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the twin bridges, both northbound and southbound, as the “U. S. Army SPC 4 Everette R. Johnson Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the surviving relatives of Everette R. Johnson.

Which, under the rules, lies over one day.

Senators Ashley, Stollings, Kessler and Plymale offered the following resolution:

Senate Resolution 57—Recognizing Sistersville Tank Works for their dedication and commitment to building a successful business in West Virginia.

Whereas, Sistersville Tank Works, Inc., was founded in 1894, in Sistersville, West Virginia; and

Whereas, Sistersville Tank Works played an important role in the development of the oil and gas industry in the Ohio Valley, manufacturing oil field boilers, vessels and large storage tanks; and

Whereas, In 1923, Sistersville Tank Works received authorization to manufacture boilers with the American Society of Mechanical Engineers code stamp; and

Whereas, In 1942, to support the war effort, the company built landing craft and military ordinance; and

Whereas, In 1984, two Sistersville Tank Works employees, Janet Wells and her daughter, Darlene Morgan, mortgaged the family farm to buy the company; and

Whereas, With a new emphasis on improved quality of work, expansion of markets served and improved customer service, revenues improved six-fold within a few years and employment rose from seven to fifty workers; and

Whereas, In 1988, Janet Wells was named the U. S. Small Business Person of the Year and was featured in TIME Magazine; and

Whereas, Today, Sistersville Tank Works builds ASME custom pressure vessels, specialized industrial storage tanks, industrial heat exchangers and reactors used by energy companies, chemical manufacturers, utilities, refineries and oil and gas industries worldwide; and

Whereas, In 2015, Sistersville Tank Works dedicated its new production facility just north of Parkersburg, more than doubling its production space, employing 30 to 40 additional employees and capable of building multiple tanks in excess of one hundred feet long simultaneously, and shipping them by barge, rail and highway; and

Whereas, Sistersville Tank Works is a West Virginia and American success story, one that all West Virginians should be proud of; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes Sistersville Tank Works for their dedication and commitment to building a successful business in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Sistersville Tank Works, Inc.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Cole (Mr. President), Stollings, Ashley, Unger, Kessler, Prezioso, Williams and Plymale offered the following resolution:

Senate Resolution 58—Designating March 2, 2016, as Domestic Violence Prevention Day.

Whereas, All people have a right to be safe in their homes, workplace, college campus and community; and

Whereas, During the fiscal year 2014-2015, approximately fifteen thousand individuals were served by one or more of the fourteen licensed domestic violence programs in West Virginia, six of which also provide rape crisis services; and

Whereas, Domestic and sexual violence erode the infrastructure of our families, our social makeup and our culture, and threaten the integrity of our future; and

Whereas, Stalking is often a factor in domestic and sexual violence and a serious offense in its own right; and

Whereas, On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. During one year, this equates to more than 10 million women and men; and

Whereas, In 2014, domestic and sexual violence offenses were major law enforcement problems within West Virginia and over eight thousand domestic violence offenses were committed requiring over two hundred twenty thousand hours spent by law enforcement investigating incidents of domestic violence; and

Whereas, In 2014, twenty-one homicides in our state were the result of domestic violence; and

Whereas, Women are three times more likely than males to be murdered by an intimate partner; and

Whereas, Boys who witness domestic violence are twice as likely to abuse their own partners and children when they become adults; and

Whereas, One in six women and one in twenty-one men will be victims of rape or attempted rape in West Virginia; and

Whereas, 19.3 million women and 5.1 million men in the United States have been stalked in their lifetime; and

Whereas, Domestic and sexual violence can be deterred, prevented and reduced through a large network of private, public and nonprofit entities working together to form a coalition providing social, legal, medical, educational and protective services for victims of domestic and sexual violence; and

Whereas, The West Virginia Coalition Against Domestic Violence has been working for thirty-five years to provide safe space, quality services and systemic change to give families options for building lives free from violence; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 2, 2016, as Domestic Violence Prevention Day; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Coalition Against Domestic Violence.

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

On motion of Senator Carmichael, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and proceeded to the seventh order of business.

Senate Concurrent Resolution 54, Union Army CPT John Bond 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 55, Dewey "Duke" Maynard Memorial Road.

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. Com. Sub. for Senate Bill 25, Providing selection procedure for state delegates to Article V convention.

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, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Snyder, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—21.

