

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
THIRTY-EIGHTH DAY

Charleston, West Virginia, Friday, February 15, 2019

The Senate met at 11:08 a.m.

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

Prayer was offered by C. J. Rider, Director of Inmate Services and Activities, West Virginia Division of Corrections and Rehabilitation, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William J. Ihlenfeld II, a senator from the first district.

Pending the reading of the Journal of Thursday, February 14, 2019,

At the request of Senator Cline, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for Senate Bill 61, Adding certain crimes for which prosecutor may apply for wiretap.

On motion of Senator Takubo, 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 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.

§62-1D-6. Admissibility of evidence.

Evidence obtained, directly or indirectly, by the interception of any wire, oral or electronic communication shall be received in evidence only in grand jury proceedings and criminal proceedings in magistrate court, ~~and circuit court~~ and any other court of competent jurisdiction: *Provided*, That evidence obtained in violation of the provisions of this article shall not be admissible in any proceeding.

§62-1D-8. County prosecuting attorney or duly appointed special prosecutor may apply for order authorizing interception.

The prosecuting attorney of any county or duly appointed special prosecutor may apply to one of the designated circuit judges referred to in §62-1D-7 of this code and the judge, in accordance with the provisions of this article, may grant an order authorizing the interception of wire, oral, or electronic communications by an officer of the investigative or law-enforcement agency when the prosecuting attorney or special prosecutor has shown reasonable cause to believe the interception would provide evidence of the commission of: (1) Kidnapping or abduction, as defined and prohibited by the provisions of §61-2-14 and §61-2-14a of this code and including threats to kidnap or demand ransom, as defined and prohibited by the provisions of §61-2-14c of this code; (2) any offense included and prohibited by §25-4-11, §61-5-8, §61-5-9, and §61-5-10 or §62-8-1 of this code to the extent that any of said sections provide for offenses punishable as a felony; (3) felony violations of §60A-1-101 et seq. of this code; (4) violations of §61-14-1 et seq. of this code; (5) violations of §61-2-1 of this code; (6) violations of §61-2-12 of this code; (7) felony violations of §61-8B-1 et seq. of this code; (8) violations of §61-1-1 of this code; (9) violations of §61-13-3 of this code; (10) extortion, as defined in §61-2-13 of this code; or (11) any aider or abettor to any of the offenses referenced in this section or any conspiracy to commit any of the offenses referenced in this section if any aider, abettor, or conspirator is a party to the communication to be intercepted.

§62-1D-9. Lawful disclosure or use of contents of communication.

(a) Any investigative or law-enforcement officer who has obtained knowledge of the contents of any wire, oral or electronic communication or evidence derived therefrom, may disclose the contents to another investigative or law-enforcement officer of any state or any political subdivision thereof, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia, only to the extent that the disclosure is required for the proper performance of the official duties of the officer making or receiving the disclosure, however, a record of such disclosure and the date, time, method of disclosure, and the name of the person or persons to whom disclosure is made shall be forwarded, under seal, to the designated circuit judge who authorized such interception, who shall preserve said record for not less than ten years. In the event the designated judge shall leave office prior to the expiration of this ten-year period, he or she shall transfer possession of said record to another designated judge.

(b) Any investigative or law-enforcement officer who has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom or any investigative or a law-enforcement officer of any state or any political subdivision thereof, the United States or any territory, protectorate or possession of the United States, including the District of Columbia, who obtains such knowledge by lawful disclosure may use the contents to the extent that the use is appropriate to the proper performance of his or her official duties under the provisions of this article.

(c) Any person who has received any information concerning a wire, oral, or electronic communication intercepted in accordance with the provisions of this article or evidence derived

therefrom, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any criminal proceeding held under the authority of this state, ~~or of any political subdivision of this state,~~ or the federal courts of the United States.

(d) An otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, the provisions of this article does not lose its privileged character: *Provided*, That when an investigative or law-enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized by this article, intercepts a wire, oral, or electronic communication and it becomes apparent that the conversation is attorney-client in nature, the investigative or law-enforcement officer shall immediately terminate the monitoring of that conversation: *Provided, however*, That notwithstanding any provision of this article to the contrary, no device designed to intercept wire, oral, or electronic communications shall be placed or installed in such a manner as to intercept wire, oral, or electronic communications emanating from the place of employment of any attorney at law, licensed to practice law in this state.

(e) When an investigative or law-enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in §62-1D-9(a), and §62-1D-9(b) of this code. Such contents and any evidence derived therefrom may be used under §62-1D-9(c) of this code when authorized or approved by the designated circuit judge where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this article. The application shall be made as soon as may be practicable after such contents or the evidence derived therefrom is obtained.

(f) Any law-enforcement officer of the United States, who has lawfully received any information concerning a wire, oral or electronic communication or evidence lawfully derived therefrom, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any criminal proceeding held under the authority of this state or of the United States.

(g) Any information relating to criminal activities other than those activities for which an order to intercept communications may be granted pursuant to §62-1D-8 of this code may be disclosed only if such relates to the commission of a felony under the laws of this state or of the United States, and such information may be offered, if otherwise admissible, as evidence in any such criminal proceeding.

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

Eng. Com. Sub. for Senate Bill 61—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including the crime of extortion to the list of crimes for which a prosecutor may apply for a court order authorizing interception of communications; permitting for the lawful disclosure of intercepted communications in federal court; and permitting the use of derivative crime evidence to obtain an arrest warrant or indictment.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 61, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Lindsay and Romano—2.

Absent: Boso and Maroney—2.

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. 61) passed with its Senate amended title.

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 passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2338—A Bill to amend and reenact §17A-10-3a the Code of West Virginia, 1931, as amended, relating to allowing the owner of an antique military vehicle to display alternate registration insignia that is compatible with the vehicle's original markings in lieu of a registration plate.

