

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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REGULAR SESSION, 2018
FIFTY-SECOND DAY

Charleston, West Virginia, Friday, March 2, 2018

The Senate met at 11:12 a.m.

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

Prayer was offered by the Reverend Michael Knotts, Saulsville Baptist Church, Saulsville, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Roman W. Prezioso, Jr., a senator from the thirteenth district.

Pending the reading of the Journal of Thursday, March 1, 2018,

At the request of Senator Weld, 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.

At the request of Senator Ferns, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant Kerry and Harrison Baldwin, the family of the Honorable Stephen Baldwin, a senator from the tenth district, and Kamryn Long, the granddaughter of the Honorable Donna J. Boley, a senator from the third district privileges of the floor for the day.

The Senate proceeded to the third order of business.

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 181, Authorizing MAPS 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:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.

§64-6-1. Fire Commission.

The legislative rule filed in the State Register on July 25, 2017, authorized under the authority of §29-3-5a of this code, modified by the State Fire Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2017, relating to the State Fire Commission (hazardous substance emergency response training programs, 87 CSR 3), is authorized.

§64-6-2. State Fire Marshal.

The Legislature directs the State Fire Marshal, pursuant to the authority given to the division in §29-3B-5 of this code, to promulgate the legislative rule filed in the State Register by the State Fire Marshal on January 26, 2018, relating to the State Fire Marshal (electrician licensing rules, 103 CSR 5).

§64-6-3. Governor's Committee on Crime, Delinquency and Correction.

(a) The legislative rule filed in the State Register on October 20, 2017, authorized under the authority of §30-29-3 of this code, modified by the Governor's Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2017, relating to the Governor's Committee on Crime, Delinquency and Correction (law-enforcement training and certification standards, 149 CSR 2), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §48-27-1102 of this code, modified by the Governor's Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 14, 2017, relating to the Governor's Committee on Crime, Delinquency and Correction (protocol for law-enforcement response to domestic violence, 149 CSR 3), is authorized with the following amendment:

On page 13, section 6.4.9(e), by striking through the words "As a general rule, do" and inserting in lieu thereof the words "It is recommended to"

And

On page 13, section 6.4.10, by inserting after the word "children" the words "the following is recommended"

(c) The legislative rule effective on May 10, 2006, authorized under the authority of §17G-2-3 of this code, relating to the Governor's Committee on Crime, Delinquency and Correction (motor vehicle stop data collection standards for the study of racial profiling, 149 CSR 5), is repealed.

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

Engrossed Committee Substitute for Senate Bill 181, 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, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mann, Maroney, and Weld—3.

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. 181) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mann, Maroney, and Weld—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 181) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 348, Allowing for disposal of service weapons of special DNR police officers.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-1d. Awarding service ~~revolver~~ weapon upon retirement; disposal of service weapon when replaced due to routine wear; and furnishing uniform for burial.

(a) Upon the retirement of any full-time salaried natural resources police officer, the chief natural resources police officer shall award to the retiring natural resources police officer his or her service ~~revolver~~ weapon, without charge, upon determining:

(1) That the natural resources police officer is retiring honorably with at least 25 years of recognized law-enforcement service as determined by the chief natural resources police officer; or

(2) That the natural resources police officer is retiring with less than 25 years of service based upon a determination that he or she is totally physically disabled as a result of service with the division.

(b) Notwithstanding the provisions of subsection (a) of this section, the chief natural resources police officer may not award a service ~~revolver~~ weapon to any natural resources police officer who has been declared mentally incompetent by a licensed physician or any court of law, or who, in the opinion of the chief natural resources police officer, constitutes a danger to any person or the community.

(c) The disposal of law-enforcement service weapons, when replaced due to routine wear, does not fall under the jurisdiction of the agency for surplus property, within the Purchasing Division of the Department of Administration. The chief natural resources police officer may offer these surplus weapons for sale to any active or retired Division of Natural Resources law-enforcement officer, at fair market value, with the proceeds from any sales used to offset the cost of the new weapons.

(d) Upon the death of any current or honorable retired natural resources police officer, the chief natural resources police officer shall, upon request of the deceased officer's family, furnish a full uniform for burial of the deceased officer.

(e) Notwithstanding the foregoing, this section does not apply to weapons obtained through the federal donation program operated by the West Virginia State Agency for Surplus Property.

§20-7-1f. Awarding service ~~revolver~~ weapon to special natural resources police officers upon retirement; disposal of service weapon when replaced due to routine wear; furnishing uniform for burial.

(a) Upon the retirement of any special natural resources police officer selected and appointed pursuant to §20-7-1, the chief of the officer's section shall award to the retiring special natural resources police officer his or her service ~~revolver~~ weapon, without charge, upon determining:

(1) That the special natural resources police officer is retiring honorably with at least 25 years of recognized special law enforcement service as determined by the chief natural resources police officer; or

(2) That the special natural resources police officer is retiring with less than 25 years of service based upon a determination that he or she is totally physically disabled as a result of service with the division.

(b) Notwithstanding the provisions of subsection (a) of this section, the section chief may not award a service ~~revolver~~ weapon to any special natural resources police officer who has been declared mentally incompetent by a licensed physician or any court of law, or who, in the opinion of the chief natural resources police officer constitutes a danger to any person or the community.

(c) Upon the death of any current or honorably retired special natural resources police officer, the respective chief shall, upon request of the deceased officer's family, furnish a full uniform for burial of the deceased officer.

(d) The disposal of special natural resources police officer service weapons, when replaced due to routine wear, does not fall under the jurisdiction of the agency for surplus property, within the Division of Purchasing of the Department of Administration. The chief of the section of Parks and Recreation and the chief of the Wildlife Resources Section of the Division of Natural Resources may offer these surplus weapons for sale to any active or retired special natural resources police officer, at fair market value, with the proceeds from any sales used to offset the cost of the new weapon.

(e) Notwithstanding the foregoing, this section does not apply to weapons obtained through the federal donation program operated by the West Virginia State Agency for Surplus Property.;

And,

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

Eng. Com. Sub. for Senate Bill 348—A Bill to amend and reenact §20-7-1d and §20-7-1f of the Code of West Virginia, 1931, as amended, all relating to awarding service weapons to natural resources police officers and special natural resources police officers upon retirement; modifying terms to reference weapons rather than revolvers; modifying provisions relating to the disposal of service weapons when they are replaced due to routine wear; exempting weapons replaced due to routine wear from surplus property provisions; authorizing the sale of service weapons that are being replaced due to routine wear to special natural resources police officers at fair market value; and providing that the provisions of these sections do not apply to weapons obtained through the federal donation program operated by the West Virginia State Agency for Surplus Property.

Senator Ferns moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 348, 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, Maroney, Maynard, Ojeda, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Palumbo and Romano—2.

Absent: Mann—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. 348) passed with its House of Delegates amended title.

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 concurrence by that body in the adoption of

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 3004, Relating to filling vacancies in certain offices.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 4013, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Trump, Weld, and Baldwin.

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

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

House Concurrent Resolution 16—Requesting the Division of Highways to name bridge number 14-50/9-0.25 (14A130), locally known as Baptism Bridge, carrying County Route 50/9 over the Little Cacapon River in Hampshire County, located in the now nonexistent community of Frenchburg, the “Frenchburg Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 45—Requesting the Division of Highways to name bridge number 06-64-20.19 (EB-WB) (06A238, 06A237) (38.42087, -82.25220), locally

known as Indian Meadows Bridges EB & WB, carrying Interstate 64 over the Mud River in Cabell County, West Virginia, the “U. S. Air Force 2nd Lt. Richard E. Tyson Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 51—Requesting the Division of Highways to name bridge number 17-50-14.25 (17A195) (39.28950, -80.35136), locally known as the Adamston Bridge, carrying U.S. 50 over the West Fork River in Harrison County, the “Gill Brothers World War II Veterans’ Memorial Bridge.”

