

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2020
THIRTY-SEVENTH DAY

Charleston, West Virginia, Thursday, February 13, 2020

The Senate met at 11:14 a.m.

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

Prayer was offered by Pastor Lee Swor, Mount Pleasant Baptist Church, Elkview, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael T. Azinger, a senator from the third district.

Pending the reading of the Journal of Wednesday, February 12, 2020,

At the request of Senator Rucker, 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 communication from a state agency as required by the provisions of law:

Tax Appeals, Office of (§11-10A-7)

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for Senate Bill 35, Limiting civil penalty for littering conviction to \$2,000.

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

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

On page four, section four, line eighty-five, by striking out the words “up to \$2,000” and inserting in lieu thereof the words “not less than \$200 nor more than \$2,000”;

And,

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

Eng. Com. Sub. for Senate Bill 35—A Bill to amend and reenact §22-15A-4 of the Code of West Virginia, 1931, as amended, relating to limiting the civil penalty for persons convicted of littering to not less than \$200 nor more than \$2,000.

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

Following discussion,

The question being on the adoption of Senator Weld’s aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 35, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 35) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 321, Relating to collection of tax and priority of distribution of estate or property in receivership.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 449, Authorizing Department of Commerce promulgate legislative rules.

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

Eng. Com. Sub. for Senate Bill 532, Distributing assets remaining in municipal policemen's or firemen's pension and relief fund on death of last retiree or beneficiary.

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

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

On page one, section twenty-eight-a, lines one through three, by striking out the words "death of the last remaining retiree or beneficiary receiving benefits under a policemen's pension and relief fund or a firemen's pension and relief fund, the assets remaining in the fund, if any, shall be transferred to the municipality" and inserting in lieu thereof the words "cessation of any and all benefit payments to retirees or retiree beneficiaries because of death or disqualification, the board shall transfer the remaining assets of a policemen's pension and relief fund or a firemen's pension and relief fund to the municipality";

And,

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

Eng. Com. Sub. for Senate Bill 532—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22-28a, relating to the distribution of the assets remaining in a municipal policemen's or firemen's pension and relief fund upon the death or disqualification of the last remaining retiree or beneficiary receiving benefits from the fund; providing for the use of the assets received by the municipality; and providing for the use of assets received by the Municipal Pensions Oversight Board.

On motion of Senator Weld, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 532, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 532) passed with its House of Delegates amended title.

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

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

Eng. House Bill 4178—A Bill to amend and reenact §24-6-13 of the Code of West Virginia, 1931, as amended, relating to requiring calls which are recorded be maintained for a period of five years.

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 4478—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-14b, relating to prohibiting a commercial driver who has used a commercial motor vehicle in a commission of a felony involving “severe forms of trafficking in persons” from holding a commercial driver’s license for life.

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 4544—A Bill to amend and reenact §60A-4-406 of the Code of West Virginia, 1931, as amended, applying a mandatory period of incarceration prior to parole eligibility for persons 18 years old or over who are convicted of distributing a controlled substance within 200 feet of a public library.

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 4576—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-3-11, relating to establishing a procedure for correcting errors in deeds, deeds of trust and mortgages; providing definitions; establishing that obvious description errors in a recorded deed, deed of trust or mortgage involving the transfer of interest in real property may be corrected by recorded affidavit; requiring that the correction of an obvious description error may not be inconsistent with the recorded property description; establishing that prior to recording a corrective affidavit all interested parties must be notified of the intent to record a corrective affidavit and the right of each party to object; requiring that notice to correct an obvious error, and a copy of the accompanying affidavit must be provided to any owner of adjoining property, each party to the deed, deed of trust or mortgage, and the address for the property needing correction; if a local entity is a party, notice shall be sent to the attorney for the local entity or the local entity; if the state is a party, notice shall be served upon the Attorney General and the state agency that has or had possession of the property; establishing that if there is no objection within 30 days of service upon all designated parties to the deed, pertinent attorneys, the title insurance company and adjoining property owners, the corrective affidavit may be recorded; establishes the contents of the corrective affidavit; establishes the effect of the corrective affidavit once filed; requires a title insurance company to issue an endorsement to reflect the corrective affidavit; requires the clerk to record and index the corrective affidavit in the deed book; establishes that a recorded affidavit is prima facie evidence of the facts stated therein; requires associated costs be paid by the recording party; provides that a person who wrongfully records a corrective deed is liable for actual damage, reasonable costs,

and attorney fees; provides that remedies under this section are not exclusive; and provides a format for the corrective affidavit and notice of an intent to correct an obvious description error.