Referred to the Committee on Transportation and Infrastructure.

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

Eng. Com. Sub. for House Bill 2359—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-8a relating to providing for a restricted commercial driver's license for motor vehicle operators employed with a farm related service industry.

Referred to the Committee on Transportation and Infrastructure.

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

Eng. Com. Sub. for House Bill 2673—A Bill to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22-6-29a, all relating to creating the Oil and Gas Abandoned Well Plugging Fund for use by the West Virginia Department of Environmental Protection to plug abandoned oil and gas wells without a responsible operator; providing for administration of the fund; requiring fees to be deposited in the fund; providing for civil penalties for late payment of fees; providing specific purposes and limitations for use of the fund; providing fees imposed for the fund may not be collected in certain instances; modifying imposition of the tax on the privilege of severing natural gas or oil by marginal oil and gas wells; providing exemptions from the severance tax; providing exclusions from filing oil and gas severance tax returns; deleting a subsection of the code which expired by its own terms; providing reporting requirements for the Oil and Gas Reclamation Fund and the Oil and Gas Abandoned Well Plugging Fund; and providing a short title.

Referred to the Committee on Energy, Industry, and Mining; and then to the Committee on Finance.

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

Eng. House Bill 2709—A Bill to amend and reenact §20-2-27 of the Code of West Virginia, 1931, as amended, relating to hunting licenses; and exempting the list of names, addresses and contact information for license holders from public disclosure with certain exceptions.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2715—A Bill to amend and reenact §20-2-46e of the Code of West Virginia, 1931, as amended, relating to Class Q special hunting permit for disabled persons; expanding the conditions of permanent disability for which an individual can obtain a Class Q permit; and providing that physician assistants, advanced practice registered nurses, and chiropractic physicians may certify Class Q permit applications

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

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

Eng. House Bill 2739—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10D-13; and to amend and reenact §61-10-20 of said code, all relating to failure of employers to make contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board; authorizing the State Auditor, county commission, or sheriff of the county in which the employer is located to withhold moneys due to an employer that is delinquent in required contributions to a retirement plan after the Consolidated Public Retirement Board has certified the delinquency; authorizing withheld moneys to be applied to the retirement system the delinquent payments would have been made to; providing for interest on delinquencies; requiring the Consolidated Public Retirement Board to provide notice to a participating employer 30 days prior to certifying a delinquency under this section; making it a criminal offense for persons who are responsible for ensuring that an entity complies with the requirements of a retirement plan administered by the Consolidated Public Retirement Board to knowingly and willfully fail to make employee or employer contributions to a retirement plan for a period of 60 days after the payment is due; and providing criminal penalties.

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

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

Eng. House Bill 2743—A Bill to amend and reenact §8-22-11a of the Code of West Virginia, 1931, as amended, relating to eliminating reference to municipal policemen's pension and relief

funds and municipal firemen's pension and relief funds in section restricting investment of municipal pension funds as such investment is restricted elsewhere in the code.

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

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2019, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2761—A Bill to amend and reenact §38-14-2, §38-14-3, §38-14-4, §38-14-5, §38-14-7, §38-14-8, and §38-14-9 of the Code of West Virginia, 1931, as amended, all relating to modernizing the self-service storage lien law; modifying late fees; re-defining certain terms; providing modern methods of satisfying a self-service storage lien; and providing a new effective date.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2793—A Bill to amend and reenact §18-30-2, §18-30-3, §18-30-4, and §18-30-7 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia College Prepaid Tuition and Savings Program; expanding applicability of educational facilities for the West Virginia College Prepaid Tuition and Savings Program; and adding the Superintendent of the Department of Education and a member to represent private institutions of higher education to the Board of the College Prepaid Tuition and Savings Program.

Referred to the Committee on Education.

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

Eng. Com. Sub. for House Bill 2821—A Bill to amend and reenact §15-1B-17 of the Code of West Virginia, 1931, as amended, relating to command and clerical pay for certain national guard members; providing for commander pay clerical work for command, clerical and other pay.

Referred to the Committee on Military.

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

Eng. Com. Sub. for House Bill 2848—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12i; and to amend and reenact §16-48-3 and §16-48-6 of said code, all relating to the West Virginia ABLE Act accounts and the moneys deposited therein; adding and clarifying definitions to conform to federal law; adding an attorney in fact and a parent to the persons authorized to create or manage a West Virginia ABLE accounts as permitted by federal law; amending the age of eligible individuals to conform to federal law; clarifying that a guardian may manage an ABLE account regardless of the amount of a designated beneficiary's assets and that the Department of Health and Human Resources may not manage an ABLE account; adding a federal employer identification number to the items required in an application; authorizing the maximum account value to be the value established by the state of the program manager contracting with the Treasurer; clarifying that moneys in a West

Virginia ABLE account or a qualified withdrawal are to be disregarded when determining eligibility for or the amount of public assistance unless required by federal law, moneys in an account or a qualified withdrawal are not subject to claims by the Department of Health and Human Resources unless required by federal law, and on the death of a designed beneficiary moneys in an account are transferred to the estate of the designated beneficiary unless prohibited by federal law; and authorizes contributions to West Virginia ABLE accounts to be subtracted from federal adjusted gross income for purposes of West Virginia personal income taxes and the recapture of amounts subtracted if account funds are used for purposes other than a qualified disability expense; and making various technical revisions.

Referred to the Committee on Finance.

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

The Senate proceeded to the fourth order of business.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 14th day of February, 2019, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 2462), Issuing a certificate to correctional employees to carry firearms.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 31, Relating generally to Local Powers Act.

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

Respectfully submitted,

Charles H. Clements,
Chair.

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

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

Your Committee on Health and Human Resources has had under consideration

Senate Bill 86, Requiring county boards provide free feminine hygiene products in grades six to 12.