The nays were: Beach, Kessler, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, Williams, Woelfel and Yost—13.

Absent: None.

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. 25) 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 104, Classifying Marshall University Forensic Science Center as a criminal justice agency.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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. 104) passed.

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

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 104—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to declaring Forensic DNA Analysis Laboratory of the Marshall University Forensic Science Center to be engaged in administration of criminal justice as that term is defined in 28 C. F. R. 20.3(b); requiring Marshall University Forensic Science Center and the West Virginia State Police to confer as to available grants and similar possible funding sources and applications therefor; affording West Virginia State Police primacy of decisionmaking over Marshall University Forensic Science Center as to which entity may apply for certain grants; directing West Virginia State Police and Marshall University Forensic Science Center to execute an agreement to ensure compliance with the section provisions; and requiring the West Virginia State Police to partner with the DNA and Digital Forensics sections of Marshall University Forensic Science Center, which sections are designated a Disaster Recovery Laboratory.

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

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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. 337) 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 Com. Sub. for Senate Bill 454, Licensing and regulating medication-assisted treatment programs for substance use disorders.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 454) passed with its title.

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

Com. Sub. for Senate Bill 528, Altering power of Higher Education Policy Commission.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2016, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Sypolt, the bill was recommitted to the Committee on Education.

Eng. Com. Sub. for Senate Bill 534, Relating to procedures for driver's license suspension and revocation in criminal proceedings.

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 Senate Bill 534 pass?"

On the passage of the bill, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Hall, Karnes, Kessler, Kirkendoll, Leonhardt, Maynard, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Yost and Cole (Mr. President)—24.

The nays were: Ashley, Beach, Cline, Gaunch, Laird, Miller, Mullins, Snyder, Unger and Woelfel—10.

Absent: None.

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. 534) passed.

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

Eng. Com. Sub. for Senate Bill 534—A Bill to amend and reenact §17C-5-2, §17C-5-2b, §17C-5-4 and §17C-5-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-5A-1, §17C-5A-1a and §17C-5A-3 of said code; to amend said code by adding thereto two new sections, designated §17C-5A-1b and §17C-5A-1c; and to amend said code by adding thereto a new section, designated §17C-5C-6, all relating generally to the procedures for drivers' license suspensions and revocations for driving under the influence of alcohol, controlled substances or drugs; transferring authority for hearing matters related to suspensions or revocations of drivers' license for operating a motor vehicle while under the influence of alcohol, controlled substances or drugs from the Office of Administrative Hearings to magistrate courts; granting authority to magistrate courts to suspend or revoke driver's licenses in such cases; establishing mandatory revocation periods for individuals convicted of driving under the influence; authorizing alternate revocation period involving participation in motor vehicle alcohol test and lock period for certain first offenses; establishing mandatory revocation periods for individuals upon subsequent convictions for driving under the influence; requiring individuals whose driver's licenses have been revoked upon conviction for driving under the influence to complete comprehensive safety and treatment program; making individuals convicted of felony DUI ineligible for participation in Motor Vehicle Alcohol Test and Lock Program; making individuals convicted of misdemeanor DUI eligible for participation in Motor Vehicle Alcohol Test and Lock Program unless otherwise ordered by the court; making individuals who are found guilty of driving under the influence ineligible for deferral of further proceedings upon condition of participation in Motor Vehicle Alcohol Test and Lock Program; making individuals who refuse to submit to a secondary chemical test ineligible for deferral of further proceedings upon condition of participation in Motor Vehicle Alcohol Test and Lock Program; prohibiting secondary test of blood without issuance of warrant signed by a magistrate or circuit judge; requiring that individual arrested for driving under the influence be advised orally of certain consequences for refusal to submit to secondary chemical test; requiring that individual arrested for driving under the influence be given written statement informing the individuals of legal consequences of taking or refusing to take a preliminary breath test and informing the individual of right to receive secondary blood test; requiring that officer give second oral warning fifteen minutes after first warning given and before refusal is considered final; requiring that, following an individual's refusal to take a preliminary breath test, an arresting officer execute a signed statement that the officer administered all required warnings; directing officer to submit copy of written statement to court having jurisdiction over charges filed against the individual; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's driver's license on the basis of a driving under the influence arrest; limiting administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2016; providing that administrative hearings relating to refusal to undergo a secondary chemical test does

