

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2018  
THIRTEENTH DAY

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Charleston, West Virginia, Monday, January 22, 2018

The Senate met at 11:11 a.m.

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

Prayer was offered by the Reverend Tom Bias, Retired United Methodist Clergy, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael J. Maroney, a senator from the second district.

Pending the reading of the Journal of Friday, January 19, 2018,

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

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

The Clerk presented the following communications from various state agencies as required by the provisions of law:

Sanitarians, Board of (§30-1-12)

State Police (Females/Minorities Recruiting Effectiveness) (§15-2-7)

The Senate 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 4020**—A Bill to amend and reenact §7-4-4 and 7-4-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-7-2 of said code; to amend and reenact §7-10-2 of said code; to amend and reenact §15-11-2 of said code; to amend and reenact §15-2-15 of said code; to amend and reenact §15-2C-1 of said code; to amend and reenact 15-9-3 of said code; to amend and reenact §15-11-2 of said code; to amend and reenact §16-2F-2 of said code; to amend and reenact §16-3C-1 of said code; to amend and reenact §16-

9A-3 of said code; to amend and reenact §16-30-3 of said code; to amend and reenact §16-47-5 of said code; to amend and reenact §17C-5-6a and §18-5-15c of said code; to amend and reenact §18-8-6a of said code; to amend and reenact §18A-5-1d of said code; to amend and reenact §28-1-2 of said code; to amend and reenact §29-21-16 of said code; to amend and reenact §31-20-2 of said code; to amend and reenact §33-4-20 of said code; to amend and reenact §48-9-205 and §48-9-301a of said code; to amend and reenact §48-22-301 of said code; to amend and reenact §48-26-701 and §48-26-1002 of said code; to amend and reenact §48-27-403 of said code; to amend and reenact §49-1-201 of said code; to amend and reenact §51-2A-2 of said code; to amend and reenact §51-7-8 of said code; to amend and reenact §61-2-14h of said code; to amend and reenact §61-5-12b of said code; to amend and reenact §61-6-25 of said code; to amend and reenact §61-7-8 of said code; to amend and reenact §61-8-12 of said code; to amend and reenact §61-8B-11a of said code; to amend and reenact §61-8C-3b of said code; to amend and reenact §61-8D-9 of said code; to amend and reenact §61-11-23 of said code; to amend and reenact §61-12-10 of said code; and to amend and reenact §62-6B-5, all relating to clarifying and making technical corrections in the code when referencing chapter 49 of this code due to 2015 revisions to chapter 49 of this code; and defining a term.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

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

**Senate Bill 290**, Relating to DEP standards of water quality and effluent limitations.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

The bill, under the original double committee reference, was 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 Stollings and Jeffries:**

**Senate Bill 334**—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the Excess Lottery Fund, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2018, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

**By Senators Karnes, Weld, Boso, Blair, Rucker, Cline, and Ferns:**

**Senate Bill 335**—A Bill to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-1A-4 of said code; and to amend and reenact §21-5-1 and §21-5-3 of said code, all relating to withholding or diverting an employee's wages or salary; prohibiting any person from coercing or intimidating any employee into making a political contribution or engaging in any form of political activity; prohibiting employers and any other persons responsible for the disbursement of wages and salaries from withholding or diverting any portion of an employee's wages or salary for political activities without express, written authorization; providing that the prohibition against withholding or diverting wages for political activities applies to any written or oral contract or agreement entered into, modified, renewed, or extended on or after July 1, 2018, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2018; setting forth requirements for employees to provide written authorization for disbursement of wages and salaries by an employer or other person for political activities; defining the term "agency shop fees"; modifying definition of "deductions" to include only those amounts required by law or court order to be withheld and employer-sponsored or employer-provided plan; modifying the definition of "deductions" to exclude amounts for union or club dues, charities, and other withholdings that are not employer-sponsored or employer-provided plans; making it an unfair labor practice under the Labor-Management Relations Act for the Private Sector for a labor organization to use agency shop fees paid by nonmembers for political activities, unless expressly authorized by the individual; removing the requirement that an assignment or order be acknowledged by the party making the same before a notary public or other official authorized to take acknowledgments; requiring that an assignment or order shall be in writing; and providing that the changes made to the assignment of wages during the 2018 West Virginia Legislature apply to any written or oral contract or agreement entered into, modified, renewed, or extended on or after July 1, 2018, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2018.

Referred to the Committee on the Judiciary.