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 62—Requesting the Division of Highways to name bridge number 38-39-21.66 (38A053), locally known as Marlinton City Bridge, carrying WV 39 over the Greenbrier River in Pocahontas County, be named the “Pocahontas County Veterans Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 70—Requesting the Division of Highways to name bridge number 17-24-7.22 (17A148), locally known as Meadowbrook Bridge, carrying County Route 24 over West Fork River in Harrison County, the “U. S. Marine Sgt. Stephen E. Drummond Memorial Bridge.”

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 83—Requesting the Division of Highways to name a portion of WV Route 3, starting at the eastern city limits of Union and ending at the intersection with CR 11, Keenan Road, in Monroe County, the “Vietnam Veterans Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 84—Requesting the Department of Health and Human Resources and the Bureau for Medical Services review and update Medicaid reimbursement rates for ground and air ambulance services.

Referred to the Committee on Health and Human Resources.

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

House Concurrent Resolution 86—Requesting the Division of Highways name that portion of U.S. Route 119 in Princeton, beginning at Monroe Street and ending at Clay Street, in Mercer County, the “Bluefield Police Lt. Aaron L. Crook Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 88—Requesting the Division of Highways to name bridge number 35-40-0.04 (35A032), locally known as Elbys Bridge, carrying US 40 Spur over Wheeling Creek in Ohio County, the “U. S. Air Force Capt. Clarence Virgil Slack, Jr. Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 91—Requesting the Division of Highways to name bridge number 48-18-10.11 (48A104), locally known as Centerville Bridge, carrying WV 18 over Middle Island Creek in Tyler County, the “U.S. Navy CAPT Homer Leroy Smith Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 2, 2018, he had approved **Enr. House Bill 4380, Enr. House Bill 4381, Enr. House Bill 4384, and Enr. House Bill 4386.**

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2464, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

And has amended same.

Eng. Com. Sub. for House Bill 4368, Relating to voluntary assignments of wages by state employees who have been overpaid.

And has amended same.

Eng. House Bill 4434, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

And has amended same.

Eng. House Bill 4462, Allowing off duty members and officers of the department of public safety to guard private property.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4502, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4015, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4023, Relating to the regulation of dialysis technicians.

Eng. House Bill 4025, Permitting reciprocity for licensure as a pharmacy technician.

Eng. Com. Sub. for House Bill 4027, Creating an education permit for allopathic physician resident.

Eng. House Bill 4178, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

And,

Eng. Com. Sub. for House Bill 4279, Relating to adult protective services system.

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

Respectfully submitted,

Tom Takubo,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4197, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4509, Relating to the establishment of substance abuse treatment facilities.

And has amended same.

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

Respectfully submitted,

Tom Takubo,
Chair.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4478, Authorizing public schools to distribute excess food to students.

And has amended same.

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

Respectfully submitted,

Kenny Mann,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4522, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Education has had under consideration

Eng. House Bill 4622, Relating to authorizing legislative rules regarding higher education.

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

Respectfully submitted,

Kenny Mann,
Chair.

The Senate proceeded to the sixth order of business.

Senators Palumbo, Stollings, Prezioso, Plymale, and Boso offered the following resolution:

Senate Resolution 59—Recognizing the dedicated and honorable public service of Linda Gibson.

Whereas, Linda Gibson was born in Charleston, West Virginia, the daughter of Lee George and Goldie Warner Thornton; and

Whereas, Linda Gibson attended Nitro High School and then the Charleston School of Commerce; and

Whereas, Linda Gibson began working for the West Virginia Legislature in 1966, and served the West Virginia Senate for a total of 49 years. She has served under 9 Senate Presidents and 7 Senate Clerks; and

Whereas, During her storied tenure, Linda Gibson demonstrated the highest degree of professionalism while serving as the Bill Status and History Clerk in the Senate Clerk's office for more than three decades; and

Whereas, After her retirement from the Senate, Linda Gibson continued her public service as a per diem secretary for the Honorable Earl Ray Tomblin, 49th President of the West Virginia Senate and Lieutenant Governor of the State of West Virginia, and for the Honorable Corey Palumbo, Chair of the West Virginia Senate Judiciary Committee; and

Whereas, In addition to her legislative service, Linda Gibson has served the City of Hurricane for 35 years as City Recorder, and the past 25 years as Treasurer of the Hurricane Development Authority; and

Whereas, Linda Gibson's reputation as a dedicated and honorable public servant has led to her holding many positions of trust and responsibility outside the public sector, including serving as President of the Hurricane Woman's Club, and acting in many capacities with the Forrest Burdette Memorial United Methodist Church; and

Whereas, In her career of public service, Linda Gibson has been a role model and mentor to many, and has led by example in her pursuit of providing first-class public service to the citizens of Hurricane and West Virginia; and

Whereas, Linda Gibson has earned the respect and deep affection of her colleagues and all people who have crossed her path, and her high degree of integrity exemplifies the public's expectations for the conduct of a public servant; and

Whereas, After nearly a half-century of public service, Linda Gibson has decided to join her beloved husband of 58 years, Jack Gibson, in retirement, bringing an end to her distinguished career in the West Virginia Senate; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the dedicated and honorable public service of Linda Gibson; and, be it

Further Resolved, That the Senate expresses its most sincere gratitude and appreciation to Linda Gibson for her service to the Senate, the City of Hurricane, and the citizens of the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Linda Gibson.

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

The question being on the adoption of the resolution (S. R. 59), and on this question, Senator Blair demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, 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: Mann—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 59) adopted.

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Palumbo regarding Senate Resolution 59 were ordered extended in the Journal as follows:

SENATOR PALUMBO: Thank you, Mr. President.

It's my honor today to stand up support in of this resolution. Linda Gibson is someone who's dedicated her life to this state. She served the State of West Virginia for 49 years, working for the state, many of which, or most of which, have been for the State Senate. Served under nine different state Senate Presidents, including yourself, Mr. President, and seven different Senate Clerks, including our current clerk, Lee Cassis.

She was secretary for a long time for Governor Earl Ray Tomblin, when he was Senate President. Also worked in the Judiciary committee for several years and just did a wonderful job. She's just one of the most friendly people that's ever worked in this building. I think she's loved and admired by so many in this capitol. I think she served as a second mother for many people who work here.

She's truly the epitome of a dedicated public servant for the State of West Virginia. She served in the City of Hurricane for many years as the Recorder and the Treasurer. And her husband, Jack, obviously, also worked for the Legislature for many years as well.

We certainly miss seeing you around here, Linda, very much, your smiling face, your warmth that you display to everyone. But, truly appreciate your tremendous service for this state and, particularly, the State Senate—dedicating 49 years, which, you know, I'm sure other employees have done that, but, certainly, not very many.

So, thank you for all you've done for the State Senate and thank you for being here and I urge adoption of the resolution.

On motion of Senator Ferns, at 11:49 a.m., the Senate recessed to present Senate Resolution 59.

The Senate reconvened at 11:55 a.m. today and resumed business under the sixth order.

Senators Clements, Stollings, Cline, Prezioso, Plymale, and Boso offered the following resolution:

Senate Resolution 60—Designating March 2, 2018, as Suicide Prevention and Awareness Day at the Legislature.