not apply to offenses occurring on or after July 1, 2016; eliminating requirement for an order entered by the Division of Motor Vehicles revoking a driver's license to advise of procedures for requesting administrative hearing when the offense is driving under the influence; limiting the right of individuals to challenge suspension or revocation of driver's licenses to the issue of mistaken identity; requiring the Commissioner to take corrective action if a driver's license is incorrectly suspended or revoked based on mistaken identity; providing that plea of no contest constitutes a conviction; requiring pretrial suspension of driver's licenses if individual refuses to submit to secondary chemical test; permitting pretrial suspension of driver's license by court under certain circumstances; establishing right to request and receive judicial review of suspension orders pending criminal proceedings; establishing the scope of review for judicial review of pretrial driver's license suspension for refusal to submit to secondary chemical test; requiring the clerk of a court to transmit a copy of an order suspending or revoking a driver's license to the Division of Motor Vehicles; providing terms and length of pretrial license suspension; giving person's convicted of driving under the influence credit for pretrial suspension time against period of revocation imposed; making persons convicted of driving under the influence eligible for participation in comprehensive safety and treatment program and related reductions in length of revocation for successful completion thereof; establishing procedures and timeline for the Division of Motor Vehicles to transfer jurisdiction of driver's license suspension and revocation to the courts; and making technical corrections.

Senator Carmichael moved that the bill take effect July 1, 2016.

On this question, the yeas were: Blair, Boley, Boso, Carmichael, Facemire, Ferns, Hall, Karnes, Kessler, Kirkendoll, Leonhardt, Maynard, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Yost and Cole (Mr. President)—24.

The nays were: Ashley, Beach, Cline, Gaunch, Laird, Miller, Mullins, Snyder, Unger and Woelfel—10.

Absent: None.

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. 534) takes effect July 1, 2016.

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

Com. Sub. for Senate Bill 539, Relating to condemnation proceedings.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2016, for amendments to be received on third reading, was reported by the Clerk.

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

On page two, section fourteen-a, lines twenty-six through thirty-two, by striking out all of subsection (c) and inserting in lieu thereof a new subsection, designated subsection (c), to read as follows:

(c) With respect to minerals, the calculation of fair market value shall follow the common law of this state: *Provided*, That to the extent limestone, gravel, rock, clay, sand, chalk and all other similar minerals generally found near the surface and for which the property owner may be entitled to compensation, the property owner has the burden of proving that the mineral is found in such quantity and quality as to be commercially marketable and shall then be compensated for by considering the production and marketing costs, as well as the market and demand for the minerals: *Provided*,

however, That the use of limestone, gravel, rock, clay, sand, chalk or other similar minerals by the state or its political subdivisions for the project for which the land is taken is inadmissible and shall be excluded from this calculation of fair market value: *Provided further*, That in the absence of an express contractual term or an express conveyance in a deed stating otherwise, limestone, gravel, rock, clay, sand, chalk and all other similar minerals shall lie with the surface owner.

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 539 was then 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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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. 539) passed.

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

Eng. Com. Sub. for Senate Bill 539—A Bill to amend and reenact §54-2-14a of the Code of West Virginia, 1931, as amended, relating to condemnation proceedings; setting forth conditions which must be met and procedures which must be followed; providing that fair market value of minerals shall follow common law with certain exceptions; declaring the procedure for calculation of the fair market value of near-surface minerals; allowing for near-surface minerals to be compensated for by considering production and marketing costs if owner meets certain burden; providing that certain near-surface minerals lie with the surface owner unless specifically granted otherwise; providing for the inadmissibility of certain evidence; requiring certain funds to be paid into the court; providing for an owner's interest in the money paid into court; removing refund and reimbursement provisions; updating antiquated language; and conforming certain language to accepted drafting standards.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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. 539) takes effect from passage.

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

On motion of Senator Carmichael, the Senate recessed until 1:30 p.m. today.

Upon expiration of the recess, the Senate reconvened and resumed consideration of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 555, Providing for 3-cent tax increase on sale of fuel when cost is less than \$2 per gallon.

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: Beach, Boso, Carmichael, Cline, Facemire, Gaunch, Hall, Kessler, Kirkendoll, Laird, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Takubo, Trump, Unger, Walters, Williams, Woelfel and Yost—25.

The nays were: Ashley, Blair, Boley, Ferns, Karnes, Leonhardt, Maynard, Sypolt and Cole (Mr. President)—9.

