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February 9, 2024
THIRTY-FIRST DAY

Friday, February 9, 2024

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[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Thursday, February 8, 2024, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. B. 5238, mandating that all courts provide adjudication for juvenile offenders for traffic violations to the Division of Motor Vehicles,

And,

H. B. 5305, Relating to impaired driving not eligible for deferred adjudication,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 5238 and H. B. 5305) were each referred to the Committee on the Judiciary.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. B. 5317, Making it permissive for commercial motor vehicles registered in this state to pass an annual inspection of all safety equipment to be consistent with the federal motor carrier safety regulations,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 5317 - "A Bill to amend and reenact §17C-16-4 of the Code of West Virginia, 1931, as amended, revising the statute to make it permissive for commercial motor vehicles registered in this state subject to the federal motor carrier safety administration rules and regulations to pass an annual inspection of all safety equipment to be consistent with the federal

motor carrier safety regulations; providing for a schedule of and payment of appropriate fees; and adding a definition for the term "Commercial motor vehicle",

With the recommendation that the committee substitute do pass.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. B. 4191, Relating to requirements imposed on social media companies to prevent corruption and provide transparency of election-related content made available on social media websites,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 4191) was referred to the Committee on the Judiciary.

Delegate Summers, Chair of 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:

H. B. 5379, Relating to financial assistance available for a prescription drug,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 5379) was referred to the Committee on Finance.

Delegate Summers, Chair of 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:

H. B. 5253, Relating to transition the Medicaid long-term care program to a managed care system,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 5253) was referred to the Committee on Finance.

Delegate Summers, Chair of 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:

Com. Sub. for S. B. 17, Authorizing Department of Health to promulgate legislative rules,

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

Delegate Fast, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 4086, H. B. 4087, H. B. 4088, H. B. 4089, H. B. 4090, H. B. 4091, H. B. 4092, H. B. 4093, H. B. 4094, H. B. 4095, H. B. 4096, H. B. 4097, H. B. 4098, H. B. 4099, H. B. 4100, H. B. 4101, H. B. 4102 and H. B. 4103

H. B. 4086, Authorizing the Division of Forestry to promulgate a legislative rule relating to sediment control during commercial timber-harvesting operations - licensing,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4086 - "A Bill to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Commerce to promulgate legislative rules; authorizing the rules as filed, as modified, and as amended by the Legislative Rule-Making Review Committee and as amended by Legislature; authorizing the Division of Forestry to promulgate a legislative rule relating to sediment control during commercial timber-harvesting operations – licensing; authorizing the Division of Forestry to promulgate a legislative rule relating to sediment control during commercial timber-harvesting operations - logger certification; authorizing the Division of Labor to promulgate a legislative rule relating to minimum wage, maximum hours, and overtime compensation; authorizing the Division of Labor to promulgate a legislative rule relating to licensing of elevator mechanics, accessibility technicians, and limited technicians and registration of elevator mechanic apprentices; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to safety provisions for clearing crews; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to protective clothing and equipment; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to reporting requirements for independent contractors; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to assessing health and safety violation penalties; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to the application process for the West Virginia Innovative Mine Safety Technology Tax Credit Act; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to the program for the sharing of information between employers; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to substance abuse screening, standards and procedures; authorizing the Miners' Health, Safety and Training to promulgate a legislative rule relating to operating diesel equipment in underground mines in West Virginia; authorizing the Division of Natural Resources to promulgate a legislative rule relating to hunting, fishing and other outfitters and guides; authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters; authorizing the Division of Natural Resources to promulgate a legislative rule relating to revocation of hunting and fishing licenses; authorizing the Division of Natural Resources to promulgate a legislative rule relating to Cabwaylingo State Forest Trail System two-year pilot project permitting ATVs and ORVs; authorizing the Division of Natural Resources to promulgate a legislative rule relating to lifetime hunting, trapping, and fishing

licenses; and authorizing the Public Energy Authority to promulgate a legislative rule relating to petitioning the Public Energy Authority for approval of decommissioning or deconstruction activities related to any coal, oil, or natural gas fueled power plant,"

With the recommendation that the committee substitute do pass.

Delegate Mallow, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

H. B. 4698, Relating to who may diagnose post-traumatic stress disorder as a compensable injury or disease under workers compensation,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Health and Human Resources and then to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 4698) was referred to the Committee on Health and Human Resources and then to the Committee on Finance.

Delegate Mallow, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

H. B. 5355, Allowing volunteer fire departments to use fire protection funding for certain purchases,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 5355) was referred to the Committee on Government Organization.

Delegate Mazzocchi, Chair of the Committee on Senior, Children, and Family Issues, submitted the following report, which was received:

Your Committee on Senior, Children, and Family Issues has had under consideration:

H. C. R. 65, Resolution encouraging education experts to create a cost of care estimator tool,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 65) was referred to the Committee on Rules.

Delegate Mazzocchi, Chair of the Committee on Senior, Children, and Family Issues, submitted the following report, which was received:

Your Committee on Senior, Children, and Family Issues has had under consideration:

H. B. 4313, Creating the Parents' Bill of Rights,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 4313) was referred to the Committee on the Judiciary.

Delegate Fast, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 219, Relating to Uniform Controlled Substances Act,

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

Delegate Clark, Vice-Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

H. B. 4943, To facilitate the creation of home-based businesses,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4943 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-40-1, §8-40-2, §8-40-3, §8-40-4, §8-40-5, §8-40-6 and §8-40-7, all relating to facilitating the creation of home based lawful occupations and businesses; providing for definitions; providing for permitted use; providing for prohibitions; creating reasonable regulations; providing for limited conditions; providing for review and making effective from passage,"

With the recommendation that the committee substitute do pass.

Bills Introduced

On motions for leave, bills were introduced and severally referred as follows:

By Delegates Pinson, Hanshaw (Mr. Speaker), Ellington, Sheedy, Toney, Statler, Hardy, Burkhammer, Stephens, Hornby and Young:

H. B. 5529 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated article §18-2L-1, relating to development of a plan to monitor and improve reading and math skills of children who are or have been in foster care"; to the Committee on Education.

By Delegates Summers and Tully:

H. B. 5530 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated, §16-5B-21, relating to requiring a hospital to disclose price and fee information for certain health care services"; to the Committee on Health and Human Resources.

By Delegates Young, Garcia and Williams:

H. B. 5531 - "A Bill to amend and reenact §15A-3-7 of the Code of West Virginia, 1931, as amended, relating to increasing the salary of correctional officers by 12 percent, when there is no explicit promotion"; to the Committee on Jails and Prisons then Finance.