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. House Bill 4647—A Bill to amend and reenact §29-22B-1107 of the Code of West Virginia, 1931, as amended, relating to limited video lottery permit holders; and giving current permit holders a priority preference to reacquire permits they have, at the minimum stated bid price, before those permits are made available to other applicants.

Referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

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

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 63, Creating five-year tax credits for hemp manufacturing.

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

Com. Sub. for Senate Bill 63 (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-29-1 and §11-29-2, all relating to creating five-year tax credits for eligible taxpayers primarily engaged in industrial hemp manufacturing; defining terms; setting forth requirements for application of credit for tax years beginning on or after January 1, 2021; and authorizing rules.

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

Respectfully submitted,

Dave Sypolt,
Chair.

The bill (Com. Sub. for S. B. 63), under the original double committee reference, was then referred to the Committee on Finance.

Senator Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 246, Including family court judges in retirement system for judges.

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

Com. Sub. for Senate Bill 246 (originating in the Committee on Pensions)—A Bill to amend and reenact §51-9-1a, §51-9-5, §51-9-6b, and §51-9-6d of the Code of West Virginia, 1931, as amended, all relating to including family court judges in the retirement system for judges; and authorizing family court judges to participate in the retirement system for judges.

And,

Senate Bill 729, Relating to awards and disability under Deputy Sheriff Retirement Act.

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

Com. Sub. for Senate Bill 729 (originating in the Committee on Pensions)—A Bill to amend and reenact §7-14D-14 of the Code of West Virginia, 1931, as amended, relating to awards and benefits for disability under the Deputy Sheriff Retirement Act.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

The bills (Com. Sub. for S. B. 246 and 729), under the original double committee references, were then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 572, Expiring funds from General Revenue and Lottery Net Profits to various accounts.

And,

Senate Bill 725, Supplemental appropriation to various Department of Education accounts.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 579, Authorizing establishment of enhanced emergency telephone systems.

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

Com. Sub. for Senate Bill 579 (originating in the Committee on Government Organization)—A Bill to amend and reenact §24-6-6b of the Code of West Virginia, 1931, as amended, relating to changing the wireless enhanced 911 fee; and establishing a separate public safety fee and wireless tower fee.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 579), under the original double committee reference, was then referred to the Committee on Finance.

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 717, Relating generally to adult protective services.

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

Com. Sub. for Senate Bill 717 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §9-6-1, §9-6-2, §9-6-3, §9-6-4, §9-6-5, §9-6-6, §9-6-7, §9-6-8, §9-6-9, §9-6-10, §9-6-11, §9-6-13, and §9-6-16 of the Code of West Virginia, 1931, as amended, all relating to adult protective services, abuse, neglect, and vulnerable adults; defining terms; replacing old terms and adding new terms; and providing for the release of investigative summaries of substantiated and unsubstantiated reports of abuse, neglect, or financial exploitation to certain individuals.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Eng. House Bill 4601, Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

The Senate proceeded to the sixth order of business.

At the request of Senator Weld, unanimous consent being granted, the following bills were considered introduced, read by their titles, and referred to the appropriate committees:

By Senators Maroney and Takubo:

Senate Bill 762—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-25H-1, §33-25H-2, §33-25H-3, and §33-25H-4, all relating to creating the Preserving Patient Stability Act of 2020; setting forth definitions; prohibiting nonmedical switching of biological products; recognizing exemptions; and providing for enforcement.

Referred to the Committee on Health and Human Resources.

By Senators Prezioso, Baldwin, Beach, Ihlenfeld, Jeffries, Lindsay, Romano, and Stollings:

Senate Bill 763—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-20; to amend and reenact §30-5-4 of said code; and to amend said code by adding thereto three new sections, designated §30-5-25, §30-5-25a and §30-5-25b, all relating to improving accountability of opioid manufacturers; requiring the submission of opioid medication distribution information; authorizing a manufacturer of an opioid medication registration fee; authorizing an opioid medication product registration fee; providing exceptions to opioid medication product registration fee; establishing a method of calculating units of opioid medications sold, delivered, or distributed; and requiring an opioid medication product registration fee review and report.