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

Com. Sub. for Senate Bill 86 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to county boards of education; and requiring boards to provide free feminine hygiene products in grades six through 12 to female students not otherwise having access to the products.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill (Com. Sub. for S. B. 86), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 310 (originating in the Committee on Health and Human Resources), Establishing certain requirements for dental insurance.

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

Com. Sub. for Com. Sub. for Senate Bill 310 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to defining certain key terms; prohibiting insurers from requiring dentists to provide a discount on noncovered services; prohibiting dentists from charging covered persons more for noncovered services than his or her customary or usual rate for the services; providing that insurers may not provide for a nominal reimbursement for a service in order to claim that the service or material is covered, and providing for an effective date.

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

Respectfully submitted,

Dave Sypolt,
Member.

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

Your Committee on Government Organization has had under consideration

Senate Bill 326, Reorganizing state agencies involved in emergency and disaster planning.

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

Com. Sub. for Senate Bill 326 (originating in the Committee on Government Organization)—
A Bill to repeal §15-5-4, §15-5-15a, and §15-5-25 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend and reenact §15-1J-2 and §15-1J-4 of said code; to amend and reenact §15-5-1, §15-5-2, §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-24, and §15-5-26 of said code; and to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code, all relating to the reorganization of state agencies involved in emergency and disaster planning, response, recovery, and resiliency; providing legislative findings; modifying the powers and duties of the West Virginia Military Authority; designating a special revenue account to receive funding; modifying definitions; reorganizing the Division of Homeland Security and Emergency Management (DHSEM) within the Adjutant General's Department; modifying membership of the West Virginia Disaster Recovery Board; reorganizing the State Resiliency Office within the Adjutant General's Department; creating the position of Director of the State Resiliency Office; eliminating paid leave for disaster service volunteers; eliminating the State Resiliency Office Board; and modifying the authority and duties of the State Resiliency Office.

And,

Senate Bill 580, Relating generally to Local Control and Accountability Act.

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

Com. Sub. for Senate Bill 580 (originating in the Committee on Government Organization)—
A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-28-1, relating generally to the Local Control and Accountability Act; providing counties with authority to impose a county sales tax of up to one percent under certain circumstances; clarifying that a county sales tax does not apply in municipalities already imposing a municipal sales tax; clarifying applicability of county sales tax when a portion of the county is annexed by a municipality with an existing municipal sales tax; and requiring counties imposing a county sales tax to use the services of the Tax Commissioner to administer the tax.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of Committee Substitute for Senate Bill 326 contained in the foregoing report from the Committee on Government Organization.

Committee Substitute for Senate Bill 580, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 344, Relating to operation of state-owned farms.

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

Com. Sub. for Senate Bill 344 (originating in the Committee on Agriculture and Rural Development)—A Bill to repeal §19-12A-3, §19-12A-7, and §19-12A-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §19-12A-1, §19-12A-2, §19-12A-5, and §19-12A-6 of the code, all relating to the operation of state-owned farms; clarifying that state-owned farms are managed by the commissioner of the Department of Agriculture; removing reference to farm management commission; defining terms; removing language regarding organization and duties of farm management commission; expanding permissive uses and purposes of institutional farms; replacing outdated language referencing to the Department of Health and Human Resources and Division of Corrections and Rehabilitation; authorizing commissioner of agriculture to request inmate labor on institutional farms; providing that state institutions may purchase items from vendors that state owned farms cannot provide; removing references to farm management director and replacing with commissioner; and removing outdated language.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Dave Sypolt,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 360, Relating to third-party litigation financing.

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

Com. Sub. for Senate Bill 360 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3, §46A-6N-4, §46A-6N-5, §46A-6N-6, §46A-6N-7, §46A-6N-8, and §46A-6N-9, all relating to third-party litigation financing; providing that a litigation financier shall register as a litigation financier in this state; providing registration requirements for business entities, partnerships, and individuals; providing that litigation financiers shall secure a bond or an irrevocable letter of credit; providing to whom the bond is payable; requiring that the litigation financiers amend their registration if their information changes or becomes inaccurate; providing that the Secretary of State may promulgate rules; providing that the terms of the litigation financing transaction shall be set forth in a completed, written contract; providing that the litigation financing contract shall contain a right of rescission; providing that a litigation financing contract shall contain certain written acknowledgements and disclosures; providing that a litigation financier

shall not pay, or offer to pay, commissions, referral fees, or other consideration to any attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees for referring a consumer to the litigation financier; providing that a litigation financier shall not accept commissions, referral fees, or other consideration; providing that a litigation financier shall not advertise false or misleading information; providing that a litigation financier shall not refer a consumer to a specific attorney, law firm, medical provider, chiropractor, or physical therapist; providing an exception; providing that a litigation financier shall supply copies of the contract to the consumer or consumer's attorney; providing that a litigation financier shall not attempt to waive any of a consumer's remedies; providing that a litigation financier shall not attempt to effect arbitration or otherwise effect waiver of a consumer's right to a jury trial; providing that a litigation financier shall not offer legal advice; providing that a litigation financier shall not assign the litigation financing contract; providing that a litigation financing contract shall contain certain disclosures and terms; providing form disclosures; providing that a violation shall render the contract unenforceable; providing that a court may award costs and attorneys' fees against defendant; clarifying authority of the Attorney General; providing that a contingent right to receive an amount under a legal claim may be assigned by a consumer; providing a priority of liens; providing exceptions for certain liens and claims; providing a maximum annual fee; providing maximum frequency annual fee charges; providing that fees may compound semiannually but not based on any lesser time period; providing means for calculating annual percentage fee or rate of return; providing maximum terms for fees; and restricting incorporation of prior obligations.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

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

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 383, Creating WV Healthy Food Crop Block Grant Program.