Whereas, West Virginia ranks eleventh in the nation for deaths by suicide; and

Whereas, In West Virginia, suicide is the second leading cause of death for youth and young adults ages 10-34; the third leading cause of death for adults ages 35-44; the sixth leading cause for adults ages 45-54; the eighth leading cause for adults ages 55-64; and tenth leading cause of death overall; and

Whereas, Upwards of 90 percent of individuals who ultimately die by suicide were living with a diagnosable mental health condition at the time of their death; and

Whereas, The American Foundation for Suicide Prevention is a voluntary health organization that gives those affected by suicide a nationwide community empowered by research, education, and advocacy to take action against this leading cause of death; and

Whereas, The West Virginia Chapter of the American Foundation for Suicide Prevention was chartered in 2015, and is now in its third year of existence; and

Whereas, The West Virginia Chapter of the American Foundation for Suicide Prevention has developed many important suicide prevention programs and initiatives and are dedicated to saving lives and bringing hope to those affected by suicide, through research, education, advocacy, and resources for those who have lost or struggle; and

Whereas, Volunteers serve the entire state using their life's experiences as fuel for their fire in an effort to ensure that fewer West Virginia families are impacted by suicide loss; and

Whereas, The vision of the American Foundation for Suicide prevention is a world without suicide and it is their goal to reduce the rate of suicide by 20 percent by the year 2025; and

Whereas, Raising awareness is an integral part of eliminating suicide; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 2, 2018, as Suicide Prevention and Awareness Day at the Legislature; and, be it

Further Resolved, That the Senate acknowledges the important work of raising awareness to prevent suicide by the volunteers of the American Foundation for Suicide Prevention West Virginia Chapter; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Chapter of the American Foundation for Suicide Prevention.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Clements, Boso, and Stollings regarding the adoption of Senate Resolution 60 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 12:03 p.m., the Senate recessed to present Senate Resolution 60.

The Senate reconvened at 12:07 p.m. today and resumed business under the sixth order, which agenda includes the making of main motions.

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

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Following discussion,

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

Senator Ferns moved that Senator Prezioso's aforestated motion be tabled.

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

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

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

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

Absent: Mann—1.

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

At the request of Senator Plymale, and by unanimous consent, Senator Plymale addressed the Senate regarding Engrossed Committee Substitute for House Bill 4145 and the agenda for the next meeting of the Committee on Finance.

Following a point of inquiry to the President,

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 42, US Navy Veteran Samuel H. Slack, Jr., 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 43, US Army T-4 CE Caesar Bango 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 44, Bluefield Police LT Aaron L. Crook Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2483, 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.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, 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: Beach and Mann—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. 2483) 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 2483—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 person in its custody that has been transferred to adult jurisdiction of the circuit court and who turns 18 years of age; requiring transfer of juvenile under adult jurisdiction from a juvenile facility upon reaching 18 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 180 days or as soon as practicable prior to a juvenile reaching 18 years of age; requiring the circuit court to set and conduct a hearing prior to the transfer to an adult correctional facility; making provisions of law related to victims applicable to proceedings held pursuant to the section; prohibiting persons 18 or older that commit an adult offense while under the custody of the Division of Juvenile Services from being returned to the placement in a juvenile facility; requiring the court to conduct a hearing prior to the completion of the adult sentence; and prohibiting a court from remanding a person who has reached 18 years of age and completed serving an adult sentence to a juvenile facility.

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 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2694) passed with its title.

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

Eng. Com. Sub. for House Bill 2696, Relating to crossbow hunting.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2696) 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 2843, Permitting Class III municipalities to be included in the West Virginia Tax Increment Act.

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 2843 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—23.

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

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2843) passed with its title.

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

Eng. Com. Sub. for House Bill 2890, Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2890) passed with its title.

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

Eng. Com. Sub. for House Bill 2916, Authorizing certain first responders to carry firearms.

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 2916 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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2916) 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 2916—A Bill to amend of the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6 and to amend and reenact §61-3a of said code all relating to authorizing investigators employed by the Attorney General to carry a concealed handgun while engaged in official duties; requiring such investigators to obtain and maintain a concealed handgun license; establishing training and recertification requirements;

authorizing certain reserve deputy sheriffs to carry firearms; requiring written permission of the sheriff to carry a firearm while acting as a reserve deputy sheriff; authorizing the carrying of a firearm by on-duty reserve deputies only for purposes of defense of self or others, establishing qualifications to carry; specifying the training required for such persons to be eligible to carry a firearm; and allowing for reimbursement for the cost of the training.

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 3104, Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation 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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3104) passed with its title.

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

Eng. Com. Sub. for House Bill 4022, Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft.

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 4022 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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4022) passed with its title.

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

Eng. Com. Sub. for House Bill 4024, Relating generally to direct cremation or direct burial expenses for indigent persons.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4024) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, 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: Mann—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 H. B. 4024) takes effect July 1, 2018.

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 4079, Promulgating administrative rules by various executive or administrative agencies of the state.

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

Pending discussion,

(Senator Blair in the Chair.)

(Senator Weld in the Chair.)

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

The question being “Shall Engrossed Committee Substitute for House Bill 4079 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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4079) 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 4079—A Bill to amend and reenact §64-9-1, §64-9-2, §64-9-3, §64-9-4, §64-9-5, §64-9-6, §64-9-7, §64-9-8, §64-9-9, §64-9-10, §64-9-11, §64-9-12, §64-9-13, §64-9-14, §64-9-15, and §64-9-16 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by various executive or administrative agencies of the state; authorizing certain agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; repealing certain legislative rules; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to noxious weeds; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to inspection of meat and poultry; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia apiary law; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to inspection of nontraditional, domesticated animals; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to schedule of charges for inspection services; fruit; authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules of the West Virginia State Athletic Commission; authorizing the Athletic Commission to promulgate a legislative rule relating to regulation of mixed martial arts; authorizing the Board of Licensed Dieticians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to rules governing the West Virginia Board of Hearing Aid Dealers; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education and physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatric physicians; directing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures: physicians; podiatrists; authorizing the Board of Optometry to promulgate a legislative rule relating to rules of the West Virginia Board of Optometry; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to pharmacist recovery networks; authorizing the Board of Pharmacy to promulgate a legislative rule relating to immunizations administered by pharmacists

and pharmacy interns; authorizing the Board of Pharmacy to promulgate a legislative rule relating to centralized prescription processing; authorizing the Board of Pharmacy to promulgate a legislative rule relating to uniform controlled substances act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the controlled substances monitoring program; authorizing the Board of Psychologists to promulgate a legislative rule relating to fees; authorizing the Board of Psychologists to promulgate a legislative rule relating to requirements for licensure as a psychologist and/or a school psychologist; authorizing the Board of Psychologists to promulgate a legislative rule relating to code of conduct; authorizing the Board of Real Estate Appraiser Licensing and Certification to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Real Estate Commission to promulgate a legislative rule relating to licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business; authorizing the Real Estate Commission to promulgate a legislative rule relating to schedule of fees; authorizing the Real Estate Commission to promulgate a legislative rule relating to requirements for real estate courses, course providers and instructors; directing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to policies, standards and criteria for the evaluation and accreditation of colleges, departments or schools of nursing; repealing a Division of Rehabilitation Services rule relating to case services; repealing a Division of Rehabilitation Services rule relating to a resources manual; authorizing the Secretary of State to promulgate a legislative rule relating to procedures for canvassing elections; authorizing the Secretary of State to promulgate a legislative rule relating to procedures for handling ballots and counting write-in votes in counties using optical scan ballots; authorizing the Secretary of State to promulgate a legislative rule relating to vote by mail pilot project phase 2: Voting by Mail; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to organization and operation and licensing of veterinarians; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to certified animal euthanasia technicians; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to schedule of fees.

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, Maroney, 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: Mann—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 H. B. 4079) 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 House Bill 4138, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4138) 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 4142, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4142) 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 4169, Requiring certain establishments and facilities to post human trafficking assistance notices.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4169) 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 4169—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9A-4, relating to requiring certain businesses and establishments to post human trafficking assistance notices; establishing where notices must be posted and contents of notice; requiring the Director of the Division of Justice and Community Services to provide certain resources for giving notice on the Division's website; authorizing certain state and local agents to give notice of violations; providing for criminal penalties for failure to comply with posting of notices once given notice of lawful duty to post; and defining terms.

