The Senate met at 11 a.m.

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

Prayer was offered by the Reverend Jim Butcher, Madison Baptist Church, Madison, West Virginia.

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

Pending the reading of the Journal of Monday, January 25, 2016,

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

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

The Clerk presented a communication from the Commission on Special Investigations, submitting its annual report as required by §4-5-2 of the Code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate then proceeded to the third order of business.

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 4002**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3-19; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to rule making under the state Administrative Procedures Act; providing for a sunset of rules promulgated after April 1, 2016;
requiring a sunset provision for existing rules as they are modified; requiring Higher Education Policy Commission rules promulgated or modified after April 1, 2016 to include a sunset provision; clarifying that statutory sunset provisions take precedence over rule sunset provisions; expressly exempting out emergency rules from the sunset requirement; authorizing the Legislative Rule-making Review Committee to establish a procedure for timely review of rules prior to the expiration of the sunset provision; and authorizing the legislative oversight commission on education accountability to establish a procedure for timely review of rules prior to the expiration of the sunset provision.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 4007—A Bill to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of attorneys to assist the Attorney General; authorizing the Attorney General to appoint special assistant attorneys general; establishing competitive bidding process for the use of private attorneys on a contingency fee basis by the Attorney General; requiring written determinations for the Attorney General’s selection of private attorneys to represent the state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and the Attorney General; requiring appointed private attorneys to accept an award of attorney fees in accordance with, and no greater than, the established fee limitations; establishing supervision requirements for private lawyers representing the state on a contingency fee basis; requiring the posting of certain documents relating to the Attorney General’s retention of private attorneys to represent the state on a contingency fee basis; providing for the designation as a special assistant attorney general upon appointment; prohibiting campaign contributions to the Attorney General by members and staff of a private law firm providing legal services to the state; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports; updating and removing outdated provisions; and defining terms.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 4031—A Bill to amend and reenact §29A-3-5, §29A-3-6, and §29A-3-11 of the Code of West Virginia, 1931, as amended, all relating to requiring agencies to respond to public comments received during the rule-making process; permitting the President of the Senate and the Speaker of the House of Delegates to review agencies’ responses; providing grounds for the rejection of a proposed rule; and providing for review of agencies’ responses by legislative rule-making review committee.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 14, Limiting successor corporation asbestos-related liabilities.

And reports back a committee substitute for same with the following title:
Com. Sub. for Senate Bill 14 (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 §55-7l-1, §55-7l-2, §55-7l-3, §55-7l-4, §55-7l-5, §55-7l-6 and §55-7l-7, all relating to providing limits on successor corporation asbestos-related liabilities; setting forth legislative findings and purpose; defining terms; setting forth the applicability of the article and certain exclusions; limiting liability of successor corporations in successor asbestos-related liabilities; providing applicability of limitation in the case of prior merger or consolidation with prior transferor; setting forth guidelines for establishment of fair market value of total gross assets; requiring inclusion of intangible assets in calculation of fair market value; detailing how liability insurance is to be valued; providing for adjustment of fair market value of total gross assets; discontinuing adjustment of fair market value of total gross assets once certain conditions met; excluding liability insurance from annual adjustments; directing liberal construction of act with regard to successors; and setting forth applicability of act to certain claims.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration Senate Bill Nos. 202, 203, 204, 205, 206, 217, 219, 220, 222 and 224, DNR rule relating to prohibitions when hunting and trapping.

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

Com. Sub. for Senate Bill 202 (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Commerce; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee rules and with various amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping; authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to deer hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to wild boar hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to elk restoration and management; authorizing the Division of Labor to promulgate a legislative rule relating to wage payment and collection; authorizing the Division of Labor to promulgate a legislative rule relating to the Elevator Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to the licensing of elevator mechanics and technicians and registration of apprentices; authorizing the Office of Miners’ Health, Safety and Training to promulgate a legislative rule relating to substance abuse screening standards and procedures; directing the Tourism Commission to amend and promulgate a Division of Tourism rule relating to the direct advertising grants program; and
authorizing WorkForce West Virginia to promulgate a legislative rule relating to the West Virginia Prevailing Wage Act.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 216**, Human Rights Commission rule relating to Pregnant Workers’ Fairness Act.

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

**Com. Sub. for Senate Bill 216** (originating in the Committee on the Judiciary)—A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, relating to authorizing the Human Rights Commission to promulgate a legislative rule relating to the Pregnant Workers’ Fairness Act.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Gaunch, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

**Senate Bill 270**, Repealing code relating to insurance policies.

And,

**Senate Bill 278**, Clarifying Physicians’ Mutual Insurance Company is not state or quasi-state actor.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on the Judiciary.