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

Com. Sub. for Senate Bill 383 (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, §19-37-3, §19-37-4, §19-37-5, §19-37-6, and §19-37-7, all relating to creating West Virginia Healthy Food Crop Block Grant Program; stating findings; defining terms; creating fund; providing general revenue to fund grants for five years; partnering with nonprofit food and farm organizations; establishing grant selection committee and membership; providing method for allocating grants; limiting grants; providing for rulemaking; and establishing program review reports.

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

Respectfully submitted,

Dave Sypolt,
Chair.

The bill (Com. Sub. for S. B. 383), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 519, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

Com. Sub. for Senate Bill 553, Relating to federal funds for land-grant institutions.

And,

Senate Bill 587, Relating to PEIA reimbursement of air ambulance providers.

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

Respectfully submitted,

Dave Sypolt,
Member.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 601, Relating to mandatory supervision of adult inmates.

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

Com. Sub. for Senate Bill 601 (originating in the Committee on the Judiciary)—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-4-17a, relating to mandatory supervision of adult inmates generally; authorizing the Commissioner of the Division of Corrections and Rehabilitation to develop mandatory supervised release plans; authorizing the early release of inmates subject to the conditions of a mandatory supervised release plan; providing for return of inmates to a correctional facility for violations of the conditions of mandatory supervised release plans; providing that inmates on mandatory supervised release are considered to be on parole; clarifying that mandatory supervised release plans is not a commutation of sentence or any other form of clemency; and providing that mandatory supervised release concludes upon completion of the minimum expiration of sentence.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 25, US Army PFC Andrew “Bo” Martin Harper Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 25 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 31-857-3.30 (31A322), locally known as Deckers Creek Box Beam Bridge, carrying County Route 857 over Deckers Creek in Monongalia County, the “U.S. Army PFC Andrew ‘Bo’ Martin Harper Memorial Bridge”.

Whereas, Andrew “Bo” Martin Harper was born August 17, 1991, in Charleston, South Carolina, the son of Steven M. Harper of Madsville, West Virginia, and Deanna Jeannette Anderson Harper Wells of Middleburg, Florida; and

Whereas, Andrew “Bo” Martin Harper was a 2009 graduate of University High School in Monongalia County where he participated in football, wrestling, and track. He was a member of Young Life of Morgantown and attended Chestnut Ridge Church; and

Whereas, Andrew “Bo” Martin Harper enlisted in the United States Army and obtained the rank of PFC/E3. He was assigned to Iron Troop, 3rd Squadron, 2nd Stryker Cavalry Regiment, Vilseck, Germany; and

Whereas, On March 11, 2011, PFC Andrew “Bo” Martin Harper tragically lost his life conducting combat operations near Kandahar, Afghanistan; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Andrew “Bo” Martin Harper and his sacrifice to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 31-857-3.30 (31A322), locally known as Deckers Creek Box Beam Bridge, carrying County Route 857 over Deckers Creek in Monongalia County, the “U.S. Army PFC Andrew ‘Bo’ Martin Harper Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army PFC Andrew ‘Bo’ Martin Harper Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Boso, 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 2324, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

And has amended same.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Maroney, 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 2607, Relating to the licensure of nursing homes.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on Finance has had under consideration

Eng. House Bill 2666, Supplemental appropriation to the Department of Veterans' Assistance.

And has amended same.

And,

Eng. House Bill 2668, Supplemental appropriation to the Department of Administration, Public Defender Services.

And has amended same.

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

Respectfully submitted,

Dave Sypolt,
Member.

The Senate proceeded to the sixth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

By Senator Sypolt:

Senate Bill 619—A Bill to amend and reenact §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-5, §19-2C-5a, §19-2C-6, §19-2C-6a, §19-2C-6c, §19-2C-8, §19-2C-8a, and §19-2C-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-2C-5b, all relating to amending and updating the laws relating to auctioneers; providing for definitions; providing for exemptions to license requirements; providing for June 30 as the date all licenses expire; establishing certain conditions for auctioneers to continue working after license expiration; providing for record retention requirements; providing for exams held twice a year; providing for auctioneers to submit to background checks; providing for authorization to conduct and use information relating to background checks; providing for confidentiality of background checks; providing for penalties for an unlicensed auctioneer; providing for additional circumstances to revoke a license; providing for written contracts with auctioneers and owners of property; and providing for auction houses and business entities to enter into contracts with auctioneers.

Referred to the Committee on Government Organization.

By Senators Tarr and Hardesty:

Senate Bill 620—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-5-12d, relating to requiring prescriptions be made by electronic means; and providing exceptions.

Referred to the Committee on Health and Human Resources.

By Senators Rucker, Plymale, and Cline:

Senate Bill 621—A Bill supplementing and amending by adding a new appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Higher Education Policy Commission - Bluefield State College, fund 0354, fiscal year 2019, organization 0482; to the Higher Education Policy Commission - Concord University, fund 0357, fiscal year 2019, organization 0483; to the Higher Education Policy Commission - Fairmont State University, fund 0360, fiscal year 2019, organization 0484; to the Higher Education Policy Commission - Glenville State College, fund 0363, fiscal year 2019, organization 0485; to the Higher Education Policy Commission - Shepherd University, fund 0366, fiscal year 2019, organization 0486; to the Higher Education Policy Commission - West Liberty University, fund 0370, fiscal year 2019, organization 0488; and to the Higher Education Policy Commission - West Virginia State University, fund 0373,

fiscal year 2019, organization 0490, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

By Senator Tarr:

Senate Bill 622—A Bill to repeal §3-8-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-4a, §3-8-5, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8, §3-8-9, and §3-8-12 of said code; and to amend said code by adding thereto five new sections, designated §3-8-1b, §3-8-2d, §3-8-5c, §3-8-9a, and §3-8-9b, all relating generally to the regulation and control of financing elections; modifying findings and definitions; modifying provisions relating to receipts and expenditures in elections, electioneering communications, reporting requirements, and financial statements; modifying offenses and criminal penalties; modifying provisions relating to loans to candidates, organizations, or persons for election purposes; and modifying provisions relating to corporate contributions and use of certain contributions.