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 4175, Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4175) passed with its title.

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

Eng. Com. Sub. for House Bill 4199, Permitting a nursing home to use trained individuals to administer medication.

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 4199 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Beach, Boso, Facemire, Jeffries, Ojeda, Romano, and Unger—8.

Absent: Mann and Woelfel—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. 4199) passed.

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

Eng. Com. Sub. for House Bill 4199—A Bill to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12, and §30-7D-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-5AA-1, §16-5AA-2, §16-5AA-3, §16-5AA-4, §16-5AA-5, §16-5AA-6, §16-5AA-7, §16-5AA-8, §16-5AA-9, and §16-5AA-10, all relating to permitting a nursing home to use trained individuals to administer medication under the direction of a registered professional nurse; defining terms; authorizing an AMAP to administer medication in nursing home; providing certain exemptions from chapter thirty licensing requirements; establishing requirements for training curricula and competency evaluation procedures; establishing eligibility criteria; establishing procedures by which an AMAP must administer medication; requiring nursing homes using an AMAP to establish an administrative monitoring system; permitting a registered professional nurse to withdraw authorization for an AMAP to administer medications in certain circumstances; allowing certain fees to be collected; providing limits on administration of medication by an AMAP; providing that use of an AMAP in nursing homes is permissive; and repealing a pilot program designed to monitor the practice of unlicensed personnel administering medication in a nursing home setting.

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 4207, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4207) passed with its title.

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

Eng. House Bill 4285, Relating to the West Virginia Safe Mortgage Licensing Act.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4285) passed with its title.

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

Eng. House Bill 4332, Relating to home peritoneal renal dialysis.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4332) passed.

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

Eng. House Bill 4332—A Bill to amend and reenact §30-5-22 and §30-5-29 of the Code of West Virginia, 1931, as amended, all relating to the pharmacy practice act; allowing home peritoneal renal dialysis equipment and drugs to be distributed to patients with end state renal disease; providing for payment by Medicaid under the current benefit structure; and exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act.

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

Eng. House Bill 4385, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

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, Maroney, 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: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4385) 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, Maroney, 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: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4385) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4619, Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

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, Maroney, 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: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4619) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, 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: Mann—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 H. B. 4619) takes effect July 1, 2018.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

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

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

Eng. Com. Sub. for House Bill 2607, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 12. PROBATION AND PAROLE.

§62-12-10. Violation of probation.

(a) If at any time during the period of probation there shall be reasonable cause to believe that the probationer has violated any of the conditions of his or her probation, the probation officer may arrest him or her with or without an order or warrant, or the court which placed him or her on probation, or the judge thereof in vacation, may issue an order for his or her arrest, whereupon he or she shall be brought before the court, or the judge thereof in vacation, for a prompt and summary hearing.

(1) If the court or judge finds reasonable cause exists to believe that the probationer:

(A) Absconded supervision;

(B) Engaged in new criminal conduct other than a minor traffic violation or simple possession of a controlled substance; or

(C) Violated a special condition of probation designed either to protect the public or a victim;

~~the~~ The court or judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed, and order that sentence be executed.

(2) If the judge finds that reasonable cause exists to believe that the probationer violated any condition of supervision other than the conditions of probation set forth in §62-12-10(a)(1) of this code then, for the first violation, the judge ~~shall~~ may impose a period of confinement up to ~~sixty days or, for the second violation six months. For subsequent violations, a period of confinement up to one hundred twenty days. For the third violation,~~ the judge may revoke the suspension of

imposition or execution of sentence, impose sentence if none has been imposed, and order that sentence be executed, with credit for time spent in confinement under this section.

(3) In computing the period for which the offender is to be confined, the time between his or her release on probation and his or her arrest may not be taken to be any part of the term of his or her sentence.

(b) A probationer confined for a first or second violation pursuant to §66-12-10(a)(2) of this code may be confined in jail, and the costs of confining felony probationers shall be paid out of funds appropriated for the Division of Corrections. Whenever the court orders the incarceration of a probationer pursuant to the provisions of §66-12-10(a)(2) of this section, a circuit clerk shall provide a copy of the order of confinement within five days to the Commissioner of Corrections.

(c) If, despite a violation of the conditions of probation, the court or judge is of the opinion that the interests of justice do not require that the probationer serve his or her sentence or a period of confinement, the judge may, except when the violation was the commission of a felony, again release him or her on probation: *Provided*, That a judge may otherwise depart from the sentence limitations set forth in §66-12-10(a)(2) of this code upon making specific written findings of fact supporting the basis for the departure.

The bill (Eng. Com. Sub. for H. B. 2607), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2654, Expanding county commissions' ability to dispose of county or district property.

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

Eng. Com. Sub. for House Bill 2693, Relating to state ownership of wildlife.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-3. State ownership of wildlife.

The ownership of and title to all ~~wild animals, wild birds, both migratory and resident, and all fish, amphibians, and all forms of aquatic life~~ wildlife in the State of West Virginia is hereby declared to be in the state, as trustee for the people. ~~No such~~ A person shall not take or hunt wildlife ~~shall be taken or hunted~~ in any manner, or at any time, unless the person ~~so taking or hunting the same shall consent~~ wildlife consents that the title ~~thereto shall be and remain to the wildlife is and remains~~ in the State of West Virginia for the purpose of regulating the taking, hunting, using, and disposing of the ~~same~~ wildlife. The taking or hunting of wildlife at any time or in any manner by any person ~~shall be deemed such~~ is considered consent: *Provided*, That, all fish, frogs, and other aquatic life in privately-owned ponds are, and ~~shall remain~~, the private property of the owner or owners of ~~such~~ the privately-owned ponds, and that ~~such~~ the fish, frogs,

and other aquatic life in ~~such~~ the privately-owned ponds may be caught, taken or killed by ~~such~~ the owner or owners at any time.

The bill (Eng. Com. Sub. for H. B. 2693), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2983, Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress.

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

Eng. Com. Sub. for House Bill 3005, Relating to regulation of unmanned aircraft systems.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 14. USE OF UNMANNED AIRCRAFT SYSTEMS.

§61-14-1. Definitions.

As used in this article:

(1) "Aircraft" means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned aircraft vehicles or systems;

(2) "Unmanned aircraft system" or "system" means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;

(3) "Unmanned aircraft system operator" or "operator" means a person exercising control over an unmanned aircraft system during flight.

§ 61-14-2. Prohibited use of an unmanned aircraft system; criminal penalties.

(a) Except as authorized by the provisions of this article, a person may not operate an unmanned aircraft system:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person's permission, in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person's permission in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned aircraft system in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) Any person violating the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(c) Any person who equips an unmanned aircraft system with any deadly weapon or operates any unmanned aircraft system equipped with any deadly weapon, other than for military or law enforcement purposes in their official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(d) Any person who operates an unmanned aircraft system with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(e) A person that is authorized by the Federal Aviation Administration to operate unmanned aircraft systems for commercial purposes may operate an unmanned aircraft system in this state for such purposes if the unmanned aircraft system is operated in a manner consistent with federal law.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 3005) was reported by the Clerk:

On page two, section two, subsection (c), by striking out the words "or law enforcement purposes in their" and inserting in lieu thereof the words "in an".

Following discussion,

The question being on the adoption of Senator Trump's amendment to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 3005), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4180, Relating to wildlife resources.

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

Eng. Com. Sub. for House Bill 4186, Relating generally to guaranteed asset protection waivers.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 4. GENERAL PROVISIONS.

§33-4-22. Guaranteed Asset Protection Waivers.

(a) Short title. – This section may be cited as the “Guaranteed Asset Protection Waiver Act.”

(b) Purpose. – The purpose of this section is to provide a framework within which guaranteed asset protection waivers are defined and may be offered within this state.