**By Senators Ferns, Weld, Boso, Baldwin, Blair, and Cline:**

**Senate Bill 336**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-2-12a, relating generally to application forms prescribed by the Commissioner of the West Virginia Division of Motor Vehicles; providing that the commissioner shall prescribe and provide suitable forms of application which provide the certain applicants the ability to make a contribution to the West Virginia Department of Veterans Assistance; providing that the contributions be added, as appropriate, to the regular fee charged; providing that contributions be used exclusively for stated purposes; providing that the department shall determine the total amount collected and report the amount to the State Treasurer; providing that the State Treasurer shall transfer the amount collected to the West Virginia Department of Veterans Assistance; providing that the West Virginia Department of Veterans Assistance shall reimburse the division for the actual costs incurred by the division in administering.

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

**By Senators Karnes and Rucker:**

**Senate Bill 337**—A Bill to amend and reenact §16-3-10 of the Code of West Virginia, 1931, as amended, relating to clarifying the rights of a parent or legal guardian in declining specific required medication administered to a child at birth; permitting parents or legal guardians of

newborn children to refuse certain medication that has been mandated for newborns; requiring that parents and legal guardians be made aware of the dangers of not receiving the otherwise required medication; providing for notation in medical records; providing for limitation of liability; prohibiting a refusal by the parents or legal guardian from being admissible in certain legal actions or investigations of those parents or legal guardians; and prohibiting discipline or penalties to certain health care professionals when a parent or legal guardian has refused or declined the otherwise mandated medication.

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

**By Senators Blair and Boso:**

**Senate Bill 338**—A Bill to amend and reenact §11-21-74 of the Code of West Virginia, 1931, as amended, relating generally to employer withholding taxes; changing due date for employers to file annual reconciliation and withholding statements with Tax Commissioner to January 31; requiring certain employers to file withholding return information electronically with the Tax Commissioner; and deleting obsolete language.

Referred to the Committee on Finance.

Senators Palumbo, Trump, Stollings, Beach, and Cline offered the following resolution:

**Senate Resolution 12**—Designating January 22, 2018, as Women’s and Girls’ Day at the Legislature.

Whereas, March is Women’s History Month, where we commemorate and encourage the study, observance, and celebration of the vital role of women in American history; and

Whereas, West Virginia women of every race, class, and ethnic background have made historic contributions to the growth and strength of our state and nation in countless recorded and unrecorded ways; and

Whereas, Their perseverance in promoting equality amongst opportunity have paved the way for women to serve in leadership roles within distinct professions; and

Whereas, Throughout our state’s history, West Virginia women have had a profound impact not only in West Virginia, but throughout our nation and the world; and

Whereas, Such instances include Minnie Buckingham Harper, of McDowell County, West Virginia, who became the first African-American woman to serve in a legislative body in the United States with her appointment to the West Virginia House of Delegates on January 10, 1928; and

Whereas, Mary Lou Retton, of Fairmont, West Virginia, was the first American woman to win the All-Around Gold Medal at the Olympics, making her one of the most popular athletes in the United States; and

Whereas, Katherine Johnson, an alumna of West Virginia State University, was deemed a “pioneer” in American space history. As an African-American mathematician, her contributions to NASA influenced every major space program; and

Whereas, These historical instances have set the tone for success for which future generations of West Virginia women can aspire; and

Whereas, West Virginia citizens are proud of the accomplishments and achievements of women in our state, both in the private and public sectors and appreciates their many contributions to our communities as they continue to advance in leadership roles in our society; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 22, 2018, as Women's and Girls' 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 Women's and Girls' Day at the Legislature.

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

On motion of Senator Ferns, at 11:24 a.m., the Senate recessed to present Senate Resolution 12.

The Senate reconvened at 11:26 a.m. today and resumed business under the sixth order.

Senators Unger, Trump, Stollings, Blair, Beach, and Rucker offered the following resolution:

**Senate Resolution 13**—Recognizing Leadership Berkeley for its service, dedication, and commitment to Berkeley County.

Whereas, The objective of Leadership Berkeley is to promote knowledge and awareness of the problems, opportunities, and issues facing Berkeley County; and

Whereas, Leadership Berkeley is designed to provide a series of educational and participatory experiences, as well as an opportunity for dialogue and the development of a correlation among participants in order to encourage local participation in the growth of Berkeley County; and

Whereas, The membership of Leadership Berkeley includes individuals from nearly every facet of Berkeley County's business, professional, religious, governmental, educational, civic, the arts, organized labor, and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2018 membership of Leadership Berkeley consists of Brooke A. Boyer, Quad/Graphics; Logan G. Burke; Lisha M. Burks, Blue Ridge Community and Technical College; Todd A. Cimino-Johnson, Blue Ridge Community and Technical College; Virginia "Viquen" E. Costigan, City National Bank; Lauren A. Dodd, Ecolab; Gretchen L. Fry, Martinsburg-Berkeley County Public Libraries; Courtney L. Funk, MedExpress Urgent Care; Betsy J. Gambino, West Virginia University Medicine Berkeley Medical Center; Laura A. Gentile, CNB Bank, Inc.; Jim T. Goforth, New Life Community Church; Tyler S. Kolb, United Bank; Tricia R. Lawrence, Hospice of the Panhandle; John N. McCain, Horizon Goodwill Industries; Willetta J. Miller, Region 7 Workforce Development Board; Michele M. Morrison, Blue Ridge Community and Technical College; Karen L. Newell, Department of Veterans Affairs; Matthew B. Pennington, EP Planning and Development Council; Denise D. Phelps, First United Bank & Trust; Christopher L. Puller,