Referred to the Committee on the Judiciary.

By Senator Blair:

Senate Bill 623—A Bill to amend and reenact §11A-1-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §11A-2-10a and §11A-2-13 of said code; to amend and reenact §11A-3-2 of said code; and to amend and reenact §59-3-1, §59-3-2, §59-3-3, and §59-3-9 of said code, all relating to the placement of legal advertisements in qualified newspapers; providing for notices of taxes due by electronic means; providing for a program for notifications of taxes and delinquent taxes due; prohibiting additional fees; providing for effective dates; requiring a report from the Tax Commissioner to expand the electronic notification to other entities required to publish legal advertisements; providing for rulemaking; providing for emergency rulemaking; making technical corrections; allowing qualified newspapers to publish legal notices on their online edition; requiring all newspapers to have an online edition by July 1, 2021; modifying rates for legal publications to allow for publication online; requiring newspapers report specified data to the Secretary of State; and defining terms.

Referred to the Committee on Finance.

By Senators Rucker, Plymale, Roberts, and Cline:

Senate Bill 624—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to administering the ACT or SAT tests to all 11th grade students.

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

By Senator Boso:

Senate Bill 625—A Bill to amend and reenact §29-5A-3, §29-5A-3a, §29-5A-8, §29-5A-14, §29-5A-20, and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to the State Athletic Commission's direction, management, and control over all boxing and mixed martial arts events, contests, and matches in West Virginia; authorizing the commission to promulgate legislative rules regulating said boxing and mixed martial arts events; authorizing the commission to issue, suspend, or revoke the licenses required to promote, contend in, judge, referee, or otherwise participate in said boxing and mixed martial arts events; establishing the requirements for licensure as a promoter, contestant, manager, trainer, judge, matchmaker, or official;

establishing restrictions and prohibitions against conflicts of interest; and establishing appropriate rules for regulating and sanctioning amateur boxing events.

Referred to the Committee on Government Organization.

By Senators Jeffries, Lindsay, Plymale, and Beach:

Senate Bill 626—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-46, relating to directing county school boards to construct covered bus stops for public school children.

Referred to the Committee on Education.

By Senator Sypolt:

Senate Bill 627—A Bill to amend and reenact §19-1-11 of the Code of West Virginia, 1931, as amended, relating generally to the Rural Rehabilitation Loan Program; authorizing the Commissioner of Agriculture to utilize other governmental entities, in addition to the State Treasurer, to service the loan program; and exempting the loan program from having to utilize the State Agency for Surplus Property to dispose of repossessed items.

Referred to the Committee on Agriculture and Rural Development.

By Senator Takubo:

Senate Bill 628—A Bill to repeal §3-8-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-8-1a, §3-8-2, §3-8-3, §3-8-4, §3-8-4a, §3-8-5, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8, §3-8-9, and §3-8-12 of said code; and to amend said code by adding thereto five new sections, designated §3-8-1b, §3-8-2d, §3-8-5c, §3-8-9a, and §3-8-9b, all relating generally to the regulation and control of financing elections; modifying findings and definitions; modifying provisions relating to receipts and expenditures in elections, electioneering communications, reporting requirements, and financial statements; modifying offenses and criminal penalties; modifying provisions relating to loans to candidates, organizations, or persons for election purposes; and modifying provisions relating to corporate contributions and use of certain contributions.

Referred to the Committee on the Judiciary.

By Senators Sypolt and Cline:

Senate Bill 629—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §19-12E-10 and §19-12E-11, all relating to the state's ability to regulate hemp production by submitting a plan to the Secretary of Agriculture; providing for continued production of industrial hemp without an approved plan for state regulation; providing for negligent violations of the state plan; providing for requirements to correct negligent violations; and providing for revocation of an industrial hemp license for repeat negligent violations of a state plan.

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

By Senators Plymale and Hardesty:

Senate Bill 630—A Bill to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to the allocation of premiums for employers and employees in the Public Employees Insurance Agency.

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

By Senators Weld, Boso, Stollings, Takubo, Hamilton, Ihlenfeld, Jeffries, Tarr, Cline, and Baldwin:

Senate Bill 631—A Bill to amend and reenact §23-4-1 of the Code of West Virginia, 1931, as amended, relating to certain diseases for which rebuttable presumption of injury arising out of and in the course of employment exists for firefighters, including bladder cancer, mesothelioma, and testicular cancer.

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

By Senators Maynard, Azinger, Blair, Boso, Cline, Roberts, Rucker, Smith, Sypolt, Tarr, Trump, and Jeffries:

Senate Bill 632—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-20-11, relating to requiring video cameras in certain public special education classrooms upon request.

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

By Senator Tarr:

Senate Bill 633—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-41-4, relating to authorizing the West Virginia Board of Physical Therapy to conduct criminal background checks on applicants seeking their initial license; providing the information may not be shared across state lines; and authorizing the board to obtain fingerprints from applicants for initial licenses.

Referred to the Committee on Government Organization.

By Senator Azinger:

Senate Bill 634—A Bill to amend and reenact §31A-8-12b of the Code of West Virginia, 1931, as amended, relating to adding “remote service unit” to the definition of customer bank communications terminals; defining “remote service unit”; and requiring that operators of remote service units maintain a physical location in this state.

Referred to the Committee on Banking and Insurance.

Senators Weld, Ihlenfeld, Jeffries, Stollings, Beach, Cline, Prezioso, Swope, and Baldwin offered the following resolution:

Senate Concurrent Resolution 35—Designating days for the display of the Honor and Remember Flag at the West Virginia Veterans Memorial at the West Virginia State Capitol.

