

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Friday, February 16, 2018

The Senate met at 11:16 a.m.

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

Prayer was offered by the Reverend Jim Sallie, Redeemer Parkersburg Church in Parkersburg, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert Karnes, a senator from the eleventh district.

Pending the reading of the Journal of Thursday, February 15, 2018,

At the request of Senator Smith, 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 Clerk presented the following communications from various state agencies as required by the provisions of law:

Administrative Hearings, Office of (§17C-5C-2)

Tax Appeals, Office of (§11-10A-7)

The Senate 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, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 154, Authorizing Department of Administration to promulgate legislative rules.

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

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

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

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

On page one, section one, line five, after the word “authorized” by changing the period to a colon and inserting the following: “with the following amendments:

On page 7, subsection 8.1, after the word ‘conditions’, by adding ‘unless longer lease terms have been approved by the Commissioner for utility accommodation leases.’; and

On page 8, subsection 8.4, after the word ‘conditions’, by adding ‘unless longer lease terms have been approved by the Commissioner for utility accommodation leases.’”

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

Engrossed Committee Substitute for Senate Bill 184, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

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

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

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

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

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 2694—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-55, relating to the study of the feasibility of the development and implementation of a program to facilitate commercial sponsorship of rest areas, welcome centers, roads, and vehicles; providing for sponsorship agreements; providing for agreement requirements; providing for disposition of funds received from agreements; providing for the promulgation of emergency or legislative rules; and providing for a report of the status of the program.

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 2890—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-24, relating to establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects; setting forth general structure of fund and distribution of funds; and providing for rulemaking.

Referred to the Committee on 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 3104—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-10-1, §9-10-2, §9-10-3, §9-10-4, §9-10-5 and §9-10-6; to amend and reenact §18-10K-1 of said code; and to repeal §18-10K-2, §18-10K-3, §18-10K-4, §18-10K-5 and §18-10K-6 of said code, all relating to transferring administration of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund to the Department of Health and Human Resources; abolishing the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund Board; transferring the powers, duties and records of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund Board to the Department of Health and Human Resources; and transferring the powers and duties of the Division of Rehabilitation Services related to administering the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund to the Department of Health and Human Resources.

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 4015—A Bill to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10, §5A-12-11, §5A-12-12, §5A-12-13 and §5A-12-14; to amend said code by adding thereto a new section, designated §12-6D-7; to amend and reenact §17A-3-23 of said code; to amend said code by adding thereto three new sections, designated §17A-3-25, §17A-3-26, and §17A-3-27; and to amend and reenact §29B-1-4 of said code, all relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies; repealing provisions relating to the central motor pool; continuing management of state owned or leased

aircraft through an Aviation Division; continuing the Fleet Management Office as the Fleet Management Division; defining terms; providing powers and duties of the division director; continuing the Fleet Management Office Fund as the Fleet Management Division Fund; requiring spending units designate fleet coordinators; requiring reporting of state vehicles use to the division; requiring fleet coordinator annual reporting to the division; requiring reporting to the State Agency for Surplus Property; requiring reporting to centralized inventory system as maintained by Enterprise Resource Planning Board; providing for spot compliance audits by the State Auditor; requiring legislative compliance audits; requiring new title, registration, and license plates for state vehicles; allowing the Commissioner of the Division of Motor Vehicles to issue special plates to organizations and entities; requiring agencies to apply for a new uniform vehicle title and registration plate; providing for a citation to drivers of vehicles without the proper license plate; exempting confidential information relating to certain vehicles from public disclosure under the Freedom of Information Act; authorizing rule-making; and requiring annual reports to the Governor and Legislature.