By Delegate Young:

H. B. 5532 - "A Bill to amend the Code of West Virginia, 193, as amended by adding thereto a new article, designated §49-12-1, §49-12-2, §49-12-3, §49-12-4, §49-12-5, §49-12-6, and §49-12-7, §49-12-8, and §49-12-9, all related to creating the Safe For Kids Act; providing definitions; prohibiting addictive feeds; creating time controls; creating age flags; ensuring nondiscrimination; providing for rulemaking authority; providing the scope of the article; providing for remedies if violations occur; and providing an effective date"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegate Young:

H. B. 5533 - "A Bill to amend and reenact §19-19-1, of the Code of West Virginia, 1931, as amended; to amend and reenact §19-19-2 of said code; to amend and reenact §19-19-4 of said code; to amend and reenact §19-19-7 of said code; and to amend and reenact §19-13-3 of said code, all relating to clarifying the Right to Farm Act relating to residential agricultural operations and the protection of agriculture"; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates Young, Garcia and Williams:

H. B. 5534 - "A Bill to amend and reenact §8-15-10a of the Code of West Virginia, 1931, as amended, relating to compensation for firefighters who are required to work holidays"; to the Committee on Fire Departments and Emergency Medical Services then Government Organization.

By Delegates Hornby, Chiarelli, Willis, Dean, Bridges, Rohrbach, Hite and Heckert:

H. B. 5535 - "A Bill to amend and reenact §11-17-2, §11-17-3, §11-17-4b, and §11-17-17 of the Code of West Virginia, 1931, as amended, all relating to applying an excise tax to e-cigarettes and other heated nicotine products from the tobacco excise tax"; to the Committee on Finance.

By Delegates Criss and Rohrbach:

H. B. 5536 - "A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-34, relating to the assessment of interest on overpayments by the Bureau for Medical Services; establishing an interest rate and method for accrual; and the retention of interest received"; to the Committee on Finance.

By Delegates Kelly, DeVault, Ward, E. Pritt, Mallow, Bridges, Winzenreid and Hott:

H. B. 5537 - "A Bill to amend and reenact §11A-1-17 of the Code of West Virginia, 1931, as amended, relating to sheriff's commission for collection of taxes"; to the Committee on Finance.

By Delegate Kelly:

H. B. 5538 - "A Bill to amend and reenact §62-12-13 of the Code of West Virginia, as amended, relating to modifying the parole eligibility for inmates serving life sentences and those who have been convicted of first degree murder"; to the Committee on Jails and Prisons.

By Delegates C. Pritt, McGeehan, Longanacre, Akers, Steele, Fluharty, Kimble, Shamblin, Kirby and Kump:

H. B. 5539 - "A Bill to amend and reenact §55-7-8a of the Code of West Virginia, 1931, as amended, all relating to actions which survive; limitations; law governing such actions and

providing that causes of action under Chapter 46A of the Code of West Virginia shall survive the death of the party"; to the Committee on the Judiciary.

By Delegates Stephens, Toney, Sheedy, Ellington, Barnhart, Hite, Willis, Rohrbach and Dittman:

H. B. 5540 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-34-1, relating to mandating Fentanyl Prevention and Awareness Education, which shall be known as 'Laken's Law'; to the Committee on Education.

By Delegates Rohrbach, Shamblin, W. Hall, Westfall, Worrell, Mallow, Jennings, Riley, Vance, Statler and Phillips:

H. B. 5541 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-17-9a, relating to establishing a minimum coverage amount of \$2,000 for a claim by a fire department for services provided in response to an event on insured property"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Lucas, W. Hall, Howell, W. Clark and DeVault:

H. B. 5542 - "A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new section, designated §11-6H-8, all relating to authorizing a refundable tax credit applied against personal income tax or corporation net income tax based upon amount of property tax timely paid on aircraft; providing for the treatment of credit upon transfer of eligible aircraft; and providing for the application of tax credits"; to the Committee on Finance.

By Delegate E. Pritt:

H. B. 5543 - "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, §16-67-6 relating to describing the process of involuntary treatment for substance use disorder; the patient's rights; criteria for involuntary treatment; petitions for treatment; proceedings for involuntary treatment; emergency treatment; and summons issued by the court"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Howell, W. Clark, Dittman, Martin, Fehrenbacher, Jeffries, Hott, Phillips, Hillenbrand, Burkhammer and Hanshaw (Mr. Speaker):

H. B. 5544 - "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §20-17A-6, relating to requiring certain reporting from the Mountaineer Trail Network Authority each year and beginning on December 1, 2024"; to the Committee on Economic Development and Tourism.

By Delegates Steele and Crouse:

H. B. 5546 - "A Bill to amend and reenact §9-8-4 of the Code of West Virginia, 1931, as amended, relating to conditions for eligibility for certain applicants for public assistance that are non-custodial parents and custodial parents; and authorizing rulemaking"; to the Committee on the Judiciary.

By Delegates Hornby, Dean, Burkhammer, Dittman, Fehrenbacher, Kelly, Worrell, Maynor, DeVault, Stephens and Tully:

H. B. 5547 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13NN-1, §11-13NN-2, §11-13NN-3, §11-13NN-4, §11-13NN-5, and §11-13NN-6, all relating to creating the Rehabilitation of Blighted Properties Tax Credit Act; providing for a credit against state corporate net income taxes and personal income taxes; providing for carryback and carryforward of certain tax credits; providing for the allowance of

certain tax credits in specific taxable years; providing for the application of certain tax credits; providing definitions; and authorizing rulemaking"; to the Committee on Finance.

By Delegate Criss:

H. B. 5548 - "A Bill to amend and reenact §5B-1-9 of the Code of West Virginia, 1931, as amended, relating to modifying requirements imposed on any owner, operator, or manager, as applicable, and all concessions and licensees thereof, within a tourism development project or tourism development expansion project within a tourism development project; conforming provisions to existing law redesignating name of public office; and removing redundant provisions relating to severability"; to the Committee on Finance.

By Delegate Linville:

H. B. 5549 - "A Bill to amend and reenact §15A-4-15 of the Code of West Virginia, 1931, as amended, relating to allowing license plates, road signs, or markers to be obtained from alternative sources when the Division of Corrections and Rehabilitation is unable to produce them"; to the Committee on Technology and Infrastructure.

By Delegate Winzenreid:

H. B. 5550 - "A Bill to amend and reenact §5-10-20 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Public Employees Retirement Act; providing that sheriffs who are members of the public retirement system to retire upon attaining the age of 62 with eight or more years of service"; to the Committee on Pensions and Retirement then Finance.

By Delegate Winzenreid:

H. B. 5551 - "A Bill to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating to requiring social workers, psychologists, and professional counselors to complete continuing education requirement on domestic violence or abuse"; to the Committee on Government Organization.