Whereas, The Legislature previously approved HCR 94 in the 2011 Regular Session of the Legislature supporting the Honor and Remember Flag as an official emblem of the service and sacrifice by the brave men and women of the United States armed forces who have given their lives in the line of duty; and

Whereas, The Legislature also approved HCR 91 in the 2015 Regular Session of the Legislature designating days on which the Honor and Remember Flag may be displayed, which are: Armed Forces Day, the third Saturday in May; Memorial Day, the last Monday in May; Flag

Day, June 14; Independence Day, July 4; National POW/MIA Recognition Day; and Veterans Day, November 11; and

Whereas, In order to fully recognize the ultimate sacrifice of those service members who the Honor and Remember Flag sets out to honor, the State of West Virginia should additionally adopt that in the case of display at the West Virginia Veterans Memorial at the West Virginia State Capitol, the Honor and Remember Flag should be displayed any day on which the flag of the United States is displayed; therefore, be it

Resolved by the Legislature of West Virginia:

That this Legislature designates days for the display of the Honor and Remember Flag at the West Virginia Veterans Memorial at the West Virginia State Capitol; and, be it

Further Resolved, That in the case of display at the West Virginia Veterans Memorial at the West Virginia State Capitol, the Honor and Remember Flag should be displayed any day on which the flag of the United States is displayed; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Director of the General Services Division.

Which, under the rules, lies over one day.

Senators Clements, Palumbo, Hamilton, Ihlenfeld, Jeffries, Plymale, Unger, Stollings, Beach, Cline, Prezioso, Baldwin, and Hardesty offered the following resolution:

Senate Resolution 46—Designating February 15, 2019, as Corrections Day at the Legislature.

Whereas, The West Virginia Division of Corrections, the Regional Jail Authority, and the Division of Juvenile Services are committed to enhancing public safety by providing safe, secure, and humane facilities, operating an effective system of offender re-entry and community supervision, reducing offender recidivism, and assisting victims of crime; and

Whereas, The Division of Corrections and Rehabilitation is further committed to providing effective beneficial services that promote positive development and accountability while preserving community safety and sustaining a work environment predicated upon principles of professionalism, with dignity and respect for all; and

Whereas, It is the vision of these agencies to be recognized as innovative leaders in providing quality correctional services; and

Whereas, The adult and juvenile correctional population continues to expand and it is important for agency representatives and policymakers to appreciate the nature and magnitude of the growth; and

Whereas, Previous information provided to this body should assist public officials and agency representatives in planning for the future and developing policies for the management of the West Virginia correctional population, both adult and juvenile, as well as providing adequate pay, benefits, and a safe, secure workplace for the employees in the correctional system; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 15, 2019, as Corrections Day at the Legislature; and, be it

Further Resolved, That the Senate recognizes the exceptional service and commitment of the employees of the Division of Corrections, the Regional Jail Authority, and the Division of Juvenile Services; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Corrections, the Director of the Regional Jail Authority, and the Director of the Division of Juvenile Services.

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 Takubo, and by unanimous consent, the remarks by Senator Clements regarding the adoption of Senate Resolution 46 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:32 a.m., the Senate recessed to present Senate Resolution 46.

The Senate reconvened at 11:36 a.m. and resumed business under the sixth order.

Senators Plymale, Palumbo, Hardesty, Woelfel, Facemire, Jeffries, Unger, Stollings, Beach, and Baldwin offered the following resolution:

Senate Resolution 47—Congratulating the Spring Valley High School volleyball team for winning the 2018 Class AAA State Volleyball Championship.

Whereas, The Spring Valley High School volleyball team had a dominant year on the court, finishing with a record of 61-1-3, on their way to winning the 2018 Class AAA State Volleyball Championship; and

Whereas, The Spring Valley High School volleyball team is led by head coach Cadara Shreeve, and assistant coach Hannah Bailey; and

Whereas, The Spring Valley High School volleyball team roster consists of players: Mackinley Smith, Madison Lemon, Alex Darby, Grace Sullivan, Meagan Camden, Ally Wellman, Caroline Asbury, Grace Allen, Caitlin Null, Kennedy Stanley, and Alexa Ball; and

Whereas, The 2018 Spring Valley High School volleyball team had a historic season, winning five regular season tournaments, the MSAC Championship, the Sectional Championship, and the State Championship; and

Whereas, The 2018 Spring Valley High School volleyball team displayed its talent and strong will for an entire season and is a shining example of what can be accomplished with hard work, dedication, and spirit; and

Whereas, The 2018 Spring Valley High School volleyball team will be remembered as one of the best girls' volleyball teams in West Virginia history; therefore, be it

Resolved by the Senate:

That the Senate congratulates the Spring Valley High School volleyball team for winning the 2018 Class AAA State Volleyball Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Spring Valley High School volleyball team.

At the request of Senator Plymale, 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 Takubo, and by unanimous consent, the remarks by Senators Plymale, Woelfel, and Maynard regarding the adoption of Senate Resolution 47 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:42 a.m., the Senate recessed to present Senate Resolution 47.

The Senate reconvened at 11:45 a.m. and, at the request of Senator Beach, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Petitions

Senator Cline presented a petition from the Rural Appalachian Improvement League, requesting the Legislature to reinstate funding for local health departments.

Referred to the Committee on Finance.