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 4268—A Bill to amend and reenact §22C-9-3 and §22C-9-4 of the Code of West Virginia, 1931, as amended, to amend and reenact §37-7-2 of said code; and to amend said code by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, §37B-1-4, §37B-1-5, §37B-1-6, §37B-1-7, §37B-2-1, §37B-2-2, §37B-2-3, §37B-2-4, §37B-2-5, §37B-2-6, §37B-2-7, §37B-2-8, and §37B-2-9, all relating generally to real property; providing an exception to waste and trespass for certain oil or natural gas developments; providing short titles; providing declarations of public policy and legislative findings; providing definitions; providing that consent for the lawful use and development of oil or natural gas mineral property by the persons owning an undivided three fourths of the royalty interests, as defined, in an oil or natural gas mineral property is permissible, is not waste, and is not trespass; providing that nonconsenting cotenants may elect a production royalty interest or a working interest share of production; providing that interests owned by unknown or unlocatable owners be reserved, reported, and deposited in a fund hereby created, known as the Unknown and Unlocatable Interest Owners Fund, to be administered by the State Treasurer in conjunction with the West Virginia Uniform Unclaimed Property Act until said reserved interests are claimed or transferred to the Oil and Gas Reclamation Fund for the plugging of oil and gas wells; providing methods for determination of leasehold and contractual terms, including reviews and determinations by the Oil and Gas Conservation Commission; empowering the Oil and Gas Conservation Commission to enforce certain provisions hereof; providing liability protection for damages resulting from the lawful use or development of oil or natural gas mineral property; requiring surface use agreements in specified circumstances; providing a mechanism for surface owners to acquire title to certain severed oil and gas interests; preserving common law rights; providing for severability of provisions; providing reporting requirements and administrative duties, including civil penalties for noncompliance under the West Virginia Uniform Unclaimed Property Act; and providing for rule-making authority.

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 4270—A Bill to amend and reenact §22-6-22 of the Code of West Virginia, 1931, as amended, and to amend said code by adding a new chapter, designated §37B-1-1, §37B-1-2, and §37B-1-3, all relating generally to real property; providing for timely payment of moneys owed from oil and natural gas production; establishing interest penalties for certain late payments; requiring specified information to be remitted with payments; requiring quarterly reporting of production data to Department of Environmental Protection; and providing for rule-making authority.

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 4361—A Bill to amend and reenact §9A-1-4 of the Code of West Virginia, 1931, as amended, relating to requiring the Veterans(Council to annually honor each West Virginian graduating from the U. S. Military Academy, the U. S. Naval Academy, the U. S. Air Force Academy and the U. S. Coast Guard Academy with the highest grade point average by bestowing upon him or her the West Augusta Award.

Referred to the Committee on Education.

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 4433—A Bill recognizing and declaring certain claims against an agency of the state to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

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. House Bill 4434—A Bill to amend and reenact §3-5-23 of the Code of West Virginia, 1931, as amended; to clarify provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement, preventing candidates from a political party from using the provisions of the section to seek candidacy for office.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Pensions has had under consideration

Senate Bill 277, Allowing public employees to cash out their retirement plans in lieu of pension payments.

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

Com. Sub. for Senate Bill 277 (originating in the Committee on Pensions)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10D-13, relating to permitting members of public retirement plans to cash out of their plans by opting to receive, in lieu of regular benefit payments, the total cash value of those benefits.

And,

Senate Bill 501, Relating to accrued benefit of retirees in Deputy Sheriff Retirement System.

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

Com. Sub. for Senate Bill 501 (originating in the Committee on Pensions)—A Bill to amend and reenact §7-14D-2 of the Code of West Virginia, 1931, as amended, relating to the accrued benefit of retirees in the Deputy Sheriff Retirement System.

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

Respectfully submitted,

Robert Karnes,
Chair.

The bills (Com. Sub. for S. B. 277 and 501), under the original double committee references, were then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 477, Relating to five-year sunset on tax credits and incentives.

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

Com. Sub. for Senate Bill 477 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, relating to the creation of a five-year sunset on all tax credits established by the same chapter.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

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

By Senator Weld:

Senate Bill 567—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including treason, murder, armed robbery, and organized crime to the list of crimes for which a prosecutor can apply for order authorizing interception of communications.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 568—A Bill to amend and reenact §17C-5-2b of the Code of West Virginia, 1931, as amended, relating to deferral of further proceedings for certain first offenses upon condition of participation in Motor Vehicle Alcohol Test and Lock Program; and requiring completion of the program within 12 months.

Referred to the Committee on the Judiciary.

By Senators Mann and Rucker:

Senate Bill 569—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to establishing a local choice program for alternative high school assessments within the high quality educational programs and process for improving education.

Referred to the Committee on Education.