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

By Senators Swope, Blair, Jeffries, and Pitsenbarger:

Senate Bill 764—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-22a; and to amend and reenact §15-5-26 of said code, all relating to providing exemptions from certain taxes for out-of-state businesses, out-of-state affiliates of in-state businesses, and their employees for work responding to declared disasters and states of emergency; making legislative findings; defining terms; specifying tax exemptions and their scope; establishing filing and notice procedures; and providing an immediate date of effect.

Referred to the Committee on Finance.

By Senator Weld:

Senate Bill 765—A Bill to amend and reenact §61-11-18 and §61-11-19 of the Code of West Virginia, 1931, as amended, all relating to provisions of the Habitual Offender statute; and modifying provisions addressing eligibility of certain crimes for consideration, expiration of sentence prior to being considered, ineligibility for good time calculation, and eligibility for dual treatment under section allowing enhanced sentencing for second or subsequent offenses.

Referred to the Committee on the Judiciary.

By Senator Rucker:

Senate Bill 766—A Bill to amend and reenact §3-7-6 and §3-7-7 of the Code of West Virginia, 1931, as amended, all relating to the contests of county, district, and municipal elections; establishing jurisdiction for said election contests with the circuit courts; setting forth procedures for election contests; establishing three-judge circuit courts as initial tribunals for hearing election contest proceedings; providing for appeals of such proceedings to the Supreme Court of Appeals; and establishing the authority of the Supreme Court of Appeals to establish rules and procedures for the conduct of county, district, and municipal election contest proceedings before the courts of the state.

Referred to the Committee on the Judiciary.

By Senator Maroney:

Senate Bill 767—A Bill to repeal §16-5B-6a of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-5B-5a of said code, relating to the licensure of hospitals; allowing hospitals to use other accrediting organizations which have been approved by the Centers for Medicare and Medicaid Services; and eliminating hospital board composition requirements.

Referred to the Committee on Health and Human Resources.

By Senator Takubo:

Senate Bill 768—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-20-1, relating to permitting any hospital, or a state college and university, that establishes a two-year registered professional nurse's program to be eligible for grant funding under the WV Invests Grant Program.

Referred to the Committee on Education.

By Senator Cline:

Senate Bill 769—A Bill to amend and reenact §17C-13-3 of the Code of West Virginia, 1931, as amended, relating to clarifying that a person is prohibited from stopping, standing, or parking in an area designated or marked off as an access aisle adjacent to a van-accessible parking space or regular accessible parking space; and making the penalty provisions in this section consistent with the penalties in other sections of code.

Referred to the Committee on Transportation and Infrastructure.

By Senator Takubo:

Senate Bill 770—A Bill to amend and reenact §30-14-2 and §30-14-4 of the Code of West Virginia, 1931, as amended, all relating to definitions and applications for licensure or educational permits for osteopathic physicians and surgeons; revising requirements for post-doctoral training; and eliminating continuing medical education requirements for initial licensure.

Referred to the Committee on Health and Human Resources.

By Senator Maynard:

Senate Bill 771—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-15-1, §15-15-2, §15-15-3, §15-15-4, §15-15-5, and §15-15-6, all relating to preserving and protecting the right to keep and bear arms; defining acts which

constitute infringements upon the right to keep and bear arms; articulating the constitutional limits on these infringements and making findings in defense of the right; declaring all infringements under federal law or authority to be against the rights of the people and to be legally void; declaring the duty of courts and law-enforcement agencies to protect the rights of law-abiding citizens, including the right to keep and bear arms; providing causes of action against persons who knowingly infringe upon these rights; providing for awards of specified damages, costs, and attorney's fees; and barring the employment of certain persons by the state or its political subdivisions for infringing actions taken under color of federal law.

Referred to the Committee on the Judiciary.

By Senators Azinger, Smith, Sypolt, and Trump:

Senate Bill 772—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §2-1-3, relating to clarifying the American Law Institute's Restatements of Law are not controlling law.