By Delegates Kimble, Jennings, Worrell, Hott, Jeffries, Mazzocchi, Kirby, Foggin, Crouse, Kump and C. Pritt:

H. B. 5552 - "A Bill to amend and reenact §16-1-6 of the Code of West Virginia, 1931, as amended, relating to the Commissioner of the Bureau for Public Health; and requiring medical professionals to report to the Bureau for Public Health all injuries and side effects from vaccines and produce an annual report for the Legislature; requiring medical professionals that deliver vaccines to receive educational materials from the Bureau for Public Health about negative side effects from vaccines and to be formally trained every five years; and requiring the Commissioner to make available a mechanism for individuals, including parents, to report adverse impact from vaccines"; to the Committee on Health and Human Resources.

By Delegates Hornby, Holstein, Tully, Cannon, Linville, Toney, Ellington and Kelly:

H. B. 5553 - "A Bill to amend and reenact §18-2-9 the Code of West Virginia, 1931, as amended, relating to requiring all West Virginia high school students to pass a minimum of one credit of computer science and technology courses, establishing requirements for the classes, establishing rulemaking, and creating teaching positions and requirements for those teaching positions"; to the Committee on Education.

By Delegates E. Pritt, Vance, Bridges, Dean, Holstein, Adkins, Brooks, Garcia, Fluharty, Worrell and Young:

H. B. 5554 - "A Bill to amend and reenact §23-4-2 of the Code of West Virginia, 1931, as amended, relating to establishing payment guidelines for pulmonary massive fibroids without

current pulmonary impairment in order to care for those who face future impairment that would otherwise fall outside of the timeframe for filing a complaint"; to the Committee on the Judiciary.

By Delegates Howell, Hanshaw (Mr. Speaker), Rohrbach, DeVault, Jeffries, Criss, Riley, Householder, Maynor, Smith and Williams:

H. B. 5555 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-22, relating to creating a legislative oversight committee on aviation development; stating the purposes of the oversight committee; establishing the composition of the oversight committee; establishing duties of the oversight committee; requiring reporting to the Legislature; authorizing the oversight committee to contract with experts; and authorizing cooperation of the oversight committee with the Department of Economic Development and Division of Multimodal Transportation Facilities"; to the Committee on Government Organization.

Special Calendar

Third Reading

Com. Sub. for S. B. 318, Modifying process of when parental rights are terminated; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 132**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 318) passed.

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

S. B. 428, Establishing appeals from administrative rulings are to be filed with Intermediate Court of Appeals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 133**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 428) passed.

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

S. B. 543, Relating to research and economic development agreements for state institutions of higher education; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 134**), and there were--yeas 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Dillon and Longanacre.

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 543) passed.

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

H. B. 4224, Relating to performance metrics for the West Virginia Division of Highways; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 135**), and there were--yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Espinosa and Hornby.

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4224) passed.

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

Com. Sub. for H. B. 4233, Non-binary not permitted on birth certificates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 136**), and there were--yeas 93, nays 5, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Hamilton, Hansen, Pushkin, Rowe and Williams.

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4233) passed.

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

Com. Sub. for H. B. 4758, Creation of the Joint Oversight Committee on the Fusion Center ; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 137**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4758) passed.

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

Com. Sub. for H. B. 4845, To prohibit swatting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 138**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4845) passed.

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

Com. Sub. for H. B. 5232, The Business Liability Protection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 139**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 5232) passed.

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

Com. Sub. for H. B. 5250, Relating to combatting gift card fraud; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 140**), and there were--yeas 90, nays 7, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Cannon, Coop-Gonzalez, Dillon, Foster, Kump and Riley.

Absent and Not Voting: Ellington, Hott and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 5250) passed.

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

H. B. 5251, Relating to the Telephone Consumer Protection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 141**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 5251) passed.

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

H. B. 5252, Requiring certain minimum experience for the director or coordinator of services class title involving school transportation; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Second Reading

Com. Sub. for S. B. 354, Relating to the WV Advanced Energy and Economic Corridor Authority; on second reading, coming up in regular order, was read a second time.

Delegate Householder asked unanimous consent that the bill be postponed one day, objection being heard.

Delegate Householder then so moved, and the motion was adopted.

The bill was postponed one day.

S. B. 547, Authorizing legislative rules for Higher Education Policy Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 4786, Delivery Network Company (DNC) Insurance Model Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Fast, the bill was amended on page 2, section 1(h), line 33, after subdivision (1) by inserting: "(2) A two axel vehicle the primary purpose of which is the transportation of passengers, and motorcycles and mopeds;" and then renumbering the remaining subdivisions accordingly."

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 5161, To create a “digital wallet” to keep all certifications/licensure accrued by the person in one place; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Winzenreid, the bill was amended on page 1, section 132, line 3, immediately following the word “and” by inserting the following: “professional”.

And,

On page 1, section 132, line 7, immediately following the words “certifications and” by inserting the following: “professional”.

On motion of Delegate Winzenreid, the bill was amended on page 1, section 132, line 9, immediately following the word “reference” by inserting the following:

“(c) Any party contracted with by the Secretary of State to perform any of the obligations under this section shall take appropriate measures to safeguard all information deposited in the digital wallet and shall not

(1) use the information deposited in the digital wallet for any purposes other than those contemplated by this section;

(2) sell, distribute, trade, transfer, provide, give, circulate, or disseminate, the information deposited in the digital wallet; or

(3) use a third-party vendor to provide any additional service; and

(4) must hold such information as confidential and not share such information with any other agency or political subdivision of the state, or the Federal government.

(d) (1)The Secretary of State shall make all appropriate effort to ensure that information deposited in the digital wallet shall not be duplicated nor disclosed, and upon the user’s request all information deposited in the digital wallet must be securely deleted.

(2) The information deposited in the digital wallet is exempt from public inspection and copying under the West Virginia Freedom of Information Act, §29B-1-1, et seq. of this code

(e) The provisions of this section supersede any existing agreements regarding the administration of the digital wallet.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 5243, Relating to Women’s Bill of Rights; on second reading, coming up in regular order, was read a second time.

In the absence of objection, the House proceeded first to consideration of an amendment offered by Delegates Young, Hamilton, Hornbuckle, Fluharty, Garcia, Griffith, Rowe, Pushkin, Hansen, Lewis and Williams on page 1, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof, the following:

“PREAMBLE: This Act shall be known as the “Women’s Bill of Rights”

CHAPTER 11. TAXATION.**ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.****§11-15-9v. Exempting certain hygiene products from sales tax.**

(a) Notwithstanding any other provision of this article, feminine hygiene products are exempt from the tax imposed under this article.

(b) For the purposes of this section "Feminine hygiene product" includes sanitary napkins, tampons, pads, and other similar feminine hygiene products.

CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY.**ARTICLE 4. CORRECTIONS MANAGEMENT.****§15A-4-13. Charges assessed against inmates for services provided by state.**

(a) The commissioner is authorized to assess inmates serving a sentence in any state jail, penal, or correctional facility reasonable charges for health care and treatment services provided to them by the state. The charges assessed against an inmate may be deducted directly from the inmate's trustee account without the inmate's consent. The inmate shall be notified of the amount deducted and the charges to which it has been applied.

(b) As used in this section, a "reasonable charge" may not exceed the sum of \$25 for any billable service. Inmates shall be notified of the fee schedule, billable services, and exempt services. Services initiated by the inmate shall be assessed a fee, except that no charge may be assessed for: (1) a specific health care service required under the law of this state, including, by way of illustration, tuberculin testing; (2) an emergency service following a traumatic injury other than a self-induced injury, or necessary to prevent death or severe or permanent disability; (3) diagnosis and treatment of communicable diseases, including, by way of illustration, tuberculosis or hepatitis; (4) treatment of diagnosed severe mental illness; (5) treatment of specific chronic conditions identified by the commissioner, including, by way of illustration, heart disease and diabetes; (6) staff-initiated care, including follow-up and referral visits; (7) preventive services that the commissioner determines are to be provided or made available to all inmates, including services related to disease prevention and promotion of proper health habits; or (8) other services as may be exempted by rule of the commissioner. No inmate may be denied any necessary billable medical service because of inability to pay the charge.

(c) Any inmate who intentionally ingests, inhales, injects, absorbs, applies, or otherwise exposes himself or herself to, in any manner whatsoever not otherwise specified herein, an illegal drug, a drug not legally prescribed to him or her, a drug in quantities above that recommended by a prescribing physician, a synthetic intoxicant, or any substance for the purpose of causing an excited, euphoric, or stupefied state, or altered perception, including hallucinations or delusions, and the inmate requires medical treatment due to the ingestion, inhalation, injection, absorption, application, or exposure shall reimburse the cost of the medical treatment to the division.

(d) Each inmate shall be afforded an opportunity at least quarterly to review all deposits into, withdrawals from, and balance remaining in the inmate's trustee account during the preceding three months.

(e) Female inmates shall be provided, at no cost, with their choice of feminine hygiene products as soon as practicable upon request but, in any case, no longer than eight hours later. For the purposes of this subsection "feminine hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

~~(e)~~ (f) The commissioner shall promulgate interpretive rules implementing this section pursuant to §29A-3-1 *et seq.* of this code prior to making any assessment under this section. The policy directive rules may establish the fee schedule and list of billable services and further define services to be exempted.

ARTICLE 4G. DIGNITY IN PREGNANCY ACT.

§16-4G-1. Dignity in Pregnancy Act named.

This article shall be known and may be cited as the "Dignity in Pregnancy Act."

§§16-4G-2. Definitions.

As used in this article:

(1) 'Health care professional' means a physician or other health care practitioner licensed, accredited, or certified to perform specified physical, mental, or behavioral health care services consistent with his or her scope of practice under the laws of this state.

(2) 'Implicit bias' means a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes that often operate at a level below conscious awareness and without intentional control.

(3) 'Implicit prejudice' means prejudicial negative feelings or beliefs about a group that a person holds without being aware of them.

(4) 'Implicit stereotypes' means the unconscious attributions of particular qualities to a member of a certain social group. Implicit stereotypes are influenced by experience and are based on learned associations between various qualities and social categories, including race or gender.

(5) 'Perinatal care' means the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods.

(6) 'Perinatal facility' means a hospital, clinic, or birthing center that provides perinatal care.

(7) 'Pregnancy related death' means the death of a person while pregnant or within 365 days of the end of a pregnancy, irrespective of the duration or site of the pregnancy, from any cause related to, or aggravated by, the pregnancy or its management, but not from accidental or incidental causes.

§16-4G-3. Implicit bias training.

(a) Every perinatal facility in this state shall implement an evidence based implicit bias program for all health care professionals involved in the perinatal care of patients within such facility.

(b) An implicit bias program implemented pursuant to subsection (a) of this section shall include the following:

(1) Identification of previous or current unconscious biases and misinformation;

(2) Identification of personal, interpersonal, institutional, structural, and cultural barriers to inclusion;

(3) Corrective measures to decrease implicit bias at the interpersonal and institutional levels, including ongoing policies and practices for that purpose;

(4) Information on the effects, including, but not limited to, ongoing personal effects, of historical and contemporary exclusion and oppression of minority communities;

(5) Information about cultural identity across racial or ethnic groups;

(6) Information about communicating more effectively across identities, including racial, ethnic, religious, and gender identities;

(7) Discussion on power dynamics and organizational decision-making;

(8) Discussion on health inequities within the perinatal care field, including information on how implicit bias impacts maternal and infant health outcomes;

(9) Perspectives of diverse, local constituency groups and experts on particular racial, identity, cultural, and provider-community relations issues in the community; and

(10) Information on reproductive justice.

(c)(1) A health care professional shall complete initial basic training through the implicit bias program based on the components described in subsection (b) of this section.

(2) Upon completion of the initial basic training, a health care professional shall complete a refresher course under the implicit bias program every two years thereafter, or on a more frequent basis if deemed necessary by the perinatal facility, in order to keep current with changing racial, identity, and cultural trends and best practices in decreasing interpersonal and institutional implicit bias.

(d) Each perinatal facility in this state shall provide a certificate of training completion to another perinatal facility or a training attendee upon request. A perinatal facility may accept a certificate of completion from another perinatal facility to satisfy the training requirement contained in this code section from a health care professional who works in more than one perinatal facility.

(e) If a health care professional involved in the perinatal care of patients is not directly employed by a perinatal facility, the facility shall offer the training to such health care professional.

§16-4G-4. Data collection and reporting.

(a)(1) The Department of Human Services shall collect and track data on severe maternal morbidity, including, but not limited to, all of the following health conditions:

(A) Obstetric hemorrhage;

(B) Hypertension;

(C) Preeclampsia and eclampsia;

(D) Venous thromboembolism;

(E) Sepsis;

(F) Cerebrovascular accident; and

(G) Amniotic fluid embolism.

(2) The data on severe maternal morbidity collected pursuant to this subsection shall be published at least once every three years, after all of the following have occurred:

(A) The data has been aggregated by state regions, as defined by the department, to ensure data reflects how regionalized care systems are or should be collaborating to improve maternal health outcomes, or other smaller regional sorting based on standard statistical methods for accurate dissemination of public health data without risking a confidentiality or other disclosure breach; and

(B) The data has been disaggregated by racial and ethnic identity.

(b)(1) The department shall collect and track data on pregnancy related deaths, including, but not limited to, all of the conditions listed in subsection (a) of this code section, indirect obstetric deaths, and other maternal disorders predominantly related to pregnancy and complications predominantly related to the postpartum period.