By Senators Palumbo and Stollings:

Senate Bill 570—A Bill to amend and reenact §11-1C-9 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-3-1 of said code, all relating to limiting the amount a property reappraisal can increase over the previous amount.

Referred to the Committee on Government Organization.

By Senators Mann and Baldwin:

Senate Bill 571—A Bill to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3a of said code; and to amend said code by adding thereto a new section, designated §11-15A-2c, all relating to fixing the Public Employees Insurance Agency aggregate premium cost sharing at 85 percent for the employer and 15 percent for the employee; and establishing a tax on sales, purchases, and uses of food and food ingredients intended for human consumption as a means of paying for the increased employer share.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

By Senators Karnes, Sypolt, Cline, Ojeda, and Plymale:

Senate Bill 572—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3, §19-36-4, §19-36-5, and §19-36-6, all relating to creation of the Farm-to-School Grant Program; defining terms; providing method for allocating grants; limiting grants; authorizing rulemaking; and requiring program review reports.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Education.

By Senators Mann, Baldwin, and Boso:

Senate Bill 573—A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating generally to school calendars; providing that the instructional term for students begins on the Tuesday after Labor Day and ends the Friday before Memorial Day; providing an exception; permitting additional instructional minutes per day; and eliminating reimagined days.

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

By Senators Weld and Cline:

Senate Bill 574—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3-59, relating to creating the crime of misrepresentation of military honors to obtain money, property, or other benefit; and providing a criminal penalty.

Referred to the Committee on the Judiciary.

By Senators Takubo, Arvon, Azinger, Boley, Boso, Clements, Cline, Drennan, Maroney, Maynard, Rucker, Sypolt, Stollings, and Plymale:

Senate Bill 575—A Bill to amend and reenact §16-2D-9 of the Code of West Virginia, 1931, as amended, relating to the approval of additional beds for intermediate care facilities; authorizing the Secretary of the Department of Health and Human Resources to designate where the beds may be located; providing that eligibility will be determined on a case-by-case basis; providing that all other relevant regulatory laws apply; and providing that additional beds may be developed.

Referred to the Committee on Health and Human Resources.

By Senators Gaunch, Palumbo, Ferns, Trump, and Plymale:

Senate Bill 576—A Bill to amend and reenact §29-12D-1a of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating to the Patient Injury Compensation Fund; changing the dates for collection of fees to be deposited in the Patient Injury Compensation Fund; updating definitions; providing for transfer of remaining funds; and changing the amount of certain circuit clerk filing fees.

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

By Senators Weld and Cline:

Senate Bill 577—A Bill to amend and reenact §17B-4-6 of the Code of West Virginia, 1931, as amended, relating to renting of motor vehicles; and allowing commercial rental car providers and vehicle rental program providers to rent motor vehicles by electronic means without making an in-person, physical inspection of the driver's license of the renter.

Referred to the Committee on Economic Development.

By Senators Plymale and Stollings:

Senate Bill 578—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, and §47-12-6, all relating to the Youth Mental Health Protection Act; providing for legislative findings; setting out a purpose; defining terms; providing for a prohibition on conversion therapy; setting forth a prohibition for referral services for conversion therapy; and providing for discipline of providers for a violation.

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

By Senator Maynard:

Senate Bill 579—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-11G-1, §47-11G-2, and §47-11G-3, all relating to establishing the responsibilities of persons providing credit card processing services in the state; setting forth the required disclosures and prohibitions; establishing a maximum early termination fee; setting forth penalties and enforcement; and setting forth its applicability and exclusions.

Referred to the Committee on the Judiciary.

By Senators Sypolt and Boso:

Senate Bill 580—A Bill to amend and reenact §1-1-5 of the Code of West Virginia, 1931, as amended, relating to updating language for the West Virginia geodetic datum to match federal coordinate systems.

Referred to the Committee on Government Organization.

By Senator Gaunch:

Senate Bill 581—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-5dd, relating to allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, Director of the Public Employees Insurance Agency, Department of Administration, and State Auditor, pursuant to written agreements; and defining terms.

Referred to the Committee on Government Organization.

By Senators Clements and Maroney:

Senate Bill 582—A Bill to amend and reenact §3-1-28 of the Code of West Virginia, 1931, as amended, relating to allowing a member of, or a candidate for, a state or local political party executive committee to serve as an election official in a state, county, or municipal election, even if her or his name is on the ballot.