Referred to the Committee on the Judiciary.

By Senator Maynard:

Senate Bill 773—A Bill to amend and reenact §22C-4-8 and §22C-4-10 of the Code of West Virginia, 1931, as amended, all relating to requiring county or regional solid waste authorities to provide a roll-off dumpster for residents to use, free of charge, for litter and solid waste disposal according to any litter or solid waste control plan.

Referred to the Committee on Government Organization.

By Senator Maroney:

Senate Bill 774—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-5-37, relating to disposal of unused, unwanted, or expired medications; and pharmacists' duties in the process.

Referred to the Committee on Health and Human Resources.

By Senator Maroney:

Senate Bill 775—A Bill to amend and reenact §18-5-9 of the Code of West Virginia, 1931, as amended, relating to requiring at least two water bottle filling stations be included in newly built and renovated schools.

Referred to the Committee on Education.

By Senator Rucker:

Senate Bill 776—A Bill to repeal §18-8-7 and §18-8-11 of the Code of West Virginia, 1931, as amended; to repeal §49-4-711 of said code; and to amend and reenact §18-8-1a, §18-8-2, §18-8-3, §18-8-4, §18-8-5, and §18-8-6a of said code, all relating to creating the Assisting Collaborating Communities to Enhance Learning, Education, and to Reduce Absenteeism and Tardiness in Education Act; finding that best practices and research show that court-based interventions for truancy have not been effective and that community and school-based programs that are incremental and focus on resolving truancy's root causes work best to improve school attendance; and implementing community and school-based programs to improve school attendance.

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

By Senator Rucker:

Senate Bill 777—A Bill to amend and reenact §17E-1-9 of the Code of West Virginia, 1931, as amended, relating to exempting taxi and limousine drivers, and drivers for ride-share companies, such as Uber and Lyft, from undergoing background checks for misdemeanor convictions.

Referred to the Committee on Transportation and Infrastructure.

Senators Smith and Sybolt offered the following resolution:

Senate Concurrent Resolution 30—Requesting the Division of Highways name bridge number 16-020/01-000.18 (16A044), locally known as Stanley See Bridge, carrying CR 20/1 over Lost River in Hardy County, the “Stanley W. and Evelyn C. See Memorial Bridge”.

Whereas, Stanley and Evelyn See were instrumental in the development of Hardy County and together they established an operated a gas station and store in Mathias, West Virginia, which also served as a social center for the people living in the area; and

Whereas, Stanley W. See also spent his extra time working toward the establishment of Hardy Telephone, and was also a charter member of the Mathias Fire Company; and

Whereas, Evelyn C. See also donated much of her time to the community by helping people to purchase food, teaching young women how to cook, and helping with community activities at the Mathias Community Center; and

Whereas, Stanley and Evelyn See have passed and their store and gas station no longer exist, except in the memories of the people they helped and befriended; and

Whereas, It is fitting that an enduring memorial be established to commemorate Stanley and Evelyn See and their contributions to their community and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 16-020/01-000.18 (16A044), locally known as Stanley See Bridge, carrying CR 20/1 over Lost River in Hardy County, the “Stanley W. and Evelyn C. See Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Stanley W. and Evelyn C. See Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Ihlenfeld and Weld offered the following resolution:

Senate Concurrent Resolution 31—Requesting the Division of Highways name bridge number 35-002/00-011.58 (35A147), locally known as Short Creek Bridge, carrying WV 2 over Short Creek in Ohio County, the “U.S. Marine Corps PFC Manuel P. Markos Memorial Bridge”.

Whereas, Manuel P. Markos was born in Utah on October 27, 1924, the second child of Paul S. Markos (Markakis) and Diamanto Tsuhlares Markos of Short Creek, West Virginia; and

Whereas, Growing up in Short Creek, West Virginia, Manuel P. Markos had three siblings: Nick P. Markos, born on May 9, 1923, who died on July 17, 2002; Stella M. Markos (Sfamenos), born on August 23, 1929, who still resides in Short Creek; and Goldie M. Markos (Basil), born on February 6, 1937, who also still resides in Short Creek; and

Whereas, Manuel P. Markos’ parents immigrated to the United States through Ellis Island from the village of Hania on the island of Crete, Greece; and