(2) The data on pregnancy related deaths collected pursuant to this subsection shall be published, at least once every three years, after all of the following have occurred:

(A) The data has been aggregated by state regions, as defined by the department, to ensure data reflects how regionalized care systems are or should be collaborating to improve maternal health outcomes, or other smaller regional sorting based on standard statistical methods for accurate dissemination of public health data without risking a confidentiality or other disclosure breach; and

(B) The data has been disaggregated by racial and ethnic identity.

ARTICLE 67. HEALTH CARE FREEDOM.

§16-67-1. Health care freedom preserved

Every person who is an adult, regardless of sex, has a right to make and carry out one's own health care decisions.

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-52. Free feminine hygiene products for female students.

County boards of education in this state shall provide female students access to feminine hygiene products in all public schools.

CHAPTER 21. LABOR

ARTICLE 5D. THE PARENTAL LEAVE ACT.

§21-5D-4. Family leave.

(a) An employee ~~shall be~~ is entitled to a total of 8 weeks of paid family leave and ~~twelve~~ four weeks of unpaid family leave, following the exhaustion of all his or her annual and personal leave, during any twelve-month period:

(1) Because of the birth of a son or daughter of the employee;

(2) Because of the placement of a son or daughter with the employee for adoption; or

(3) In order to care for the employee's son, daughter, spouse, parent or dependent who has a serious health condition.

(b) In the case of a son, daughter, spouse, parent or dependent who has a serious health condition, such family leave may be taken intermittently when medically necessary.

(c) An employee may take family leave on a part-time basis and on a part-time leave schedule, but the period during which the number of work weeks of leave may be taken may not exceed twelve consecutive months, and such leave shall be scheduled so as not to disrupt unduly the operations of the employer.

(d) (1) If a leave because of birth or adoption is foreseeable, the employee shall provide the employer with two weeks written notice of such expected birth or adoption.

(2) If a leave under this section is foreseeable because of planned medical treatment or supervision, the employee:

(A) Shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son, daughter, parent or dependent; and

(B) Shall provide the employer with two weeks written notice of the treatment or supervision.

(e) This article shall not be construed as granting an employee the family leave rights provided in this section if he or she is entitled to such family leave rights under any other provision of this code.

ARTICLE 5G. KATHERINE JOHNSON AND DOROTHY VAUGHAN FAIR PAY ACT

§21-5J-1. Title of article.

This article may be referred to as the Katherine Johnson and Dorothy Vaughan Fair Pay Act to honor and memorialize the contributions of these women with ties to West Virginia who were significant characters in the book and movie 'Hidden Figures.' Both women contributed to our country's efforts to explore space and land a person on the moon, and both suffered substantial

pay discrimination. This Act is intended to allow employees a means of discovering whether they are receiving fair pay.

§21-5J-2. Definitions.

For the purposes of this article:

(1) 'Employee' means any person suffered or permitted to work by a person, firm, or corporation; and

(2) 'Employer' means any person, firm, or corporation employing any employee.

§21-5J-3. Range of wages, benefits, and other compensation to be provided.

(a) On request, an employer shall provide to an applicant for employment the range of wages, benefits, and other compensation to be provided for the position for which the applicant applied.

(b) An employer may not retaliate against or refuse to interview, hire, or employ an applicant for employment because the applicant:

(1) Did not provide a history of wages, benefits, or other compensation earned in previous employment; or

(2) Requested the range of wages, benefits, and other compensation in accordance with this section for the position for which the applicant applied.

(c) An employer may not inquire of the applicant about past wages, benefits, or other compensation without complying with the provisions contained in subsection (d) of this section.

(d) After an employer makes an initial offer of employment with an offer of compensation to an applicant for employment, an employer may:

(1) Rely on the wage history voluntarily provided by the applicant for employment to support a wage offer higher than the initial wage offered by the employer: or

(2) Seek to confirm the wage history voluntarily provided by the applicant for employment to support a wage offer higher than the initial wage offered by the employer.

(e) This section does not prohibit an applicant for employment from sharing wage history with an employer voluntarily.

§21-5J-4. Pay Transparency.

(a) An employee may:

(1) Inquire about the wages, benefits, or other compensation of another employee;

(2) Disclose, discuss, or share information or refuse to disclose, discuss, or share information about the amount of the employee's own wages, benefits, or other compensation;

(3) Discuss another employee's wages if those wages have been disclosed voluntarily; and

(4) Aid or encourage another employee's exercise of rights under this section.

(b) An employer may not:

(1) Prohibit an employee from inquiring about, discussing, or disclosing the wages of the employee or another employee;

(2) Require an employee to sign a waiver or any other document that purports to deny the employee the right to disclose or discuss the employee's wages, benefits, or other compensation;
or

(3) Take any adverse employment action against an employee for exercising rights afforded by this section.

(c) Nothing in this section may be construed to permit an employee, without the written consent of an employer, to disclose proprietary information, trade secret information, or information that is otherwise subject to a legal privilege or protected by law; or permit an employee to disclose wage information to a competitor of the employer.

§21-5J-5. Remedies.

Any person injured as a result of any violation or threatened violation of this article shall have a cause of action, and, if proven in a court of competent jurisdiction, may be entitled to the following relief against a person or persons violating or threatening to violate this article:

(1) Compensatory damages;

(2) Costs and reasonable attorney fees, which shall be awarded if the injured person substantially prevails;

(3) Punitive damages in accordance with the provisions of section §55-7-29 of this code;

(4) Preliminary and permanent injunctive relief; and

(5) Any other appropriate equitable relief.

CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.

ARTICLE 5C. IMPRISONMENT OF FEMALE FELONS.

§28-5C-3. Feminine hygiene products to be provided.

(a) For the purposes of this section 'feminine hygiene products' means tampons and sanitary napkins for use in connection with the menstrual cycle.

(b) Female inmates shall be provided, at no cost, with their choice of feminine hygiene products as soon as practicable upon request but, in any case, within 8 hours of the request.

CHAPTER 33. INSURANCE.

ARTICLE 15F. ACCESS TO FERTILITY CARE.

§33-15F-1. Definitions.

For the purposes of this article:

'Commissioner' means the Insurance Commissioner.

'Experimental infertility procedure' means a procedure for which the published medical evidence regarding risks, benefits, and overall safety and efficacy is not sufficient to regard the procedure as an established medical practice.

'Fertility treatment' means health care services or products provided with the intent to achieve a pregnancy that results in a live birth with healthy outcomes.

'Health carrier' means an entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company, a health maintenance organization, a health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services.

'Infertility' means a disease, caused by an illness, injury, underlying disease, or condition, where an individual's ability to become pregnant or to carry a pregnancy to live birth is impaired, or where an individual's ability to cause pregnancy and live birth in the individual's partner is impaired.