(c) Legislative intent. – The Legislature finds that guaranteed asset protection waivers are not insurance and are not subject to the provisions of this chapter, except as provided in this section. It is further the intent of the Legislature that all guaranteed asset protection waivers issued prior to and after the effective date of this section may not be construed as insurance and that persons marketing, administering, selling or offering to sell guaranteed asset protection waivers not be required to comply with insurance licensing requirements.

(d) Applicability. – This section does not apply to:

(1) An insurance policy offered by an insurer under the insurance laws of this state; or

(2) A debt cancellation or debt suspension contract being offered in compliance with 12 C.F.R. §37.1, et seq., 12 C.F.R. §721.1, et seq., or other federal law.

(e) Waivers not insurance; exemption from licensing requirement. – Guaranteed asset protection waivers governed by this section are not insurance and are exempt from the insurance laws of this state. Persons marketing, administering, selling or offering to sell guaranteed asset protection waivers to borrowers that comply with this section are exempt from this state’s insurance licensing requirement with regard to the marketing, selling or offering to sell guaranteed asset protection waivers.

(f) Definitions. – The following terms are defined for purposes of this section. These terms are not intended to be used or required in guaranteed asset protection waivers.

(1) “Administrator” means a person, other than an insurer or creditor, who performs administrative or operational functions pursuant to guaranteed asset protection waiver programs. Administrative or operational functions may include, but are not limited to:

(A) Document development, processing, and support;

(B) Compliance Services;

(C) Waiver fee processing;

(D) Benefit determination and processing;

(E) Procurement and administration of the contractual liability or other insurance policy;

(F) Technology support; or

(G) Personnel support.

(2) "Borrower" means a debtor, retail buyer, or lessee under a finance agreement.

(3) "Contractual liability" means a contract or other agreement that obligates a third party to indemnify a creditor under (g)(4) of this section and is insurance under the insurance laws of this state.

(4) "Creditor" means:

(A) The lender in a loan or credit transaction;

(B) The lessor in a lease transaction;

(C) A retail dealer of motor vehicles licensed under §17A-6-1 *et seq.* of this code, that provides credit to buyers as part of a retail sale, provided the dealer complies with the requirements of this section;

(D) The seller in a commercial retail installment transaction; or

(E) The assignees of any of the foregoing persons to whom the credit obligation is payable.

(5) "Finance agreement" means a loan, lease or retail installment sales contract for the purchase or lease of a motor vehicle.

(6) "Free look period" means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the contract without penalty, fees or costs to the borrower. This period of time may not be less than thirty days.

(7) "Guaranteed asset protection waiver" means a contractual agreement that is part of or a separate addendum to the finance agreement in which a creditor agrees, upon payment of a separate charge, to cancel or waive all or part of amounts due to it on a borrower's finance agreement if there is a total physical damage loss or unrecovered theft of a motor vehicle. A guaranteed asset protection waiver is not insurance due to the purchase, administration or operation of the contractual liability or other insurance policy authorized under subdivision (g)(4) of this section.

(8) "Insurer" means an insurance company required to be licensed, registered, or otherwise authorized to do business under the insurance laws of this state.

(9) "Motor vehicle" means a self-propelled or towed vehicle designed for personal or commercial use, including, but not limited to, an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat or personal watercraft, and the trailer used to transport a motorcycle, boat, camper or personal watercraft.

(10) "Person" includes an individual, company, association, organization, partnership, limited liability company, business trust, corporation and every form of legal entity.

(g) Requirements for offering guaranteed asset protection waivers. –

(1) Guaranteed asset protection waivers may be offered, sold or provided to borrowers in this state in compliance with this section.

(2) Guaranteed asset protection waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

(3) Notwithstanding any other provision of law, any cost to the borrower for a guaranteed asset protection waiver entered into in compliance with the Truth in Lending Act, 15 U.S.C. §1601, et. seq., must be separately stated and may not be considered a finance charge or interest.

(4) A retail dealer of motor vehicles shall insure its guaranteed asset protection waiver obligations under a contractual liability or other insurance policy issued by an insurer. A creditor, other than a retail dealer of motor vehicles, may insure its guaranteed asset protection waiver obligations under a contractual liability policy or similar policy issued by an insurer. The insurance policy may be directly obtained by a creditor, a retail dealer of motor vehicles or may be procured by an administrator to cover a creditor's or retail dealer's obligations: *Provided*, That retail dealers of motor vehicles that are lessors of motor vehicles are not required to insure obligations related to guaranteed asset protection waivers on leased vehicles.

(5) The guaranteed asset protection waiver remains a part of the finance agreement upon the assignment, sale, or transfer of the finance agreement by the creditor.

(6) The extension of credit, the terms of credit or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of a guaranteed asset protection waiver.

(7) A creditor that offers a guaranteed asset protection waiver shall report the sale of and forward funds received on all guaranteed asset protection waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy or other specified program document.

(8) Funds received or held by a creditor or administrator and belonging to an insurer, creditor or administrator, pursuant to the terms of a written agreement must be held by the creditor or administrator in a fiduciary capacity.

(h) Contractual liability or other insurance policies. –

(1) Contractual liability or other insurance policies insuring guaranteed asset protection waivers must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the guaranteed asset protection waivers issued by the creditor and purchased or held by the borrower.

(2) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

(3) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must remain in effect unless canceled or terminated in compliance with applicable insurance laws of this state.

(4) The cancellation or termination of a contractual liability or other insurance policy may not reduce the insurer's responsibility for guaranteed asset protection waivers issued by the creditor prior to the date of cancellation or termination and for which premiums have been received by the insurer.

(i) Disclosures. –

Guaranteed asset protection waivers must disclose, as applicable, in writing and in clear, understandable language, the following:

(A) The name and address of the initial creditor and the borrower at the time of sale and the identity of any administrator if different from the creditor;

(B) The purchase price and the terms of the guaranteed asset protection waiver, including without limitation the requirements for protection, conditions or exclusions associated with the guaranteed asset protection waiver;

(C) That the borrower may cancel the guaranteed asset protection waiver within a free look period as specified in the waiver, and may receive a full refund of the purchase price, so long as no benefits have been provided under the waiver; or if benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the guaranteed asset protection waiver;

(D) That in order to obtain guaranteed asset waiver protection benefits under its terms and conditions, the borrower must provide notice of the total physical loss or unrecovered theft of the motor vehicle to the creditor or its designated administrator and the manner in which such notice must be provided;

(E) Whether the guaranteed asset protection waiver may be canceled after the free look period and the conditions under which it may be canceled or terminated, including the procedures for requesting any refund due;

(F) That in order to receive any refund due if a borrower cancels the guaranteed asset protection waiver agreement or early termination of the finance agreement after the free look period of the guaranteed asset protection waiver, the borrower, in accordance with terms of the waiver, shall provide a written request to cancel to the creditor, administrator or other party as specified in the guaranteed asset protection waiver. If a borrower is canceling the guaranteed asset protection waiver due to early termination of the finance agreement, the borrower shall provide a written request to the creditor, administrator or other party within ninety days of the occurrence of the event terminating the finance agreement;

(G) The methodology for calculating any refund of the unearned purchase price of the guaranteed asset protection waiver due if there is cancellation of the guaranteed asset protection waiver or early termination of the finance agreement; and

(H) That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease, may be conditioned upon the purchase of the guaranteed asset protection waiver.