Whereas, Manuel P. Markos’ older brother, Nick, was a member of the U.S. Army and fought in the Rhineland Campaign in central Europe in World War II, and received an honorable discharge following the war; and

Whereas, Manuel P. Markos attended school at Beech Bottom Elementary and Junior High and then Wellsburg High School. He worked at Markos Grocery Store, the family business, while attending school; and

Whereas, Manuel P. Markos left Wellsburg High School during his senior year to enlist in the U.S. Marine Corps. He entered active service, was assigned to the Fifth Division, and had the rank of PFC. PFC Manuel P. Markos was killed in action on February 19, 1945, the day that the U.S.M.C. invaded the Japanese island of Iwo Jima. The battle of Iwo Jima endured from February 19 until March 26, 1945; and

Whereas, Religion was an important part of PFC Manuel P. Markos’ life. He was a life-time member of Saint John the Divine Greek Orthodox Church in Wheeling, West Virginia, where he was baptized and later, when his remains were returned from Iwo Jima, had his funeral. He is buried at Greenwood Cemetery in Wheeling, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Marine Corps PFC Manuel P. Markos and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 35-002/00-011.58 (35A147), locally known as Short Creek Bridge, carrying WV 2 over Short Creek in Ohio County, the “U.S. Marine Corps PFC Manuel P. Markos Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S Marine Corps PFC Manuel P. Markos Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Romano and Facemire offered the following resolution:

Senate Concurrent Resolution 32—Requesting the Division of Highways name bridge number 17-019/00-004.49(17A069), locally known as Good Hope Bridge, carrying US Route 19 over the West Fork River in Harrison County, the “U. S. Marine Corps PFC James R. ‘Johnny’ Corder Memorial Bridge”.

Whereas, James Russell Corder was born July 24, 1947, in Clarksburg, West Virginia; and

Whereas, James Russell Corder grew up in a poor coal camp in Hepzibah, West Virginia, as the oldest of five siblings who described “Johnny” as their “mentor” and “protector” and a loyal brother who helped them with their schoolwork; and

Whereas, James Russell Corder moved to a 36-acre farm in Good Hope, West Virginia, where he helped his family install fencing around the property, raise livestock, and care for three large gardens; and

Whereas, James Russell Corder was known as an adventurer who caught live snakes, which he used to scare his mom, and became an expert marksman known for taking down two crows with one shot; and

Whereas, James Russell Corder enlisted in the U. S. Marine Corps in 1967 after he graduated from South Harrison High School, hoping to protect his brothers from the draft; and

Whereas, James Russell Corder served as a Private 1st Class rifleman and radio operator with the 3rd Marine Division, 3rd Battalion, 3rd Marines, I Company in Quang Tri Province, South Vietnam; and

Whereas, James Russell Corder was killed by enemy fire during a reconnaissance mission on May 23, 1968, when a mortar landed next to the fox hole in which he was operating the field radio; and

Whereas, Family members were overwhelmed with sorrow when they received word that “Johnny” had become a casualty in what would become the deadliest month of the Vietnam War and he continues to be missed by his family; and

Whereas, James Russell Corder was awarded the Purple Heart, Vietnam Gallantry Cross, Combat Action Ribbon, and Marine Corps Presidential Unit Citation; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC James R. “Johnny” Corder and his contributions to our state and country; therefore, be it,

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name number 17-019/00-004.49(17A069), locally known as Good Hope Bridge, carrying US Route 19 over the West Fork River in Harrison County, the “U. S. Marine Corps PFC James R. ‘Johnny’ Corder Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Marine Corps PFC James R. ‘Johnny’ Corder Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to forward five copies of this resolution to Mr. Corder’s family members and a close friend.

Which, under the rules, lies over one day.

Senator Jeffries offered the following resolution:

Senate Resolution 40—Recognizing West Virginia Gold Star Mothers for their dedication and commitment to veterans and their families.