'Medically necessary' means health care services or products provided to an enrollee for the purpose of preventing, stabilizing, diagnosing, or treating an illness, injury, or disease or the symptoms of an illness, injury, or disease in a manner that is:

- (A) Consistent with generally accepted standards of medical practice;
- (B) Clinically appropriate in terms of type, frequency, extent, site, and duration;
- (C) Demonstrated through scientific evidence to be effective in improving health outcomes;
- (D) Representative of 'best practices' in the medical profession; and
- (E) Not primarily for the convenience of the enrollee or physician or other health care provider.

'Standard fertility preservation services' means procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine or the American Society of Clinical Oncology.

§33-15F-2. Diagnosis of infertility, fertility treatment, and fertility preservation.

(a) Each health carrier that issues or renews any group policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance coverage for the diagnosis of the etiology of infertility.

(b) Each health carrier that issues or renews any group policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance coverage for medically necessary fertility treatment. Enrollees shall be

provided coverage for evaluations, laboratory assessments, medications, and treatments associated with the procurement of donor eggs, sperm, and embryos.

(c) Each health carrier that issues or renews any group policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance coverage for fertility preservation when a person is expected to undergo surgery, radiation, chemotherapy, or other medical treatment that is recognized by medical professionals to cause a risk of impairment of fertility. Coverage under this section shall include coverage for standard fertility preservation services, including the procurement and cryopreservation of embryos, eggs, sperm, and reproductive material determined not to be an experimental infertility procedure. Storage shall be covered from the time of cryopreservation for the duration of the policy term. Storage offered for a longer period of time, as approved by the health carrier, shall be an optional benefit.

§33-15F-3. Prohibited and permissible limitations on coverage.

(a) No health carrier shall:

(1) Impose deductibles, copayments, coinsurance, benefit maximums, waiting periods, or any other limitations on coverage for required benefits which are different from those imposed upon benefits for services not related to infertility or any limitations on coverage of fertility medications that are different from those imposed on any other prescription medications.

(2) Impose preexisting condition exclusions or preexisting condition waiting periods on coverage for required benefits or use any prior diagnosis of or prior treatment for infertility as a basis for excluding, limiting, or otherwise restricting the availability of coverage for required benefits.

(3) Impose limitations on coverage based solely on arbitrary factors including, but not limited to, number of attempts or dollar amounts or age, or provide different benefits to, or impose different requirements required of other patients.

(b) Limitations on coverage shall be based on clinical guidelines and the enrollee's medical history. Clinical guidelines shall be maintained in written form and shall be available to any enrollee upon request. Standards or guidelines developed by the American Society for Reproductive Medicine, the American College of Obstetrics and Gynecology, or the Society for Assisted Reproductive Technology may serve as a basis for these clinical guidelines. Making, issuing, circulating, or causing to be made, issued or circulated, any clinical guidelines that are based upon data that are not reasonably current or that do not cite with specificity any references relied upon shall constitute an unfair and deceptive act and practice in the business of insurance.

(c) This article may not be construed to provide benefits for:

(1) An experimental infertility procedure;

(2) Nonmedical costs related to third party reproduction; or

(3) Reversal of voluntary sterilization.

(d) In instances where an enrollee is utilizing a surrogate or gestational carrier due to a medical cause of infertility unrelated to voluntary sterilization or failed reversal, the enrollee's

coverage shall not extend to medical costs relating to the preparation for reception or introduction of embryos, oocytes, or donor sperm into a surrogate or gestational carrier.

§33-15F-4. Rule-making.

The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to implement this article. Until such rules are adopted, health carriers shall fulfill their obligations under this article by conforming to the standards of the American Society for Reproductive Medicine.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-906. Medical and other treatment of juveniles in custody of the division; consent; service providers; medical care; pregnant inmates; claims processing and administration by the department; authorization of cooperative agreements.

(a) Notwithstanding any other provision of law to the contrary, the director, or his or her designee, is hereby authorized to consent to the medical or other treatment of any juvenile in the legal or physical custody of the director or the division.

(b) In providing or arranging for the necessary medical and other care and treatment of juveniles committed to the division's custody, the director shall use service providers who provide the same or similar services to juveniles under existing contracts with the Department of Health and Human Resources. In order to obtain the most advantageous reimbursement rates, to capitalize on an economy of scale and to avoid duplicative systems and procedures, the department shall administer and process all claims for medical or other treatment of juveniles committed to the division's custody.

(c) In providing or arranging for the necessary medical and other care and treatment of juveniles committed to the division's custody, the director shall assure that pregnant inmates will not be restrained after reaching the second trimester of pregnancy until the end of the pregnancy. However, if the inmate, based upon her classification, discipline history or other factors deemed relevant by the director poses a threat of escape, or to the safety of herself, the public, staff, or the unborn child, the inmate may be restrained in a manner reasonably necessary. Additionally, that prior to directing the application of restraints and where there is no threat to the safety of the inmate, the public, staff or the fetus, the director or designee shall consult with an appropriate health care professional to assure that the manner of restraint will not pose an unreasonable risk of harm to the inmate or the fetus.

(d) Female juveniles committed to the division's custody shall be provided, at no cost, with their choice of feminine hygiene products as soon as practicable upon request but, in any case, no longer than eight hours later. For the purposes of this subsection 'feminine hygiene products' means tampons and sanitary napkins for use in connection with the menstrual cycle.

~~(d)~~ (e) For purposes of implementing the mandates of this section, the director is hereby authorized and directed to enter into any necessary agreements with the Department of Health and Human Resources. An agreement will include, at a minimum, for the direct and incidental costs associated with that care and treatment to be paid by the Division of Juvenile Services.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**ARTICLE 8B. SEXUAL OFFENSES.****§61-8B-1. Definition of terms.**

In this article, unless a different meaning plainly is required:

(1) 'Forcible compulsion' means:

(a) Physical force that overcomes such earnest resistance as might reasonably be expected under the circumstances; or

(b) Threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to himself or herself or another person, or in fear that he or she or another person will be kidnapped; or

(c) Fear by a person under 16 years of age caused by intimidation, expressed or implied, by another person who is at least four years older than the victim.

For the purposes of this definition, 'resistance' includes physical resistance or any clear communication of the victim's lack of consent.

(2) 'Married', for the purposes of this article in addition to its legal meaning, includes persons living together as husband and wife regardless of the legal status of their relationship.

(3) 'Mentally defective' means that a person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his or her conduct.

(4) 'Mentally incapacitated' means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without his or her consent or as a result of any other act committed upon that person without his or her consent.

(5) 'Physically helpless' means that a person is unconscious or for any reason is physically unable to communicate unwillingness to an act.

(6) 'Sexual contact' means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus, or any part of the sex organs of another person, or intentional touching of any part of another person's body by the actor's sex organs ~~where the victim is not married to the actor~~ and the touching is done for the purpose of gratifying the sexual desire of either party.