(i) Cancellation. –

(1) Guaranteed asset protection waiver agreements may be cancellable or non-cancellable after the free look period. Guaranteed asset protection waivers must provide that if a borrower cancels a guaranteed asset protection waiver within the free look period, so long as no benefits have been provided, the borrower is entitled to a full refund of the purchase price. If benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the guaranteed asset protection waiver;

(2) If the borrower cancels the guaranteed asset protection waiver or terminates the finance agreement early but after the agreement has been in effect beyond the free look period, the borrower may receive a refund of any unearned portion of the purchase price of the guaranteed asset protection waiver unless the guaranteed asset protection waiver provides otherwise. In order to receive a refund, the borrower, in accordance with any applicable terms of the waiver, shall provide a written request to the creditor, administrator or other party. If the borrower is canceling the guaranteed asset protection waiver due to the early termination of the finance agreement, the borrower shall provide a written request within ninety days of the event terminating the finance agreement;

(3) If the cancellation of a guaranteed asset protection waiver occurs as a result of a default under the finance agreement, or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in subdivision (4) of this subsection (i), below;

(4) A cancellation or termination refund under subdivision (1), (2) or (3) of this subsection (i) may be applied by the creditor as a reduction of the amount owed under the finance agreement, unless the borrower can show that the finance agreement has been paid in full.

(k) *Commercial transaction exempted.* – Subsections (g), (h) and (i) of this section do not apply to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.

The bill (Eng. Com. Sub. for H. B. 4186), as amended, was then ordered to third reading.

Eng. House Bill 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System.

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

Eng. Com. Sub. for House Bill 4230, Relating to credit for reinsurance.

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

Eng. Com. Sub. for House Bill 4236, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

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

Eng. Com. Sub. for House Bill 4268, Co-tenancy Modernization and Majority Protection Act.

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

On motion of Senator Ojeda, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page six, section two, line one, before the word "If" by inserting "(a)";

And,

On page six, section two, after line four, by inserting a new subsection, designated subsection (b), to read as follows:

(b) In order to promote the highest and best use of real property in this state, there is hereby assessed a "highest and best use fee" on the lawful use or development of oil or natural gas and its constituents in an amount equal to two and one-half percent of the gross value of the natural gas or oil produced, as shown by the gross proceeds derived from the sale thereof by the producer. This highest and best use fee is in addition to all taxes imposed by law and the two and one-half percent of the gross value of the natural gas or oil produced is calculated in the same manner as the privilege tax contained in §11-13A-3a of this code. The highest and best use fee shall be deposited into the Public Employees Insurance Agency Financial Stability Fund to stabilize and preserve the future solvency of PEIA, and such amount may not be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

Following extended discussion,

The question being on the adoption of Senator Ojeda's amendments to the bill, the same was put and did not prevail.

On motion of Senator Romano, the following amendments to the bill (Eng. Com. Sub. for H. B. 4268) were next reported by the Clerk and considered simultaneously:

On page eleven, section four, after line fifty-five, by inserting a new subsection, designated subsection (f), to read as follows:

(f) Where a nonconsenting cotenant elects or is deemed to have elected to receive a production royalty or participate in the production, under subsection (b) of this section, and all portions of the leased premises covered by the oil and gas lease, on a surface acreage basis, included in a producing unit created either voluntarily under the terms of the lease or by government authority, but which are not producing or upon which drilling operations have not commenced, shall be released.;

And,

By relettering the remaining subsections.

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

On motion of Senator Romano, at 2:26 p.m., the Senate recessed for five minutes.

The Senate reconvened at 2:34 p.m. today and resumed consideration of

Eng. Com. Sub. for House Bill 4268, Co-tenancy Modernization and Majority Protection Act.

The question being on the adoption of Senator Romano's amendments to the bill.

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

On motion of Senator Romano, the following amendments to the bill (Eng. Com. Sub. for H. B. 4286) were next reported by the Clerk and considered simultaneously:

On page eleven, section four, after line fifty-five, by inserting a new subsection, designated subsection (f), to read as follows:

(f) Where a nonconsenting cotenant elects or is deemed to have elected to receive a production royalty or participate in the production, under subsection (b) of this section, and all portions of the leased premises covered by the oil and gas lease, on a surface acreage basis, included in a producing unit created either voluntarily under the terms of the lease or by government authority, but which are not producing during the primary term of the lease or upon which drilling operations have not commenced during the primary term of the lease, shall be released.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Romano's amendments to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Gaunch, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—14.

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

Absent: Arvon and Mann—2.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's amendment to the bill rejected.

On motion of Senator Romano, the following amendments to the bill (Eng. Com. Sub. for H. B. 4268) were next reported by the Clerk and considered simultaneously:

On page nine, section four, line nine, after the word "subsection", by striking out "(d)" and inserting in lieu thereof "(e)";

On page nine, section four, line eleven, after the word "subsection", by striking out "(d)" and inserting in lieu thereof "(e)";

On page ten, section four, after line thirty-five, by inserting a new subsection, designated subsection (d), to read as follows:

(d) Any nonconsenting cotenant with five percent of the total gross mineral interest or more may demand that the question of whether the selection pursuant to subsection (b) of this section provides just and reasonable compensation, be ascertained by a jury, in which case a jury of twelve citizens shall be selected and impaneled for the purpose, as juries are selected in civil actions. The matter may be filed within thirty days of the latest day the selection pursuant to subsection (b) of this section is made or is deemed to have been made. The cause shall be tried as other causes in the circuit court, except that any member of the oil and gas conservation commission may not be examined as a witness. In the event a demand is made by a party in interest, and the judge deems it reasonably necessary to fairly resolve the matter, the jury shall be taken to view the property, and in such case, the judge presiding at the trial shall go with the jury and shall control the proceedings. All parties have a right to appeal from the jury's decision to the Supreme Court of Appeals of West Virginia.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Romano=s amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Prezioso, Romano, Stollings, Unger, and Woelfel—10.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—22.

Absent: Arvon, and Mann—2.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano=s amendment to the bill rejected.

The bill (Eng. Com. Sub. for H. B. 4268) was then ordered to third reading.

Eng. Com. Sub. for House Bill 4289, Relating to disability pensions of municipal employees.

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

Eng. Com. Sub. for House Bill 4343, Relating to the delivery of financial statements to bank shareholders.

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

Eng. Com. Sub. for House Bill 4347, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

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

Eng. House Bill 4402, Relating to the prevention of sexual abuse of children.

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

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-41. Education and Prevention of the Sexual Abuse of Children.

(a) Education of children in grades K-12—Beginning July 1, 2019, children in grades K-12 shall receive body age-appropriate safety information at least once per academic school year, with a preference for four times per academic year. To facilitate this process and develop resources, the state board shall propose a legislative rule for promulgation, in accordance with §29A-3b-1 et seq. of this code, by December 31, 2018. The rule shall provide for at least the following:

(1) Developmentally appropriate education and resources;

(2) Social media usage and content;

(3) Implementation of best practices;

(4) Differing county and school sizes, demographics, etc. relating to implementation strategies;

(5) Strategies for dealing with disclosures after student education;

(6) Rules informed by family voice;

(7) Offender dynamics;

(8) Child-on-child scenarios;

(9) Rules on development of supplementary materials, including posting of the child abuse hotline, to embed into the school climate;

(10) Protocols for local crisis response in conjunction with §18-9F-9 of this code.

(b) Training of public school employees. The state board shall propose by December 31, 2018 a legislative rule for promulgation in accordance with §29A-3b-1 et seq. of this code, and if necessary may promulgate an emergency rule in accordance with said article, for the establishment of standards for training requirements of all public school employees focused on

developing skills, knowledge, and capabilities related to preventing child sexual abuse and recognizing and responding to suspected abuse and neglect. The rule shall provide for at least the following:

(1) This required training shall include comprehensive instruction and information to better equip schools and their employees, including how to:

(A) Recognize sexually offending behaviors in adults, questionable behaviors such as boundary violations, and signs in adults that might indicate they pose a sexual risk to children;

(B) Recognize, appropriately respond to, and prevent sexually inappropriate, coercive, or abusive behaviors among children and youth served by schools;

(C) Recognize behaviors and verbal cues that might indicate a child or youth has been a victim of abuse or neglect;

(D) Support the healthy development of children and youth and the building of protective factors to mitigate against their sexual victimization by adults or peers;

(E) Recognize and appropriately respond to student infatuations and flirtations with adults in schools;

(F) Recognize appropriate and inappropriate social media usage by adults and children;

(G) Provide consistent and standard protocols for responding to disclosures of sexual abuse or reports of boundary-violating behaviors by adults or children in a supportive and appropriate manner which meet mandated reporting requirements;

(H) Provide adequate understanding of the age-appropriate, comprehensive, evidence-informed child sexual abuse prevention education which will be offered to their students; and

(I) Reflect the research on Adverse Childhood Experiences (ACEs) and trauma-informed care.