Absent: None.

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. 555) passed.

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

Eng. Com. Sub. for Senate Bill 555—A Bill to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3 and §11-15-3c of said code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-10-1, §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-8 and §17B-2-11 of said code; and to amend and reenact §17D-2-2 of said code, all relating to generating and maintaining revenue for maintenance of roads and infrastructure; providing the flat tax motor fuel, other than alternative fuels, is increased by three cents, unless actual average wholesale price of motor fuel rises above \$2.00 per invoiced gallon; setting minimum level for average wholesale price of motor fuel; increasing general consumers sales and service tax; dedicating portion of general consumers sales and service tax imposed to State Road Fund; reducing the tax rate on the sale and use of a motor vehicle, but changing the calculation regarding exchange of other vehicles; increasing certain fees related to motor vehicles, registration, exchanges, transfers, titles, license plates, decals, records, recordings, releases, certificates, permits, licenses and identification cards; creating expedited processing fees for certain motor vehicle titles; creating fees for the issuance of duplicate or substitute registration plates or decals or duplicate certificates of title; and changing privilege tax rate and privilege tax calculation on motor vehicles.

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

Eng. Senate Bill 563, Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 563) passed with its title.

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

Com. Sub. for Senate Bill 599, Relating generally to Uniform Unclaimed Property Act.

On third reading, coming up in regular order, with Senator Romano's amendment pending, and with the right having been granted on yesterday, Tuesday, March 1, 2016, for other amendments to be received on third reading, was reported by the Clerk.

The question being on the adoption of Senator Romano's pending amendment to the bill (*shown in the Senate Journal of yesterday, Tuesday, March 1, 2016, page 44*).

At the request of Senator Romano, and by unanimous consent, Senator Romano's amendment to the bill was withdrawn.

There being no further amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 599 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Palumbo, Plymale, Prezioso, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—21.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—13.

Absent: None.

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. 599) 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 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities.

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 Senate Bill 601 pass?"

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Kessler, Laird and Unger—3.

Absent: None.

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. 601) passed with its 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, Kirkendoll, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—31.

The nays were: Kessler, Laird and Unger—3.

Absent: None.

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. 601) 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 602, Relating to Patient Injury Compensation Fund.

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, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Karnes—1.

Absent: None.

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. 602) passed.

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

Eng. Com. Sub. for Senate Bill No. 602—A Bill to amend and reenact §29-12B-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-12D-1 and §29-12D-3 of said code; to amend said code by adding thereto a new section, designated §29-12D-1a; to amend and reenact §55-7B-9 and §55-7B-9c of said code; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating generally to the Patient Injury Compensation Fund; transferring funds from Medical Liability Fund to Patient Injury Compensation Fund and thereafter closing Medical Liability Fund;

prohibiting direct recovery of legal fees from Patient Injury Compensation Fund; providing that fund may not compensate claimants who have not filed a claim with the fund before July 1, 2016; imposing an assessment on medical licenses; providing exceptions to assessment on medical licenses; prohibiting granting or renewal of medical license for failure to pay assessment; imposing an assessment on trauma centers based upon the number of patients treated; imposing an assessment on claims filed under the Medical Professional Liability Act; defining “qualifying claim”; establishing a date for purposes of determining applicability of section; directing entities collecting assessments to remit payment to Board of Risk and Insurance Management; setting schedule for remittance of payments to Board of Risk and Insurance Management; providing for termination of assessments upon certain deadlines being met; limiting authority of court reviewing an award from the board to approval or disapproval of final award; clarifying authority of Board of Risk and Insurance Management make periodic payments or place claims in nonpayment status in its discretion; permitting trier of fact to consider fault of all alleged parties, including fault of persons who have settled claims with plaintiff arising out of same medical injury, in assessing percentages of fault; clarifying manner in which damages are to be determined with respect to each defendant for purposes of entering judgment when there is no pre-verdict settlement; providing for limit on liability for economic damages in causes of actions against a trauma facility to be adjusted for inflation annually beginning January 1, 2016; setting limit on inflation increase; authorizing plaintiff who suffers economic damages in excess of limit of liability to collect economic damages up to an additional \$1 million; clarifying that additional economic liability limit is not subject to inflation; providing that a claimant’s attorney fees may not be paid out of the fund; providing that several liability applies in all cases under the Medical Professional Liability Act; increasing filing fee for causes of action under the Medical Professional Liability Act; and directing clerk of court to deposit a portion of the filing fee into Patient Injury Compensation Fund.