(7) 'Sexual intercourse' means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.

(8) 'Sexual intrusion' means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

(9) 'Bodily injury' means substantial physical pain, illness, or any impairment of physical condition.

(10) 'Serious bodily injury' means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(11) 'Deadly weapon' means any instrument, device, or thing capable of inflicting death or serious bodily injury and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(12) 'Forensic medical examination' means an examination provided to a possible victim of a violation of the provisions of this article by medical personnel qualified to gather evidence of the violation in a manner suitable for use in a court of law, to include: An examination for physical trauma; a determination of penetration or force; a patient interview; and the collection and evaluation of other evidence that is potentially relevant to the determination that a violation of the provisions of this article occurred and to the determination of the identity of the assailant."

At 12:27 p.m., on motion of Delegate Householder, the House of Delegates recessed until 12:35 p.m.

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Afternoon Session

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The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Special Calendar

Second Reading

-continued-

On motion of Delegate Steele, the amendment offered by Delegates Young, Hamilton, Hornbuckle, Fluharty, Garcia, Griffith, Pushkin, Hansen, Lewis, Rowe and Williams to Com. Sub. for H. B. 4253 was amended on page 1, beginning on line 5 by striking everything before Chapter 61 on page 8 and inserting in lieu thereof the following:

"ARTICLE 67. WEST VIRGINIA WOMEN'S BILL OF RIGHTS ACT.

§16-67-1. Short title; purposes; general application.

(a) This act shall be known and may be cited as the 'West Virginia Women's Bill of Rights.'

(b) The purpose of the West Virginia Women's Bill of Rights is to bring clarity, certainty, and uniformity to the laws of the state regarding sex discrimination, equality of the sexes, and benefits or services specifically provided to males and to females.

(c) The West Virginia Women's Bill of Rights applies wherever West Virginia, or an instrumentality of the state, classifies people on the basis of sex or otherwise defines people as being female or male, women or men, girls or boys; the definitions contained in §16-67-2 of this code apply.

§16-67-2. Definitions of terms used in statutory construction.

(a) Notwithstanding any provision of law to the contrary, with respect to the application of an individual's biological sex pursuant to any state laws, rules, regulations, or official public policies, the following shall apply:

(1) An individual's 'sex' means such individual's biological sex, either male or female, at birth;

(2) A 'female', when used in reference to a natural person, is an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces ova;

(3) A 'male' when used in reference to a natural person, means an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces sperm;

(4) A 'woman' is an adult human of the female sex, and a 'man' is an adult human of the male sex;

(5) A 'girl' is a human female who has not yet reached adulthood, and a 'boy' is a human male who has not yet reached adulthood;

(6) A 'mother' is a female parent of a child or children as those terms are defined in this code; a 'father' is a male parent of a child or children as those terms are defined in this code;

(7) 'Equal' does not mean 'same' or 'identical' with respect to equality of the sexes;

(8) A person's 'sex' is his or her biological sex (either male or female) at birth.

(A) There are only two sexes, and every individual is either male or female;

(B) 'Sex' is objective and fixed; and

(C) 'Sex' does not include 'gender identity' or any other terms intended to convey a person's subjective sense of self; 'gender identity' and other subjective terms may not be used as synonyms or substitutes for 'sex.'

(b) Individuals with 'differences in sex development' (also known as 'DSD' or 'intersex conditions') are not a third sex. Individuals with a congenital and medically verifiable DSD diagnosis must be accommodated consistent with state and federal law.

§16-67-3. Sex discrimination; single-sex environments.

(a) Any state policy, program, or statute that prohibits sex discrimination shall be construed to pertain to females or males.

(b) Because the state has an important interest in preventing unjust discrimination and in maintaining safety, privacy, and fairness, West Virginia and its political subdivisions and instrumentalities may provide separate single-sex environments.

(c) Wherever West Virginia or its political subdivisions or instrumentalities, in fact, provide separate single-sex environments for males and females, the definitions established in §16-67-2 of this code must apply.

§16-67-4. Data collection.

(a) Any public school, public school district, agency, department, or instrumentality of the state that collects vital statistics related to sex for the purpose of complying with state or federal anti-discrimination laws or for the purpose of gathering accurate public health, crime, economic, or other data shall identify each natural person who is part of the collected data set as either male or female as defined in this article.

(b) Compliance with this section shall not require the collection of data regarding sex unless otherwise required by law, and it shall not prevent the collection of additional data points other than biological sex.

§16-67-5. Severability.

If any provision of this article, an amendment made by this article, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this article, the amendments made by this article, and the application of the provisions of such to any person or circumstance shall not be affected thereby."

The Speaker explained that additional amendments would be considered to the amendment, as amended, and page and line numbering would be conformed if adopted.

Delegates Hansen, Hornbuckle, Fluharty, Garcia, Griffith, Hamilton, Lewis, Rowe, Pushkin, Williams and Young moved to amend on page 1, Section 2, line 1, following the words "to the contrary" by inserting the following: "except for the provisions of the Human Rights Act, as provided for in §5-11-1 *et seq.* of this code,".

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 142**), and there were-- yeas 10, nays 81, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Rowe, Williams and Young.

Absent and Not Voting: Cooper, Criss, Ellington, Garcia, Hott, Kirby, Martin, Nestor and Ross.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegates Young, Hamilton, Hornbuckle, Fluharty, Garcia, Griffith, Rowe, Pushkin, Hansen, Lewis and Williams moved to amend on page 1, Section 1, line 8, following the period by inserting the following new subsection: "(d) Every person who is an adult, regardless of sex, has a right to make and carry out one's own health care decisions."

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 143**), and there were-- yeas 10, nays 81, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Rowe, Williams and Young.

Absent and Not Voting: Cooper, Criss, Ellington, Garcia, Hott, Kirby, Martin, Nestor and Ross.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

On the adoption of the first amendment offered by Delegates Young, Hamilton, Hornbuckle, Fluharty, Garcia, Griffith, Rowe, Pushkin, Hansen, Lewis and Williams, as amended by Delegate Steele, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 144**), and there were-- yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Criss, Ellington, Garcia, Hott, Kirby, Martin, Nestor and Ross.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

The bill was then ordered to engrossment and third reading.