Respectfully submitted,

C. Edward Gaunch,
Chair.

The bills, under the original double committee references, were then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.
On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

By Senators Trump, Leonhardt, Miller, Carmichael, Woelfel, Boso, Palumbo, Williams, Gaunch, Ashley, Beach, Blair, Prezioso and Plymale:

Senate Bill 388—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6 and §61-14-7, all relating to laundering and concealment of proceeds from criminal activity; defining terms; creating felony crime of conducting financial transactions involving proceeds of criminal activity; creating felony crime of transporting, transmitting or transferring monetary instruments or property involving proceeds of criminal activity; creating felony crime of concealing monetary instruments or property involving proceeds of criminal activity; providing for penalties; providing for presumptions when law enforcement or persons acting at the direction of law enforcement are involved with proceeds of criminal activity; denying availability of certain defenses; providing for seizure and forfeiture of property or monetary instruments; clarifying conduct that constitutes separate offenses; and setting forth venue for offenses.

Referred to the Committee on the Judiciary.

By Senator Karnes:

Senate Bill 389—A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to bear hunting; and offenses and penalties.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

By Senators Karnes and Miller:

Senate Bill 390—A Bill to amend and reenact §5A-3-37 of the Code of West Virginia, 1931, as amended, relating to providing for resident farm vendor’s bidding preference.

Referred to the Committee on Government Organization.

By Senators Trump, Leonhardt, Miller, Carmichael, Woelfel, Boso, Gaunch, Romano, Karnes, Ashley, Beach, Blair, Prezioso, Plymale and Unger:

Senate Bill 391—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to use of a firearm during, in relation to, or in furtherance of violation of Uniform Controlled Substances Act; creating felony offense of use or possession of firearm; providing for penalties; clarifying that offense is separate and distinct from other offenses; denying eligibility for sentencing alternatives; and clarifying the term “convicted”.

Referred to the Committee on the Judiciary.

Senators Maynard, Yost, Stollings, Leonhardt, Plymale, Miller and Woelfel offered the following resolution:

Senate Concurrent Resolution 12—Requesting the Division of Highways name State Route 152, beginning from the Cabell County line with Wayne County to where it intersects with U. S. Route 52 near Crum, West Virginia, the “Wayne County Veterans’ Memorial Highway”.

Whereas, Since West Virginia attained statehood in 1863, many brave individuals from this state have served this country in the United States armed forces; and

Whereas, Wayne County, West Virginia, has provided its fair share of thoughtful and courageous individuals, some of whom paid the ultimate sacrifice, in service of this country, beginning from the Civil War to the present; and
Whereas, It is fitting and appropriate to honor those who have served in the United States military from Wayne County by naming the portion of State Route 152 that traverses Wayne County the “Wayne County Veterans’ Memorial Highway”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name State Route 152, beginning from the Cabell County line with Wayne County to where it intersects with U. S. Route 52 near Crum, West Virginia, the “Wayne County Veterans’ Memorial Highway”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to make and have placed signs identifying the “Wayne County Veterans’ Memorial Highway”; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a certified copy of this resolution to the Wayne County Veterans’ Association.

Which, under the rules, lies over one day.

Senators Miller, Yost, Stollings, Trump, Williams, Leonhardt, Plymale, Unger and Laird offered the following resolution:

Senate Resolution 10—Designating January 26, 2016, as West Virginia Local Foods Day at the Legislature.

Whereas, The mission of the West Virginia Food & Farm Coalition is to build, support and strengthen a statewide network of those involved in West Virginia’s local food economies, with the interconnected goals of improving access to healthy, locally produced food for all West Virginians and helping viable food and farm businesses to grow; and

Whereas, The West Virginia Food & Farm Coalition is made of farmers, food processors, distributors, agencies, health professionals, extension agents, researchers, nonprofits, farmers markets, youth groups, religious organizations, consumers and institutions that feed people; and

Whereas, The West Virginia Food & Farm Coalition works within its network to change agricultural policy, promote access to local foods, share resources and grow food and farm businesses; and

Whereas, The West Virginia Food & Farm Coalition has enacted the Road Map for the Food Economy, a food charter that was developed through public input from hundreds of West Virginians from all geographic areas that outlines major challenges facing West Virginia’s food economy and answers with an action plan and a series of four goals for accomplishing needed changes; and

Whereas, The West Virginia Food & Farm Coalition convenes five Food & Farm Working Groups that are tasked with overcoming the challenges outlined in the Road Map for the Food Economy. These working groups include aggregation and distribution; meat processing; school, youth and community gardens; access to local, healthy food; and affiliate group West Virginia Farmers Market Association. Working groups consist of volunteers with backgrounds in various sectors of West Virginia’s food systems that come together to work through West Virginia’s food system challenges and opportunities and implement impactful projects and policies; and

Whereas, The West Virginia Food & Farm Coalition, with its partners, aids in building and strengthening food and farm businesses and seeks to spur economic growth through building strong local food economies in regional “foodsheds”, areas where food is produced, transported and consumed in West Virginia; therefore, be it

Resolved by the Senate:
That the Senate hereby designates January 26, 2016, as West Virginia Local Foods Day at the Legislature; and, be it

Further Resolved, That the Senate acknowledges the progress the West Virginia Food & Farm Coalition’s network has made in building strong local food systems, a competitive local food economy and increasing food access in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Food & Farm Coalition and its working groups.

At the request of Senator Williams, 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 Snyder, and by unanimous consent, the remarks by Senator Williams regarding the adoption of Senate Resolution 10 were ordered printed in the Appendix to the Journal.