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

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

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

Senate Bill 635 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §5B-2A-5, §5B-2A-6, §5B-2A-8, §5B-2A-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-14 of said code; to amend and reenact §22-11-10 of said code; to amend and reenact §22-30-3 and §22-30-24 of said code; to amend and reenact §22A-1-21 and §22A-1-35 of said code; to amend and reenact §22A-1A-1 of said code; to amend and reenact §22A-2-2, §22A-2-12, and §22A-2-13 of said code; to amend said code by adding thereto a new section, designated section §22A-2-80; to amend and reenact §22A-2A-405 of said code; to amend and reenact §22A-8-5 of said code; and to amend said code by adding thereto a new article, designated §22A-13-1, §22A-13-2, §22A-13-3, §22A-13-4, §22A-13-5, and §22A-13-6, all relating generally to coal mining activities; eliminating the requirement for submission of the

community impact statement; requiring review of new mining activity for submission to the Office of Coalfield Community Development; eliminating requirements for submission of certain additional information; requiring the submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development; requiring and authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to mine subsidence protection for dwelling owners; authorizing the Secretary of the Department of Environmental Protection to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act; authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act; requiring a miner who was issued an assessment to either pay the fine or appeal a violation within 30 days; requiring the Office of Miners' Health, Safety and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive; permitting employers to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property; requiring miners testing positive for drug use to undergo a mandatory minimum six-month suspension; eliminating timing requirements for submission of a detailed mine ventilation plan to the Director of the Office of Miners' Health, Safety and Training; authorizing the Director of the Office of Miners' Health, Safety and Training to promulgate emergency rules for establishing a course of instruction for apprentice miners; requiring apprentice miners to work 90 days in a mine within sight and sound of a mine foreman or assistant foreman; permitting the Director of the Office of Miners' Health, Safety and Training to decertify miners who fail to perform daily examinations; allowing the Director of the Office of Miners' Health, Safety and Training to use the employer's tracking data of the designated daily examiner; authorizing the Director of the Office of Miners' Health, Safety and Training to promulgate rules generally; amending standards for controlling and monitoring exhaust gases for diesel-powered underground coal mining equipment; allowing certified competent miners to supervise up to two apprentice miners; and establishing the Mine Trespass Act.

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

Respectfully submitted,

Randy E. Smith,
Chair.

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

Your Committee on Education has had under consideration

Senate Bill 636 (originating in the Committee on Education)—A Bill to amend and reenact §18B-17-2 and §18B-17-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing legislative rules regarding higher education; authorizing legislative rules for the Higher Education Policy Commission regarding Acceptance of Advanced Placement Credit, Human Resources Administration, Guidelines for Governing Boards in Employing and Evaluating Presidents, and PROMISE Scholarship Program; and authorizing legislative rules for the Council for Community and Technical College Education regarding Tuition and Fees, Acceptance of Advanced Placement Credit, Initial Authorization of Degree-Granting Institutions, Workforce Development: Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response Grants, and Human Resource Administration.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 34, US Army SPC Julian Lee Berisford 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 Senate Bill 60, Licensing practice of athletic training.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 60 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 60) passed with its title.

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

Eng. Com. Sub. for Senate Bill 66, Prohibiting certain misleading lawsuit advertising practices.

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: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Lindsay, and Palumbo—3.

Absent: Boso and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 66) passed with its title.

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

Eng. Com. Sub. for Senate Bill 393, Protecting right to farm.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 393) passed with its title.

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

Eng. Com. Sub. for Senate Bill 516, Relating to attorney fees in subsidized adoptions.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 516) passed with its title.

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

Eng. Com. Sub. for Senate Bill 518, Restricting sale and trade of dextromethorphan.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 518 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 518) passed with its title.

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

Eng. Com. Sub. for Senate Bill 563, Prohibiting sexual assault victim be subjected to certain physical examinations.

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: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Maroney—2.

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

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boso and Maroney—2.

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. 563) takes effect from passage.

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

Eng. Senate Bill 590, Permitting guided bear hunts by licensed outfitters and guides.

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: Azinger, Blair, Boley, Clements, Cline, Hardesty, Jeffries, Mann, Maynard, Palumbo, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hamilton, Ihlenfeld, Lindsay, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—13.

Absent: Boso and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 590) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Hardesty, Jeffries, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Facemire, Hamilton, Ihlenfeld, Lindsay, Romano, Unger, and Woelfel—8.

Absent: Boso and Maroney—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 590) 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 2521, Relating to permitting fur-bearer parts.

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: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Plymale, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Hardesty, Palumbo, Prezioso, Stollings, Unger, and Woelfel—7.

Absent: Beach, Boso, and Maroney—3.

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. 2521) passed with its title.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 259, Expanding Coyote Control Program.

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

Com. Sub. for Com. Sub. for Senate Bill 266, Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019.

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

Com. Sub. for Senate Bill 295, Relating to crimes against public justice.

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

Com. Sub. for Senate Bill 489, Relating to Pharmacy Audit Integrity Act.

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

Com. Sub. for Senate Bill 502, Exempting sales of investment metal bullion and coins.

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

Senate Bill 545, Relating to HIV testing.

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

Senate Bill 550, Declaring certain claims to be moral obligations of state.

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

Eng. Com. Sub. for House Bill 2481, Permitting retail sale of alcoholic beverages on Sundays after 1 p.m.

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 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-18. Days and hours retail licensees may sell liquor.

Retail licensees may not sell liquor on ~~Sundays and~~ Easter Sunday, Christmas day, or before 1 p.m. on other Sundays, except a Sunday on which Christmas falls, or between the hours of 12:00 a.m. and 8:00 a.m., except that wine and fortified wines may be sold on those days and at such times as authorized in §60-8-34 of this code.

§60-3A-25. Certain acts of retail licensees prohibited; criminal penalties.