MVB Bank; Floyd “Kin” M. Sayre, Bowles Rice, LLP; Darrell A. Shull, West Virginia Secretary of State; Christie Simmons, Telamon Corporation; Leah Smith, Berkeley County Stylist at Serenity Day Spa & Salon; Kirstie S. Svehla; Angel A. Velasquez, Region 7 Workforce Development Board; Tricia E. Worden, Next Generation HR Solutions; and Tina Combs, Martinsburg-Berkeley County Chamber of Commerce; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Leadership Berkeley for its service, dedication, and commitment to Berkeley County; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of Leadership Berkeley.

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

On motion of Senator Ferns, at 11:28 a.m., the Senate recessed to present Senate Resolution 13.

The Senate reconvened at 11:31 a.m. today and, at the request of Senator Woelfel, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 53**, Correcting code reference in regard to certain persons exempted from prohibitions against carrying concealed deadly weapons.

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

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

The nays were: None.

Absent: Beach, Romano, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 53) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Beach, Romano, and Takubo—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 53) takes effect from passage.

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

**Eng. Senate Bill 62**, Adjusting requirements for hiring school attendance directors.

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

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

The nays were: None.

Absent: Beach, Romano, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 62) 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 98**, Creating incentives to consolidate local governments.

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

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

The nays were: Karnes—1.

Absent: Beach, Romano, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 98) 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 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda,

Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Beach, Romano, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 110) 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 133**, Exempting renewal of certain contracts entered into during declared state of emergency.

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

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

The nays were: None.

Absent: Beach, Romano, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 133) 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 263**, Eliminating film tax credits.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Swope, Sypolt, Trump, Unger, Woelfel, and Carmichael (Mr. President)—28.

The nays were: Rucker and Weld—2.

Absent: Beach, Romano, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 263) passed with its title.

Senator Ferns moved that the bill take effect from passage.



On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Swope, Sypolt, Trump, Unger, Woelfel, and Carmichael (Mr. President)—28.

The nays were: Rucker and Weld—2.

Absent: Beach, Romano, and Takubo—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 263) takes effect from passage.

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

**Eng. Senate Bill 300**, Creating five-year tax credits for businesses locating on post-coal mine sites.

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

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

The nays were: None.

Absent: Beach, Romano, and Takubo—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 300) passed with its title.

*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.

**Com. Sub. for Senate Bill 146**, Correcting technical error within Solid Waste Management Act.

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.

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

**Com. Sub. for Senate Bill 37**, Equalizing penalty for entering without breaking regardless of time of day.

**Com. Sub. for Senate Bill 39**, Creating Sexual Assault Victims' Bill of Rights.

**Com. Sub. for Senate Bill 75**, Relating to sale or transfer of video lottery locations.

**Com. Sub. for Senate Bill 134**, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

And,

**Com. Sub. for Senate Bill 292**, Relating to Commission on Special Investigations.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Rucker.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Cline, the name of Senator Cline was removed as a sponsor of **Senate Bill 257** (*Creating WV Counseling Protection Act*).

At the request of Senator Ferns, unanimous consent being granted, leaves of absence for the day were granted Senators Takubo, Romano, and Beach.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 11:57 a.m., the Senate adjourned until tomorrow, Tuesday, January 23, 2018, at 11 a.m.

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## **SENATE CALENDAR**

**Tuesday, January 23, 2018  
11:00 AM**

### **THIRD READING**

Eng. Com. Sub. for S. B. 146 - Correcting technical error within Solid Waste Management Act

### **SECOND READING**

Com. Sub. for S. B. 37 - Equalizing penalty for entering without breaking regardless of time of day

Com. Sub. for S. B. 39 - Creating Sexual Assault Victims' Bill of Rights

Com. Sub. for S. B. 75 - Relating to sale or transfer of video lottery locations

Com. Sub. for S. B. 134 - Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery (original similar to HB 4033)

Com. Sub. for S. B. 292 - Relating to Commission on Special Investigations

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2018**

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**Tuesday, January 23, 2018**

10 a.m.	Transportation & Infrastructure	(Room 451M)
10 a.m.	Military	(Room 208W)