(2) The rule shall contain provisions to ensure public school employees complete the required training every two years.

(A) The required training shall be at least a cumulative four hours (half day) of instruction on the elements identified in this section.

(B) A skills renewal is required every two years thereafter.

(C) The mode of delivery for the trainings may include in-person or e-learning instruction and may include a series of trainings or modules.

(D) The state board shall provide certificates of satisfactory completion for the employee and the employer documenting the employee completed the required training.

The bill (Eng. H. B. 4402), as amended, was then ordered to third reading.

Eng. House Bill 4410, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

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

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

On page two, section one thousand one hundred seven, line thirty-two, after the word "purchasing" by striking out the comma and the words "West Virginia Department of Administration" and inserting in lieu thereof the words "of the Purchasing Division within the Department of Administration".

The bill (Eng. H. B. 4410), as amended, was then ordered to third reading.

Eng. House Bill 4422, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

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

Eng. House Bill 4433, Declaring certain claims against an agency of the state to be moral obligations of the state.

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

Eng. House Bill 4436, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

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

The following amendments to the bill, from the Committee on the Judiciary, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section two, line one, by striking out the word "No" and inserting in lieu thereof the word "A";

On page one, section two, line one, after the word "may" by inserting the word "not";

On page two, section two, line twenty-four, by striking out the word "No" and inserting in lieu thereof the word "A";

On page two, section two, line twenty-four, after the word "may" by inserting the word "not";

On page two, section two, line twenty-seven, by striking out the word "No" and inserting in lieu thereof the word "A";

On page two, section two, line twenty-seven, after the word "may" by inserting the word "not";

And,

On page two, section two, line thirty, after the word "requirements" by inserting the word "of".

The bill (Eng. H. B. 4436), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4444, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

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

Eng. Com. Sub. for House Bill 4473, Relating to use of state funds for advertising to promote a public official or government office.

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

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

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

By striking out everything after the enacting clause and inserting in lieu the following:

ARTICLE 2B. LIMITATIONS ON A PUBLIC OFFICIAL FROM USING HIS OR HER NAME OR LIKENESS.

§6B-2B-1. Definitions.

As used in this article:

(a) "Advertising" means publishing, distributing, disseminating, communicating, or displaying information to the ~~general~~ public through audio, visual, or other media tools with the purpose of promoting the public official or a political party. ~~It includes~~ "Advertising" may include, but is not limited to, billboard, radio, television, mail, electronic mail, publications, banners, table skirts, magazines, social media, websites, and other forms of publication, dissemination, display, or communication.

(b) "Agent" means any volunteer or employee, contractual or permanent, serving at the discretion of a public official or public employee.

(c) "Educational materials" means publications, guides, calendars, handouts, pamphlets, reports, or booklets intended to provide information about the public official or governmental office. It includes information or details about the office, services the office provides to the public, updates on laws and services, and other informational items that are intended to educate the public.

(d) "Instructional material" means written instructions explaining or detailing steps for completion of a governmental agency document or form.

(e) "Likeness" means a photograph, drawing, or other depiction of an individual.

(f) "Mass media communication" means communication through audio, visual, or other media tools, including U.S. mail, electronic mail, and social media, intended for general dissemination to the public. Examples include mass mailing by U.S. mail, list-serve emails and streaming clips on websites. It does not include: (i) Regular responses to constituent requests or questions during

the normal course of business; or (ii) communications that are authorized or required by law to be publicly disseminated, such as legal notices.

(g) "Press release" means a written, audio, or video communication issued by an official or agency to the public or to members and organizations of the news media to report specific but brief information about an event, circumstance, or other happening.

~~(g)~~ (h) "Public employee" means any full-time or part-time employee of any state, or political subdivision of the state, and their respective boards, agencies, departments, and commissions, or in any other regional or local governmental agency.

~~(h)~~ (i) "Public official" means any person who is elected or appointed to any state, county, or municipal office or position, including boards, agencies, departments, and commissions, or in any other regional or local governmental agency.

~~(i)~~ (j) "Public payroll" means payment of public moneys as a wage or salary from the state, or political subdivision of the state, or any other regional or local governmental agency, whether accepted or not.

~~(j)~~ (k) "Social media" means forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content. It includes web and mobile-based technologies which are used to turn communication to interactive dialogue among organizations, communities, and individuals. Examples include, but are not limited to, Facebook, Myspace, Twitter, and YouTube.

~~(k)~~ (l) "Trinkets" means items of tangible personal property that are not vital or necessary to the duties of the public official's or public employee's office, including, but not limited to, the following: magnets, mugs, cups, key chains, pill holders, band-aid dispensers, fans, nail files, matches, and bags.

§6B-2B-2. Limitations on a public official from using his or her name or likeness.

(a) *Trinkets.* – Public officials, their agents, or anyone on public payroll may not place the public official's name or likeness on trinkets paid for with public funds: *Provided*, That when appropriate and reasonable, public officials may expend a minimal amount of public funds for the purchase of pens, pencils, or other markers to be used during ceremonial signings.

(b) *Advertising.* – (1) Public officials, their agents, or anyone on public payroll may not use public funds, including funds of the office held by the public official, public employees, or public resources to distribute, disseminate, publish, or display the public official's name or likeness for the purpose of advertising to the ~~general~~ public.

(2) Notwithstanding the prohibitions in subdivision (1) of this subsection, the following conduct is not prohibited:

(A) A public official's name and likeness may be used in a public announcement or mass media communication when necessary, reasonable, and appropriate to relay specific public safety, health, or emergency information.

(B) A public official's name and likeness may appear on an agency's social media and website ~~provided~~ if it complies with §6B-2B-3 of this code.

~~(C) Dissemination of office press releases or agency information via email, social media or other public media tools for official purposes is not considered advertising or prohibited under this subsection, if it: (i) Is intended for a legitimate news or informational purpose; (ii) is not intended as a means of promotion of the public official; and (iii) is not being used as educational material.~~

(3) Banners and table skirts are considered advertising and may not include the public official's name or likeness.

(4) Nothing in this article shall be interpreted as prohibiting public officials from using public funds to communicate with constituents in the normal course of their duties as public officials if the communications do not include any reference to voting in favor of the public official in an election.

(c) *Vehicles.* – Public officials, their agents, or any person on public payroll may not use or place the public official's name or likeness on any publicly owned vehicles.

(d) *Educational Materials.* –

A public official's name or likeness may not be placed on any educational material, that is paid for with public funds, so long as the primary purpose of the material is to provide information about the processes, operations, structure, functions, or history of an agency, agencies, or branch of government, or to provide lists of contact information or other identifying information about a public official. Provided, That this prohibition does not apply to the submission of a report required to be issued by law. Educational materials in which the name and likeness of an official may appear include, but are not limited to: directories; reports; reference books; and legislative publications, such as the West Virginia Blue Book and the Legislative Manual.

(e) *Press releases.* – Notwithstanding any other provision of law, the name and likeness of a public official may be included in a press release, produced with public funds and which is disseminated by any means, if that press release is intended for a legitimate news or informational purpose and, considered as a whole, does not feature or present the public official in a form, manner, or context which is intended to promote the official. A press release produced with public funds may not request, solicit, or promote voting for any official or political party.