Senator Carmichael moved that the bill take effect July 1, 2016.

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

The nays were: Karnes—1.

Absent: None.

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. 602) takes effect July 1, 2016.

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

At the request of Senator Kessler, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 622, Composition of PEIA Finance Board.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 622 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—18.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—16.

Absent: None.

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. 622) 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 625, Revising exceptions from FOIA provided for in Aboveground Storage Tank 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: 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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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. 625) 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 631, Authorizing higher education boards of governors develop retirement and incentive packages.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

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. 631) 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 643, Requiring individuals receiving unemployment compensation seek seasonal employment.

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 Senate Bill 643 pass?”

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel and Cole (Mr. President)—32.

The nays were: Kessler and Yost—2.

Absent: None.

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. 643) 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 644, Authorizing counties to offer license plates customized to county.

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

Pending extended discussion,

Senator Woelfel moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Senate Bill 644.

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Leonhardt, Maynard, Mullins, Palumbo, Snyder, Sypolt, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—21.

The nays were: Beach, Facemire, Karnes, Kessler, Kirkendoll, Laird, Miller, Plymale, Prezioso, Romano, Stollings, Unger and Yost—13.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 644) 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 647, Exempting certain complimentary hotel rooms from occupancy tax.

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 Senate Bill 647 pass?”

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Romano, Snyder, Takubo, Trump, Walters, Williams, Woelfel and Cole (Mr. President)—26.

The nays were: Beach, Facemire, Kessler, Prezioso, Stollings, Sypolt, Unger and Yost—8.

Absent: None.

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. 647) 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 657, Relating to damages for medical monitoring.

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

Senator Walters moved to be excused from voting on any matter pertaining to the bill under rule number forty-three of the Rules of the Senate, which motion prevailed.

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, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: None.

Absent: None.

Excused from voting: Walters—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 657) 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 657—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating generally to damages for medical monitoring; prohibiting payment of damages for a plaintiff's future medical surveillance, screening tests or monitoring procedures to a plaintiff to cover the cost of his or her future medical surveillance, screening tests or monitoring procedures until they have been completed; establishing that court shall order liable defendant to make periodic payments into a fund established to pay the cost of future medical surveillance, screening tests or monitoring procedures; authorizing court to determine how the fund will be administered; requiring court to establish date after which future medical surveillance, screening tests or monitoring procedures are no longer required; providing for repayment of moneys remaining in the fund that are not needed to pay for medical surveillance, screening tests or monitoring procedures completed prior to the date established by the court to the contributing defendants; and providing that repayments to multiple defendants to be made in proportion to the total contributions of each defendant to the fund.

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

Eng. Senate Bill 669, Requiring proficiency in civics as condition for high school or GED diploma.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 669) passed.

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

Eng. Senate Bill 669—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to the demonstration of proficiency in civics as a condition of receiving a high school diploma, Test Assessing Secondary Completion (TASC) diploma or equivalent.

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 677, Relating to tuition rates set by higher education institutional governing boards.

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, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kirkendoll, Leonhardt, Maynard, Mullins, Snyder, Sypolt, Takubo, Trump, Walters, Williams and Cole (Mr. President)—22.

The nays were: Beach, Kessler, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, Woelfel and Yost—12.

Absent: None.

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. 677) 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 678, Relating to ownership and use of conduit providing telephone service.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 678) passed.

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

Eng. Senate Bill 678—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2E-3, relating to ownership and use of certain conduit that provides service by a telephone public utility; requiring the telephone company to permit a customer to own and use the conduit for other purposes; requiring customers and all occupants of conduit or other underground apparatuses comply with national electrical safety code and other reasonable standards; and providing for Public Service Commission rule-making authority.

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 686, Authorizing local governing authorities hold sanctioned motor vehicle races on roads, streets or airports under their jurisdiction.

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

Pending discussion,

Senator Plymale moved that the bill lie over one day, retaining its place on the calendar.

The question being on the adoption of Senator Plymale's aforesaid motion, the same was put and did not prevail.

Pending discussion,

Senator Plymale moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for Senate Bill 686.

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, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost and Cole (Mr. President)—33.

The nays were: Snyder—1.

Absent: None.