Referred to the Committee on Government Organization.

By Senator Boso:

Senate Bill 583—A Bill to amend and reenact §24C-1-2, §24C-1-3, §24C-1-5, §24C-1-6, §24C-1-7, and §24C-1-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §24C-1-9, §24C-1-10, §24C-1-11, and §24C-1-12, all relating to bringing West Virginia in compliance with pipeline safety regulations.

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

Senators Gaunch and Boso offered the following resolution:

Senate Concurrent Resolution 28—Requesting the Joint Committee on Government Organization to conduct a study to consider removing solid waste facilities and the intrastate transportation of solid waste from the jurisdiction of the Public Service Commission.

Whereas, Solid waste facilities and the intrastate transportation of solid waste are currently under the jurisdiction of the Public Service Commission by virtue of its jurisdiction over public utilities, §24-2-1 *et seq.* of this code; and

Whereas, There are other regulatory bodies with oversight into the intrastate transportation of solid waste and solid waste facilities including: The Solid Waste Management Board, §20-1-1 *et seq.* of this code, by virtue of its statutory purpose to conserve, develop, and protect the natural resources of the State of West Virginia; and the Department of Environmental Protection, by virtue of the Solid Waste Management Act, §22-15-1 *et seq.* of this code, and its purpose to provide an efficient and reasonable permitting process for the location, operation, and oversight of the solid waste collection and disposal process; and

Whereas, Removing the Public Service Commission's jurisdiction will eliminate unnecessary overlap and duplicative regulation, and preserve taxpayer resources; and

Whereas, The Solid Waste Management Board, Department of Natural Resources, and Department of Environmental Protection have substantial expertise and experience addressing issues particular to solid waste facilities, the intrastate transportation of solid waste, and related matters; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government Organization is hereby requested to conduct a study to consider removing solid waste facilities and the intrastate transportation of solid waste from the jurisdiction of the Public Service Commission; and, be it

Further Resolved, That the Joint Committee on Government Organization report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senator Ojeda offered the following resolution:

Senate Resolution 44—Urging the House of Delegates to begin an investigation into potential impeachable offenses by Chief Justice Allen Loughry.

Whereas, Section nine, article IV, of the West Virginia Constitution grants to the House of Delegates the sole power of impeachment; and

Whereas, Section nine, article IV of the West Virginia Constitution authorizes impeachment of any officer of the state for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor; and

Whereas, Section 51, article VI of the West Virginia Constitution prohibits the Legislature from making any adjustments to the budget for the Judiciary; and

Whereas, The people of West Virginia through the West Virginia Constitution placed trust in the Judiciary to act autonomously and be stewards of public tax dollars by controlling its own budget; and

Whereas, Section three, article VII, section three of the West Virginia Constitution states that the chief justice shall be the administrative head of all courts and that the administrative director of the courts shall prepare and submit a budget for the court under the direction of the chief justice; and

Whereas, Chief Justice Allen Loughry oversaw the spending of hundreds of thousands of taxpayer's dollars on office renovations at a time when the state was in a budget crisis; and

Whereas, Chief Justice Allen Loughry asserted through media interviews that he had little if any involvement with the decisions related to the office renovations; and

Whereas, Chief Justice Allen Loughry's own emails and hand-drawn images recently released by the media through a Freedom of Information Act request show that he was intimately involved with the design and had full knowledge of the expenses associated with the renovation of his office; and

Whereas, Some of the expenses approved by Chief Justice Loughry included \$32,000 for a couch and custom-made flooring with each county of West Virginia set out in a different type of wood and Loughry's home county set out in blue granite; and

Whereas, There is ample evidence to believe that an investigation into the conduct of Chief Justice Loughry is necessary to determine whether Chief Justice Loughry committed maladministration or neglect of duty in his oversight of the spending at the Supreme Court; and

Whereas, An investigation by the House of Delegates could potentially lead to evidence that Chief Justice Loughry committed another impeachable offense set forth in section nine, article IV of the West Virginia Constitution; therefore, be it

Resolved by the Senate:

That the Senate hereby urges the House of Delegates to begin an investigation into potential impeachable offenses by Chief Justice Allen Loughry; and, be it

Further Resolved, That the Senate hereby urges the House of Delegates to act swiftly upon any credible evidence that Chief Justice Loughry committed an impeachable offense by beginning impeachment proceedings upon a finding of any credible evidence of maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Speaker of the House, the House Majority Leader, the House Minority Leader, the House Judiciary Committee Chair, and the House Finance Committee Chair.