Whereas, Gold Star Mothers was founded in 1928 and named from the custom of American families of servicemen hanging a banner called a service flag in the windows of their homes. The service flag had a star for each family member in the armed forces. Living servicemen were represented by a blue star, and those who had lost their lives in combat were represented by a gold star; and

Whereas, It is the mission of Gold Star Mothers to serve veterans and their families, provide support to other Gold Star Mothers, and promote patriotism and flag etiquette; and

Whereas, Gold Star Mothers find strength in the fellowship of other Gold Star Mothers who strive to keep the memory of their sons and daughters alive by working to help veterans, those currently serving in the military, their families, and our communities; and

Whereas, Gold Star Mothers participate in various memorial events around the country honoring their brave sons and daughters who paid the ultimate sacrifice; and

Whereas, It is fitting that the Senate honor the West Virginia Gold Star Mothers for their sacrifice and contributions to their fellow West Virginians and to Gold Star Mothers throughout the United States; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes West Virginia Gold Star Mothers for their dedication and commitment to veterans and their families; and, be it

Further Resolved, That the Senate extends its deepest condolences to West Virginia Gold Mothers who lost their beloved sons and daughters in battle; and, be it

Further Resolved, That the Senate extends its most sincere appreciation and gratitude for the work that they do in supporting those who need it most; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Gold Star Mothers.

Which, under the rules, lies over one day.

At the request of Senator Weld, unanimous consent being granted, the Senate returned to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 778 (originating in the Committee on Finance)—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2020, in the amount of \$5,158,000 from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund, and making a supplementary appropriation of public moneys out of the Treasury from the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2020, to the Department of Health and Human Resources – Division of Human Services, fund 0403, fiscal year 2020, organization 0511.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 779 (originating in the Committee on Finance)—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2020, in the amount of \$4,500,000 from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund, and making a supplementary appropriation of public moneys out of the Treasury from the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2020, to the Department of Veterans' Assistance – Department of Veterans' Assistance, fund 0456, fiscal year 2020, organization 0613.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 780 (originating in the Committee on Finance)—A Bill supplementing and amending by decreasing an existing appropriation and adding a new appropriation of federal funds out of the Treasury to the Department of Military Affairs and Public Safety – Adjutant General – West Virginia National Guard Counterdrug Forfeiture Fund, fund 8785, fiscal year 2020, organization 0603, by supplementing, amending, decreasing, and adding new items of appropriations for the fiscal year ending June 30, 2020.

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

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the seventh order of business.

Com. Sub. for Senate Concurrent Resolution 8, US Army 1LT Harold H. Frazier Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senate Concurrent Resolution 12, US Army PFC Gary Alcott Birkhimer Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senate Resolution 38, Recognizing contributions of AARP President Rich Stonestreet to WV and its people.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Trump, 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 Weld, and by unanimous consent, the remarks by Senator Trump regarding the adoption of Senate Resolution 38 were ordered printed in the Appendix to the Journal.

On motion of Senator Weld, at 11:38 a.m., the Senate recessed to present Senate Resolution 38.

The Senate reconvened at 11:42 a.m. and resumed business under the seventh order.

Senate Resolution 39, Designating February 13, 2020, as Tiny Hearts Day.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Stollings, 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 Weld, and by unanimous consent, the remarks by Senator Stollings regarding the adoption of Senate Resolution 39 were ordered printed in the Appendix to the Journal.

On motion of Senator Weld, at 11:45 a.m., the Senate recessed to present Senate Resolution 39.

The Senate reconvened at 11:50 a.m. and, at the request of Senator Prezioso, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 202, Allowing one member of PSD board to be county commissioner.

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 Senate Bill 202 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 202) passed.

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

Eng. Senate Bill 202—A Bill to amend and reenact §16-13A-3 of the Code of West Virginia, 1931, as amended, relating to allowing one member of a public service board to be a county commissioner of the county commission with authority to appoint the members of the board, regardless of whether the commissioner resides within the district, when a board vacancy has existed for more than one year.

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 232, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 232) passed with its title.

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

Com. Sub. for Senate Bill 288, Relating to family planning and child spacing.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, February 12, 2020, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Weld, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

Eng. Com. Sub. for Senate Bill 638, Creating new private club licenses and requirements.

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 638 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Roberts and Smith—2.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 638) passed with its title.

Senator Weld moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Roberts and Smith—2.

Absent: Takubo—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 638) takes effect from passage.

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 Com. Sub. for Senate Bill 490, Relating to criminal offenses against agricultural facilities.