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. 686) 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 701, Relating generally to resort area districts.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 701) 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 702, Allowing title of real estate to pass to individuals entitled to sale proceeds if executor fails to do so within 5 years of closing estate.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 702) 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 703, Relating to deposit of overpayment of certain fees into Children's Trust Fund.

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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 703) passed with its title.

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

Senate Bill 704, Dispatching of towing service for emergency towing of vehicles.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, March 1, 2016, for amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

The bill was ordered to engrossment.

Engrossed Senate Bill 704 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Senate Bill 704 pass?"

Senator Maynard requested a ruling from the Chair as to whether he should be excused from voting under Senate Rule 43.

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

On this question, the yeas were: Blair, Boley, Carmichael, Cline, Ferns, Gaunch, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters and Cole (Mr. President)—15.

The nays were: Ashley, Beach, Boso, Facemire, Hall, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams, Woelfel and Yost—19.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. S. B. 704) rejected.

Eng. Senate Bill 705, Reducing coal severance tax to 3 percent over two years.

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

Pending extended discussion,

The question being "Shall Engrossed Senate Bill 705 pass?"

On the passage of the bill, the yeas were: Ashley, Blair, Boley, Boso, Carmichael, Cline, Ferns, Gaunch, Hall, Karnes, Leonhardt, Maynard, Mullins, Sypolt, Takubo, Trump, Walters, Yost and Cole (Mr. President)—19.

The nays were: Beach, Facemire, Kessler, Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Unger, Williams and Woelfel—15.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 705) passed.

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

Eng. Senate Bill 705—A Bill to amend and reenact §11-13A-3 and §11-13A-3a of the Code of West Virginia, 1931, as amended, all relating to reducing the severance tax on coal to three percent over two years; adjusting the severance tax on natural gas or oil in like manner and amount; and specifying effective dates.

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

Eng. Com. Sub. for Senate Joint Resolution 14, Right to Farm and Ranch Amendment.

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

On the adoption of the resolution, 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, Yost and Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. Com. Sub. for S. J. R. 14) adopted, as follows:

Eng. Com. Sub. for Senate Joint Resolution 14—Proposing an amendment to the Constitution of the State of West Virginia amending article III thereof, by adding thereto 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.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in 2016, which proposed amendment is that article III thereof be amended by adding thereto a new section, designated section twenty-three, to read as follows:

ARTICLE III. BILL OF RIGHTS.

§23. RIGHT TO FARM AND RANCH.

The right of farmers and ranchers to engage in natural, traditional or modern farming and ranching practices is forever guaranteed in this state.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered “Amendment No. 1” and designated as the “Right to Farm and Ranch Amendment” and the purpose of the proposed amendment is summarized as follows: “To add a new section to article III of the West Virginia Constitution, to recognize the right of citizens of West Virginia to farm and ranch.”

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 4012, West Virginia Religious Freedom Restoration Act.

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

On this question, the yeas were: Carmichael, Ferns, Hall, Kirkendoll, Sypolt, Trump and Woelfel—

The nays were: Ashley, Beach, Blair, Boley, Boso, Cline, Facemire, Gaunch, Karnes, Kessler, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Takubo, Unger, Walters, Williams, Yost and Cole (Mr. President)—27.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4012) rejected.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Thursday, March 3, 2016, at 11 a.m.

SENATE CALENDAR

**Thursday, March 03, 2016
11:00 AM**

UNFINISHED BUSINESS

- S. C. R. 56 - Judge Ronald G. Pearson Bridge.
- S. C. R. 57 - Requesting study on county animal shelter dog and cat population and costs.
- S. C. R. 58 - Requesting study on issue and advantages of tax map legislation.
- S. C. R. 59 - U. S. Army SPC 4 Everette R. Johnson Memorial Bridge.

FIRST READING

Eng. Com. Sub. for H. B. 4146 - Providing insurance cover abuse-deterrent opioid analgesic drugs - (Com. amend. pending) (original similar to SB304).

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

Thursday, March 3, 2016

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|-----------|---------------------------|-------------|
| 9:30 a.m. | Pensions | (Room 208W) |
| 10 a.m. | Natural Resources | (Room 208W) |
| 1 p.m. | Health & Human Resources | (Room 451M) |
| 1 p.m. | Energy, Industry & Mining | (Room 208W) |
| 2 p.m. | Education | (Room 451M) |
| 2 p.m. | Government Organization | (Room 208W) |