Which, under the rules, lies over one day.

Senator Prezioso moved that the Senate Committee on Rules be discharged from further consideration of

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

Senator Trump moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Prezioso's motion that Engrossed Committee Substitute for Senate Bill 267 be discharged from the Committee on Rules, and on this question, Senator Prezioso demanded the yeas and nays.

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

The nays were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—21.

Absent: Maroney—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Prezioso's aforesaid motion had not prevailed.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 23, Betty Jo Delong 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 24, Requesting study by Joint Committee on Children and Families regarding efficiency of organizations within DHHR.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Health and Human Resources; and then to the Committee on Rules.

Senate Concurrent Resolution 25, US Army PFC O. T. (Teaberry) Mullins 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 26, US Army PFC Thomas Mayford Martin 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 27, US Army CPL F. Lee Noel Memorial Bridge.

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

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Com. Sub. for Senate Bill 273, Reducing use of certain prescription drugs.

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

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

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

On page twenty-seven, section eight, lines five and six , after the word “care.” by striking out the remainder of the subsection.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 273 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 273 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 273) 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 Com. Sub. for Senate Bill 273—A Bill to amend and reenact §16-5H-2 and §16-5H-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5Y-2, §16-5Y-4, and §16-5Y-5 of said code; to amend said code by adding thereto a new article, designated §16-54-1, §16-54-2, §16-54-3, §16-54-4, §16-54-5, §16-54-6, §16-54-7, §16-54-8, and §16-54-9; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3A-1, §30-3A-2, §30-3A-3, and §30-3A-4 of said code; to amend and reenact §30-4-19 of said code; to amend and reenact §30-5-6 of said code; to amend and reenact §30-7-11 of said code; to amend and reenact §30-8-18 of said code; to amend and reenact §30-10-19 of said code; to amend and reenact §30-14-12a of said code; to amend and reenact §30-36-2 of said code; to amend said code by adding thereto a new section, designated §60A-5-509; and to amend and reenact §60A-9-4, §60A-9-5, and §60A-9-5a of said code, all relating to reducing the use of certain prescription drugs; providing for an exemption from registration for office-based, medication-assisted

treatment program in specified cases; making clarifying amendments to provide for an exemption for medication-assisted treatment programs; clarifying physician responsibility for medication-assisted treatment; clarifying definition of “pain management clinic”; providing for emergency rulemaking; defining terms; providing for an advance directive; requiring consultation with patients prior to prescribing an opioid; limiting the amount of opioid prescriptions; requiring a narcotics contract in certain circumstances; providing exceptions to prescribing limits; providing for referral to a pain clinic or pain specialist; providing reports to licensing boards regarding abnormal or unusual prescribing practices; providing for consideration of other treatment options prior to prescribing an opioid; requiring insurance coverage for certain procedures to treat chronic pain; requiring the Board of Pharmacy to report quarterly to various licensing boards; exempting the Board of Pharmacy from certain purchasing requirements; clarifying who must report to the Controlled Substances Monitoring Database; precluding retaliation against a health care provider for declining to prescribe a narcotic; clarifying the practice of acupuncture; and permitting the investigation and discipline for abnormal and unusual prescribing and dispensing of prescription drugs.

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

Eng. Senate Bill 339, Relating to WV Retirement Health Benefit Trust Fund within PEIA.

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

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

Eng. Com. Sub. for Senate Bill 358, Imposing fee for processing criminal bonds.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 358) 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 398, Relating to requirements for making consumer loans.

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

Pending discussion,

At the request of Senator Prezioso, unanimous consent being granted, Senator Prezioso addressed the Senate regarding the action by the Committee on Banking and Insurance as to Engrossed Senate Bill 398 (*Relating to requirements for making consumer loans*).