(a) It is unlawful for any retail licensee, or agent or employee thereof, on such retail licensee's premises to:

- (1) Sell or offer for sale any liquor other than from the original package or container;
- (2) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person under 21 years of age;
- (3) Sell, give away, or permit the sale of, gift of, or the procurement of, any liquor, for or to any person visibly intoxicated;
- (4) Sell or offer for sale any liquor ~~on any Sunday~~ or other than during the hours permitted for the sale of liquor by retail licensees as provided under this article;
- (5) Permit the consumption by any person of any liquor;
- (6) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any liquor;
- (7) Permit any person under 18 years of age to sell, furnish, or give liquor to any other person;
- (8) Purchase or otherwise obtain liquor in any manner or from any source other than that specifically authorized in this article; or
- (9) Permit any person to break the seal on any package or bottle of liquor.

(b) Any person who violates any provision of this article, except section 24 of this article, including, but not limited to, any provision of this section, or any rule promulgated by the board or the commissioner, or who makes any false statement concerning any material fact, or who omits any material fact with intent to deceive, in submitting an application for a retail license or for a renewal of a retail license or in any hearing concerning the suspension or revocation thereof, or who commits any of the acts declared in this article to be unlawful, is guilty of a misdemeanor and, shall, upon conviction thereof, for each offense be fined not less than \$100 or more than \$5,000, or imprisoned in the county jail for not less than 30 days nor more than one year, or both fined and imprisoned. Magistrates have concurrent jurisdiction with the circuit courts for offenses under this article.

(c) Nothing in this article, or any rule of the board or commissioner, prevents or prohibits any retail licensee from employing any person who is at least 18 years of age to serve in any retail licensee's lawful employment at any retail outlet operated by such retail licensee, or from having such person sell or deliver liquor under the provisions of this article. With the prior approval of the commissioner, a retail licensee may employ persons at any retail outlet operated by such retail licensee who are less than 18 years of age but at least 16 years of age, but such persons' duties shall not include the sale or delivery of liquor: *Provided*, That the authorization to employ such persons under the age of 18 years shall be clearly indicated on the retail license issued to any such retail licensee.

The bill (Eng. Com. Sub. for H. B. 2481), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Com. Sub. for Senate Bill 29, Creating ten-year tax credits for businesses locating on post-coal mine sites.

Com. Sub. for Senate Bill 117, Relating to incentives for consolidating local governments.

Com. Sub. for Senate Bill 147, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

Senate Bill 333, Exempting automobiles 25 years or older from personal property taxes.

Com. Sub. for Senate Bill 512, Regulating pawnbrokers.

Senate Bill 617, Relating to method of payment to Municipal Pensions Security Fund.

And,

Senate Bill 618, Relating to effect on levy rate when appraisal results in tax increase.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Clements.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Woelfel, the name of Senator Woelfel was removed as a sponsor of Senate Bill 571 (*Establishing method for courts to order financial exploitation protection orders*).

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 12:34 p.m., the Senate adjourned until Monday, February 18, 2019, at 11 a.m.

SENATE CALENDAR

**Monday, February 18, 2019
11:00 AM**

UNFINISHED BUSINESS

- Com. Sub. for S. C. R. 25 - US Army PFC Andrew "Bo" Martin Harper Memorial Bridge
- S. C. R. 35 - Designating days for displaying Honor and Remember Flag at WV Veterans Memorial

THIRD READING

- Eng. Com. Sub. for S. B. 259 - Expanding Coyote Control Program
- Eng. Com. Sub. for Com. Sub. for S. B. 266 - Creating Intermediate Court of Appeals and WV Appellate Review Organization Act of 2019 (original similar to HB2366)
- Eng. Com. Sub. for S. B. 295 - Relating to crimes against public justice (original similar to HB3000)
- Eng. Com. Sub. for S. B. 489 - Relating to Pharmacy Audit Integrity Act (original similar to HB2806)
- Eng. Com. Sub. for S. B. 502 - Exempting sales of investment metal bullion and coins
- Eng. S. B. 545 - Relating to HIV testing
- Eng. S. B. 550 - Declaring certain claims to be moral obligations of state
- Eng. Com. Sub. for H. B. 2481 - Permitting retail sale of alcoholic beverages on Sundays after 1 p.m. - (Com. title amend. pending)

SECOND READING

- Com. Sub. for S. B. 29 - Creating ten-year tax credits for businesses locating on post-coal mine sites
- Com. Sub. for S. B. 117 - Relating to incentives for consolidating local governments
- Com. Sub. for S. B. 147 - Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities (original similar to HB2496)
- S. B. 333 - Exempting automobiles 25 years or older from personal property taxes
- Com. Sub. for S. B. 512 - Regulating pawnbrokers
- S. B. 617 - Relating to method of payment to Municipal Pensions Security Fund
- S. B. 618 - Relating to effect on levy rate when appraisal results in tax increase

FIRST READING

- Com. Sub. for Com. Sub. for S. B. 310 - Establishing certain requirements for dental insurance (original similar to HB2754)
- Com. Sub. for S. B. 326 - Reorganizing state agencies involved in emergency and disaster planning (original similar to HB2482)
- Com. Sub. for S. B. 344 - Relating to operation of state-owned farms (original similar to HB2560)
- Com. Sub. for S. B. 360 - Relating to third-party litigation financing
- S. B. 519 - Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation (original similar to HB2880)
- Com. Sub. for S. B. 553 - Relating to federal funds for land-grant institutions
- S. B. 587 - Relating to PEIA reimbursement of air ambulance providers
- Com. Sub. for S. B. 601 - Relating to mandatory supervision of adult inmates
- S. B. 635 - Relating generally to coal mining activities
- S. B. 636 - Authorizing legislative rules for Higher Education Policy Commission
- Eng. Com. Sub. for H. B. 2324 - Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2607 - Relating to the licensure of nursing homes (original similar to SB434)
- Eng. H. B. 2666 - Supplemental appropriation to the Department of Veterans' Assistance - (Com. amends. pending) (original similar to SB446)
- Eng. H. B. 2668 - Supplemental appropriation to the Department of Administration, Public Defender Services - (Com. amend. pending)