H. B. 5268, Relating to the enhanced recovery of oil and natural gas in horizontal wells; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 5286, Eliminating the ability to sub-contract under Certificate of Need; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 5287, Relating generally to traffic safety; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 171, Prohibiting county commissions from adopting authorization that exceeds state law regarding agriculture operations,

Com. Sub. for H. B. 4782, Preventing municipalities from targeting protected businesses with planning and zoning ordinances more restrictive than those placed upon other businesses,

Com. Sub. for H. B. 4951, To facilitate the interstate practice of School Psychology in educational or school settings,

Com. Sub. for H. B. 4986, Relating to computer science and cybersecurity instruction for adult learners,

H. B. 5002, To require at least 1 baby changing station to existing and future rest areas in this state for both male and female restrooms,

H. B. 5261, Relating to the definition of small arms for purposes of taxation,

Com. Sub. for H. B. 5262, Relating generally to teacher's bill of rights,

H. B. 5263, Relating to the Consolidated Public Retirement Board and requiring participating public employers to remit retirement contributions and fees by electronic funds transfer,

Com. Sub. for H. B. 5267, Relating to the Deputy Sheriff Retirement System,

H. B. 5269, Relating to the Municipal Police Officers and Firefighters Retirement System,

H. B. 5270, Relating to the Natural Resources Police Officers Retirement System,

Com. Sub. for H. B. 5273, Relating to the Emergency Medical Services Retirement System and clarifying payment upon death of member with less than 10 years of contributory service,

Com. Sub. for H. B. 5295, Authorizing a private outdoor designated area to simultaneously host multiple qualified permit holders,

Com. Sub. for H. B. 5326, Relating to prohibition of unfair real estate service agreements,

And,

H. B. 5343, Relating to adding an athletic trainer to the Board of Physical Therapy.

Leaves of Absence

At the request of Delegate Householder, and by unanimous consent, leaves of absence for the day were granted Delegates Ellington and Hott.

Miscellaneous Business

Delegate Young noted to the Clerk that had she been present when the vote was taken on Com. Sub. for H. B. 5250, she would have voted "Yea" thereon.

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

H. B. 4399: Delegate Kump;

H. B. 4717: Delegate Espinosa;

H. B. 4754: Delegates Anderson, Espinosa and Fehrenbacher;

H. B. 5223: Delegate Green;

H. B. 5443: Delegate Holstein;

And,

H. B. 5340: Delegate Westfall.

Pursuant to House Rule 94b, a form was filed with the Clerk's Office to be removed as a cosponsor of the following:

H. B. 4700: Delegate Cannon.

At 1:36 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, February 12, 2024.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Monday, February 12, 2024

34th Day

11:00 A.M.

THIRD READING

- S. B. 547 - Authorizing legislative rules for Higher Education Policy Commission
- Com. Sub. for H. B. 4786 - Delivery Network Company (DNC) Insurance Model Act
- Com. Sub. for H. B. 5161 - To create a "digital wallet" to keep all certifications/licensure accrued by the person in one place
- Com. Sub. for H. B. 5243 - Relating to Women's Bill of Rights
- H. B. 5252 - Requiring certain minimum experience for the director or coordinator of services class title involving school transportation.
- H. B. 5268 - Relating to the enhanced recovery of oil and natural gas in horizontal wells
- Com. Sub. for H. B. 5286 - Eliminating the ability to sub-contract under Certificate of Need
- Com. Sub. for H. B. 5287 - Relating generally to traffic safety

SECOND READING

- S. B. 171 - Prohibiting county commissions from adopting authorization that exceeds state law regarding agriculture operations
- Com. Sub. for S. B. 354 - Relating to the WV Advanced Energy and Economic Corridor Authority
- Com. Sub. for H. B. 4782 - Preventing municipalities from targeting protected businesses with planning and zoning ordinances more restrictive than those placed upon other businesses.
- Com. Sub. for H. B. 4951 - To facilitate the interstate practice of School Psychology in educational or school settings
- Com. Sub. for H. B. 4986 - Relating to computer science and cybersecurity instruction for adult learners
- H. B. 5002 - To require at least 1 baby changing station to existing and future

- rest areas in this state for both male and female restrooms
- H. B. 5261 - Relating to the definition of small arms for purposes of taxation
- Com. Sub. for H. B. 5262 - Relating generally to teacher's bill of rights
- H. B. 5263 - Relating to the Consolidated Public Retirement Board and requiring participating public employers to remit retirement contributions and fees by electronic funds transfer
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- H. B. 5270 - Relating to the Natural Resources Police Officers Retirement System
- Com. Sub. for H. B. 5273 - Relating to the Emergency Medical Services Retirement System and clarifying payment upon death of member with less than 10 years of contributory service
- Com. Sub. for H. B. 5295 - Authorizing a private outdoor designated area to simultaneously host multiple qualified permit holders
- Com. Sub. for H. B. 5326 - Relating to prohibition of unfair real estate service agreements
- H. B. 5343 - Relating to adding an athletic trainer to the Board of Physical Therapy

FIRST READING

- Com. Sub. for S. B. 17 - Authorizing Department of Health to promulgate legislative rules
- S. B. 219 - Relating to Uniform Controlled Substances Act
- Com. Sub. for H. B. 4086 - Authorizing certain agencies of the Department of Commerce to promulgate legislative rules
- Com. Sub. for H. B. 4943 - To facilitate the creation of home-based businesses
- Com. Sub. for H. B. 5317 - Making it permissive for commercial motor vehicles registered in this state to pass an annual inspection of all safety equipment to be consistent with the federal motor carrier safety regulations

HOUSE CALENDAR

Monday, February 12, 2024

34th Day

11:00 A.M.

SECOND READING

- H. B. 4795 - Relating to permitting an academic medical center to operate an opioid treatment facility.
- H. B. 4855 - Require Division of Purchasing to write contracts in an unbiased manner
- H. B. 4878 - Updating the meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act
- H. B. 4881 - Relating to bringing terms not defined in that act into conformity with the meaning of those terms for federal income tax purposes
- H. B. 4957 - Relating generally to lobbying rules
- H. B. 5038 - Relating to research and economic development agreements for state institutions of higher education
- H. B. 5050 - Relating to authorizing legislative rules regarding higher education.

FIRST READING

- H. B. 4429 - Relating to excluding test strips from the definition of drug paraphernalia
- H. B. 4777 - Allow staff members in public schools to eat lunch for free if there is food left over after every student has been fed
- H. B. 5194 - Requiring purchases of certain commodities and services from state use program partners
- H. B. 5237 - Prohibiting driving slow in left lane except under certain circumstances

WEST VIRGINIA HOUSE OF DELEGATES

MONDAY, FEBRUARY 12, 2024

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON RULES
10:45 A.M. - BEHIND THE CHAMBER**

**COMMITTEE ON FINANCE
1:00 P.M. – FINANCE COMMITTEE ROOM**

**COMMITTEE ON GOVERNMENT ORGANIZATION
1:00 P.M. – EAST WING COMMITTEE ROOM**

**COMMITTEE ON EDUCATION
2:00 P.M. – EDUCATION COMMITTEE ROOM**

**COMMITTEE ON JUDICIARY
2:30 P.M. – JUDICIARY COMMITTEE ROOM**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470