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

At the request of Senator Maynard, and by unanimous consent, Senator Maynard addressed the Senate regarding the Natural Resources Committee meeting on February 12, 2018.

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

Senator Trump moved that the Senate recess until 6 p.m. today.

Following discussion and a point of inquiry to the President, with resultant thereto,

Senator Trump arose to a point of order that the motion to recess was not a debatable motion.

Which point of order, the President ruled well taken.

The question being on the adoption of Senator Trump's aforesaid motion, the same was put and prevailed.

Thereupon, at 12:04 p.m., the Senate recessed until 6 p.m.

The Senate reconvened at 6:00 p.m. today and resumed consideration of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 495, Designating specific insurance coverages exempt from rate filing requirements.

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

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

The nays were: Baldwin and Romano—2.

Absent: Boley and Maroney—2.

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. 495) 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 498, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest.

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

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

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

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 498) passed with its title.

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

Eng. Com. Sub. for House Bill 3004, Relating to filling vacancies in offices of state officials, United States Senators, Justices, judges, and magistrates.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 3004 pass?”

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

The nays were: Baldwin, Beach, Drennan, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—13.

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3004) passed.

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

Eng. Com. Sub. for House Bill 3004—A Bill to amend and reenact §3-10-3, §3-10-4, §3-10-5, and 3-10-7 of the Code of West Virginia, 1931, as amended, all relating generally to filling vacancies in certain offices; providing that the Governor shall appoint a person to fill a vacancy in an elected state office, choosing from a list of candidates required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred; establishing a deadline for a party executive committee to submit names of qualified persons for vacancies in elected state offices; providing that appointments to elected state offices be made within a time certain; providing that the Governor shall appoint a person, of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in an elected state office when a party

executive committee fails to submit names of qualified persons; providing that the Governor shall appoint a person, from a list of qualified persons required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in the office of United States Senator; establishing a deadline for an executive committee to submit names of qualified persons for vacancies in the office of United States Senator; providing that appointment to fill vacancies in office of United States Senator be made within a time certain; providing for Governor to appoint a person, of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in United States Senate when the party executive committee fails to submit qualified names of qualified persons; providing for the Governor to appoint a person, of the same political party with which the person holding the office immediately preceding the vacancy was affiliated, to fill a vacancy in the state Legislature; providing for a county commission to select a person to fill a vacancy in the office of county commissioner or county clerk, who, for at least sixty days prior to the time a vacancy occurred, was affiliated with the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred; providing a process by which the two most senior county commissioners may select a person, from a list of candidates required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in the county commission when the commission fails to make a selection; providing for the Governor to appoint a person, from a list of candidates required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in office of county commissioner if vacancies in the commission prevent a quorum; establishing a deadline for an executive committee to submit names of qualified persons for vacancies in a county commission; clarifying that appointments to county commissions to fill vacancies are for time periods specified by statute; and making technical corrections.

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 4242, Clarifying the jurisdictional amount for removal of a civil action from magistrate court to circuit court.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4242) passed with its title.

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

The Senate proceeded to the ninth order of business.

Senate Bill 47, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child.

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

The following amendment to the bill, from the Committee on Military, was reported by the Clerk:

On page two, section eight hundred two, line nineteen, by striking out the word "may" and inserting in lieu thereof the word "shall".

Following discussion,

The question being on the adoption of the Military committee amendment to the bill, the same was put and prevailed.

The bill (S. B. 47), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 87, Allowing purchase of Class XS resident senior hunting, fishing and trapping licenses at age 65.

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

Com. Sub. for Senate Bill 415, Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities.

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

Senator Ferns requested unanimous consent that the bill lie over one day, retaining its place on the calendar.

Which consent was not granted, Senator Unger objecting.

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

The question being on the adoption of Senator Ferns' aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Boley and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed.

Thereupon, the bill (Com. Sub. for S. B. 415) was laid over one day, retaining its place on the calendar.

Senate Bill 444, Repealing antiquated code sections regarding safety glass and lighting in motor vehicles.

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

Com. Sub. for Senate Bill 510, Designating hospitals for stroke treatment.

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

At the request of Senator Ferns, unanimous consent being granted, the bill was referred to the Committee on Rules.

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Com. Sub. for Senate Bill 319, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma.