§6B-2B-3. Limitations on promotion through Use of public official's name or likeness on agency website or social media.

(a) A public official's name and likeness may appear on a public agency's website and on the agency's social media accounts or pages subject to the following restrictions in any of the following circumstances:

~~(1) The public official's name may appear throughout the website if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.~~

~~(2) (1) The public official's name and likeness may only appear~~ appears on the agency's website home page and on any pages or sections devoted to or social media accounts or pages for the purpose of providing biographical information regarding the public official;

(2) The public official's name and likeness appears in educational materials posted or otherwise shared on the agency's website or social media accounts or pages, so long as the educational materials comply with the requirements of §6B-2B-2(d) of this code;

~~(3) The public official's name and likeness may appear on the agency's social media if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.~~

(3) The public official's name and likeness appears in a press release posted or otherwise shared on the agency's website or social media accounts or pages, so long as the press release complies with the requirements of §6B-2B-2(e) of this code; or

(4) The public official's name and likeness appears on the agency's website or social media accounts or pages for any other purpose that is reasonable, incidental, appropriate, and has a primary purpose to promote the agency's mission and services rather than to promote the public official.

~~(b) This section does not apply to~~ The requirements of this section do not apply to a public official's personal or non-public agency social media accounts.

(c) A public agency's website or social media may not provide links or reference to a public official's or public employee's personal or campaign social media or website.

§6B-2B-4. Exceptions to use of name or likeness.

(a) A public official may use his or her name or likeness on any official record or report, letterhead, document, or certificate or instructional material issued in the course of his or her duties as a public official: *Provided*, That other official documents used in the normal course of the agency, including, but not limited to, facsimile cover sheets, press release headers, office signage, and envelopes may include the public official's name: *Provided, however, if the* That when official documents are reproduced for distribution or dissemination to the public as educational material, the items are subject to the prohibitions in §6B-2B-2(d) of this code.

(b) When appropriate and reasonable, the West Virginia Division of Tourism may use a public official's name and likeness on material used for tourism promotion.

(c) The prohibitions contained in this article do not apply to any person who is employed as a member of the faculty, staff, administration, or president of a public institution of higher education and who is engaged in teaching, research, consulting, coaching, recruiting, or publication activities: *Provided*, That the activity is approved as a part of an employment contract with the governing board of the institution of higher education or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(d) The prohibitions contained in §6B-2B-2 of this code do not apply to ~~a public official's campaign-related expenditures or materials~~ items paid for from the public official's campaign funds.

(e) The prohibitions contained in §6B-2B-2 of this code do not apply to items paid for with the public official's personal money.

(f) The prohibitions contained in §6B-2B-2 of this code do not apply to items or materials required by law to contain the public official's name or likeness.

The bill (Eng. Com. Sub. for H. B. 4473), as amended, was then ordered to third reading.

Eng. House Bill 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses.

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

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

Eng. House Bill 4621, Relating to removing reference to certain entities with respect to work.

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

Eng. House Bill 4624, Relating to West Virginia coordinate systems.

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

The following amendments to the bill, from the Committee on Government Organization, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section five, line three, by striking out the word "successor" and inserting in lieu thereof the word "successors";

On page seven, section five, line one hundred sixty-eight, by striking out the word "data" and inserting in lieu thereof the word "datums";

And,

On page seven, section five, line one hundred seventy-six, by striking out the word "data" and inserting in lieu thereof the word "datums".

The bill (Eng. H. B. 4624), as amended, was then ordered to third reading.

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:

Eng. Com. Sub. for House Bill 2889, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

And,

Eng. Com. Sub. for House Bill 4238, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Unger, Blair, and Prezioso.

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

Pending announcement of meetings of standing committees of the Senate,

Senator Ferns then moved that the Senate adjourn until tomorrow, Saturday, March 3, 2018, at 9:30 a.m.

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

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Swope, Sypolt, Takubo, Trump, and Carmichael (Mr. President)—19.

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

Absent: Mann, Ojeda, Smith, and Weld—4.

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

In accordance with the foregoing motion, at 3:25 p.m., the Senate adjourned until tomorrow, Saturday, March 3, 2018, at 9:30 a.m.

SENATE CALENDAR

Saturday, March 03, 2018
9:30 AM

THIRD READING

- Eng. Com. Sub. for H. B. 2607 - Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2654 - Expanding county commissions' ability to dispose of county or district property
- Eng. Com. Sub. for H. B. 2693 - Relating to state ownership of wildlife
- Eng. Com. Sub. for H. B. 2983 - Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress
- Eng. Com. Sub. for H. B. 3005 - Relating to regulation of unmanned aircraft systems - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4180 - Relating to wildlife resources (original similar to SB345)
- Eng. Com. Sub. for H. B. 4186 - Relating generally to guaranteed asset protection waivers - (Com. title amend. pending)
- Eng. H. B. 4219 - Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System
- Eng. Com. Sub. for H. B. 4230 - Relating to credit for reinsurance
- Eng. Com. Sub. for H. B. 4236 - Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division (original similar to SB342)
- Eng. Com. Sub. for H. B. 4268 - Co-tenancy Modernization and Majority Protection Act - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4289 - Relating to disability pensions of municipal employees
- Eng. Com. Sub. for H. B. 4343 - Relating to the delivery of financial statements to bank shareholders
- Eng. Com. Sub. for H. B. 4347 - Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund
- Eng. H. B. 4402 - Relating to the prevention of sexual abuse of children
- Eng. H. B. 4410 - Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids
- Eng. H. B. 4422 - Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds

- Eng. H. B. 4433 - Declaring certain claims against an agency of the state to be moral obligations of the state
- Eng. H. B. 4436 - Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department
- Eng. Com. Sub. for H. B. 4444 - Clarifying the authority of the State Fire Commission in adopting a State Building Code - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4473 - Relating to use of state funds for advertising to promote a public official or government office - (Com. title amend. pending)
- Eng. H. B. 4621 - Relating to removing reference to certain entities with respect to work
- Eng. H. B. 4624 - Relating to West Virginia coordinate systems - (Com. title amend. pending)

SECOND READING

- Com. Sub. for S. J. R. 8 - County Economic Development Amendment
- Eng. Com. Sub. for H. B. 2889 - Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer
- Eng. Com. Sub. for H. B. 2995 - Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4238 - Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan
- Eng. H. B. 4539 - Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses

FIRST READING

- Eng. Com. Sub. for H. B. 2464 - Relating to disclaimers and exclusions of warranties in consumer transactions for goods - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4015 - Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 4023 - Relating to the regulation of dialysis technicians
- Eng. H. B. 4025 - Permitting reciprocity for licensure as a pharmacy technician
- Eng. Com. Sub. for H. B. 4027 - Creating an education permit for allopathic physician resident

- Eng. H. B. 4178 - Permitting certain portions of certified nurse aide training to be provided through distance learning technologies
- Eng. Com. Sub. for H. B. 4197 - Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation - (Com. amend. pending) (original similar to SB409)
- Eng. Com. Sub. for H. B. 4279 - Relating to adult protective services system
- Eng. Com. Sub. for H. B. 4368 - Relating to voluntary assignments of wages by state employees who have been overpaid - (Com. amend. and title amend. pending)
- Eng. H. B. 4434 - Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement - (Com. amend. and title amend. pending)
- Eng. H. B. 4462 - Allowing off duty members and officers of the department of public safety to guard private property - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4478 - Authorizing public schools to distribute excess food to students - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 4502 - Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4509 - Relating to the establishment of substance abuse treatment facilities - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4522 - Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor - (Com. amend. pending)
- Eng. H. B. 4622 - Relating to authorizing legislative rules regarding higher education

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Saturday, March 3, 2018

1 Hour After
Senate Floor Session

Finance

(Room 451M)