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

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

Senators Walters, Yost, Stollings, Williams, Plymale, Unger and Miller offered the following resolution:

**Senate Resolution 11—Designating January 26, 2016, as Broadband Day at the Legislature.**

Whereas, The term “broadband” refers to high-speed internet access; and

Whereas, Broadband service provides a higher speed of data transmission; and

Whereas, Broadband access is constant and does not block phone lines and there is no need to reconnect each time you need to use the internet; and

Whereas, Broadband can provide access to a wide range of resources, services and products that can enhance West Virginians’ lives in a variety of ways, including, but not limited to, education, culture, entertainment, telehealth and telemedicine, economic development, e-commerce, public safety and homeland security, and communications service; and

Whereas, Broadband infrastructure is critical to the future of West Virginia and its economy and will serve as West Virginia’s gateway to the global market in recruiting and attracting businesses; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 26, 2016, as Broadband Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Broadband Day.

At the request of Senator Walters, 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 Carmichael, and by unanimous consent, the remarks by Senator Walters regarding the adoption of Senate Resolution 11 were ordered printed in the Appendix to the Journal.

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

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

**Senate Concurrent Resolution 11,** U. S. Marine Corps Sergeant Gerald Leslie Perry 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 13,** Increasing penalties for overtaking and passing stopped school buses.

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 13 pass?”

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

The nays were: Kessler—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 13) passed.

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

**Eng. Com. Sub. for Senate Bill 13**—A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to the offense of overtaking and passing a school bus stopped for the purpose of receiving and discharging children; creating an inference for charging purposes that a registered owner or lessee was operating the vehicle in the event that the driver of the passing vehicle cannot be ascertained at the time of the alleged offense; and clarifying that service of process is pursuant to W. V. Rule of Criminal Procedure 4.

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

**Eng. Senate Bill 32,** Relating to withdrawal of candidates for office and filling vacancies.

On third reading, coming up in regular order, was read a third time and put upon its passage.
On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost, Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 32) passed with its title.

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


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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost, Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 102) 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 157, Authorizing Department of Revenue to promulgate legislative rules.

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

Pending discussion,

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

Eng. Senate Bill 311, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost, Cole (Mr. President)—34.

The nays were: None.
Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 311) passed with its title.

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

Eng. Senate Bill 323, Correcting statute subsection designations regarding trespassing on property.

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

On the passage of the bill, the yeas were: Ashley, Beach, Blair, Boley, Boso, Carmichael, Cline, Facemire, Ferns, Gaunch, Hall, Karnes, Kessler, Kirkendoll, Laird, Leonhardt, Maynard, Miller, Mullins, Palumbo, Plymale, Prezioso, Romano, Snyder, Stollings, Sypolt, Takubo, Trump, Unger, Walters, Williams, Woelfel, Yost, Cole (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 323) passed.

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

Eng. Senate Bill 323—A Bill to amend and reenact §61-3B-3 of the Code of West Virginia, 1931, as amended, relating to correcting subsection designations in the statute regarding trespass on property; relettering certain subsections to avoid duplication of subsection designations; and making other stylistic and technical changes.

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

The Senate proceeded to the ninth order of business.

Senate Bill 107, Uniform Interstate Depositions and Discovery 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 195, Authorizing DHHR to promulgate legislative rules.

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

The Senate proceeded to the tenth order of business.

Com. Sub. for Senate Bill 146, Establishing instruction standards for early childhood education.

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

Com. Sub. for Senate Bill 262, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.
On first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for Senate Bill 290**, Assignment of wages by employers and payment by payroll card.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Miller.

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

The Senate proceeded to the thirteenth order of business.

Senator Cole (Mr. President) announced the replacement of Senator Leonhardt on the Committee on Economic Development with Senator Cline.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Carmichael, the Senate adjourned until tomorrow, Wednesday, January 27, 2016, at 11 a.m.
SENATE CALENDAR

Wednesday, January 27, 2016
11:00 AM

UNFINISHED BUSINESS

S. C. R. 12 - Wayne County Veterans Memorial Highway.

THIRD READING

Eng. S. B. 107 - Uniform Interstate Depositions and Discovery Act - (Com. title amend. pending).

SECOND READING

Com. Sub. for S. B. 262 - Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings.
Com. Sub. for S. B. 290 - Assignment of wages by employers and payment by payroll card.

FIRST READING

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2016

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Wednesday, January 27, 2016

<table>
<thead>
<tr>
<th>Time</th>
<th>Committee</th>
<th>Room</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 a.m.</td>
<td>Military</td>
<td>(Room No. 451M)</td>
</tr>
<tr>
<td>1 p.m.</td>
<td>Economic Development</td>
<td>(Room No. 451M)</td>
</tr>
<tr>
<td>2 p.m.</td>
<td>Natural Resources</td>
<td>(Room No. 451M)</td>
</tr>
<tr>
<td>2 p.m.</td>
<td>Pensions</td>
<td>(Room No. 208W)</td>
</tr>
</tbody>
</table>