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

Com. Sub. for Senate Bill 450, Collecting and analyzing statistical information pertaining to terminating pregnancies under Medicaid Program.

Com. Sub. for Senate Bill 451, Relating generally to hunting and fishing.

Com. Sub. for Senate Bill 475, Industrial Hemp Development Act.

Senate Bill 479, Establishing local government monitoring by Auditor.

Senate Bill 494, Considering members of State Teachers Retirement System absent while serving as officer with statewide professional association.

Com. Sub. for Senate Bill 512, Authorizing certain WV courthouse security officers carry concealed weapons.

Eng. House Bill 4380, Making a supplementary appropriation to the Department of Agriculture.

Eng. House Bill 4381, Making a supplementary appropriation to the Department of Education.

Eng. House Bill 4384, Making a supplementary appropriation to the Department of Transportation.

And,

Eng. House Bill 4386, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services.

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

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 16th day of February, 2018, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

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

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.

Roger Hanshaw,
Chair, House Committee.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Woelfel, Romano, and Ojeda.

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senators Woelfel, Romano, and Ojeda were ordered printed in the Appendix to the Journal.

(Senator Ferns in the Chair.)

Remarks were made by Senators Carmichael (Mr. President) and Plymale.

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

Remarks were made by Senator Facemire.

Thereafter, at the request of Senator Trump, and by unanimous consent, the remarks by Senators Carmichael (Mr. President), Plymale, and Facemire were ordered printed in the Appendix to the Journal.

Remarks were made and prayer was offered by Senator Baldwin.

Thereafter, at the request of Senator Gaunch, and by unanimous consent, the remarks and prayer by Senator Baldwin were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, unanimous consent being granted, it was ordered that the Journal show had Senator Plymale been present in the chamber on yesterday, Thursday,

February 15, 2018, he would have voted "yea" on the adoption of Engrossed Committee Substitute for Committee Substitute for Senate Joint Resolution 3.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 7:03 p.m., the Senate adjourned until Monday, February 19, 2018, at 11 a.m.

SENATE CALENDAR

Monday, February 19, 2018
11:00 AM

UNFINISHED BUSINESS

- S. C. R. 28 - Requesting study to consider removing solid waste facilities from jurisdiction of PSC
- S. R. 44 - Urging House of Delegates investigate impeachment of Chief Justice Allen Loughry

THIRD READING

- Eng. S. B. 47 - Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child
- Eng. Com. Sub. for S. B. 87 - Allowing purchase of Class XS resident senior hunting, fishing and trapping licenses at age 65
- Eng. S. B. 339 - Relating to WV Retirement Health Benefit Trust Fund within PEIA (original similar to HB4272)
- Eng. S. B. 398 - Relating to requirements for making consumer loans
- Eng. S. B. 444 - Repealing antiquated code sections regarding safety glass and lighting in motor vehicles

SECOND READING

- Com. Sub. for Com. Sub. for S. B. 319 - Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma
- S. B. 406 - Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement
- Com. Sub. for S. B. 415 - Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities (original similar to HB4396)
- Com. Sub. for S. B. 450 - Collecting and analyzing statistical information pertaining to terminating pregnancies under Medicaid Program
- Com. Sub. for S. B. 451 - Relating generally to hunting and fishing

Com. Sub. for S. B. 475 -	Industrial Hemp Development Act (original similar to HB4500)
S. B. 479 -	Establishing local government monitoring by Auditor
S. B. 494 -	Considering members of State Teachers Retirement System absent while serving as officer with statewide professional association
Com. Sub. for S. B. 512 -	Authorizing certain WV courthouse security officers carry concealed weapons
Eng. H. B. 4380 -	Making a supplementary appropriation to the Department of Agriculture
Eng. H. B. 4381 -	Making a supplementary appropriation to the Department of Education
Eng. H. B. 4384 -	Making a supplementary appropriation to the Department of Transportation
Eng. H. B. 4386 -	Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services

FIRST READING

Com. Sub. for S. B. 477 -	Relating to five-year sunset on tax credits and incentives
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ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Monday, February 19, 2018

9 a.m. Government Organization (Room 208W)

1 p.m. Natural Resources (Room 208W)

Tuesday, February 20, 2018

2 p.m. Education (Room 451M)