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

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

Com. Sub. for Com. Sub. for Senate Bill 554, Relating to termination, expiration, or cancellation of oil or natural gas leases.

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 583, Creating program to further development of renewable energy resources.

Having been read a second time on yesterday, Wednesday, February 12, 2020, and now coming up in regular order with Senator Smith's amendment pending, was reported by the Clerk.

At the request of Senator Smith, unanimous consent being granted, Senator Smith's pending amendment to the bill (*shown in the Senate Journal of yesterday, Wednesday, February 12, 2020*) was withdrawn.

On motion of Senator Smith, the following substitute amendment to the bill was reported by the Clerk:

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

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1o. Renewable Energy Facilities Program.

(a) The Legislature finds and declares that:

(1) West Virginia is rich in energy resources, which provide many advantages to the state, its economy and its citizens;

(2) West Virginia's abundant mineral reserves have created, and will continue to create, many benefits to the state and its citizens, including thousands of jobs, a strong tax base and a low-cost, reliable source of electricity;

(3) Coal-fired plants currently supply over 90 percent of electricity generation to the citizens and businesses of this state;

(4) Businesses that may otherwise locate or expand facilities in this state often require that a portion of the electricity that they purchase be generated via renewable sources;

(5) Creating a program for the development of certain renewable sources of electricity by electric utilities will result in increased economic development opportunities in the state, create jobs and enhance the use of the state's electricity generation; and

(6) Creating a program to authorize electric utilities to provide a portion of the state's electricity needs through a process that allows them to plan, design, construct, purchase, own and operate renewable electric generating facilities, energy storage resources, or both, pursuant to this section is in the public interest of the state.

(b) Definitions – For the purpose of the section:

“Capital investments” include, but are not limited to, costs related to the planning, design, construction, purchase and ownership of renewable electric generating facilities, energy storage resources, and interconnections with transmission and distribution facilities.

“Commission” or “Public Service Commission” means the Public Service Commission of West Virginia.

“Electric utility” means any electric distribution company that sells electricity to retail customers in this state under rates regulated by the commission. Unless specifically provided for otherwise, for the purposes of this section, the term “electric utility” may not include rural electric cooperatives, municipally-owned electric facilities or utilities serving less than 30,000 residential electric customers in West Virginia.

“Eligible site” means any site in this state that has been previously used in electric generation, industrial, manufacturing or mining operations, including, but not limited to, brownfields, closed landfills, hazardous waste sites, former industrial sites, and former mining sites. In the event that there is no available site that has been previously used in electric generation, industrial, manufacturing or mining operations in the area to be served by a renewable electric facilities program, an eligible site may include any suitable site in this state approved for use in connection with a renewable electric facilities program by the Secretary of the Department of Commerce.

“Energy storage resource” means infrastructure located on an eligible site that allows for the energy absorption and release of electrical energy into the electric grid.

“Renewable electric facilities program” means a program proposed by an electric utility to plan, design, construct, purchase, own, and operate renewable electric generating facilities.

energy storage resources, or both, pursuant to this section: *Provided*, That a renewable electric facilities program may not consist solely of energy storage resources.

“Renewable electric generating facility” means infrastructure located on an eligible site that generates electricity solely through solar photovoltaic methods or other solar methods.

(c) Electric utilities may file with the commission an application for a multiyear comprehensive renewable energy facilities program that complies with the provisions of this section for planning, designing, constructing, purchasing, owning, and operating renewable electric generating facilities, energy storage resources, or both, by the electric utility. Subject to commission review and approval, a renewable energy facilities program may be amended and updated by the electric utility. The recovery of costs in support of the renewable energy facilities program shall be allowed in the manner set forth in this section.

(d) Any renewable energy facilities program shall comply with the following requirements:

(1) An electric utility may purchase each renewable electric generating facility and each energy storage resource from a developer of renewable electric generating facilities or energy storage resources or construct such facilities on its own, as applicable. Any purchase of a renewable electric generating facility or energy storage resources shall be subject to a competitive procurement administered by the electric utility. An electric utility may select to purchase a renewable electric generating facility, energy storage resource, or both, based on a myriad of factors, including, but not limited to, price and nonprice criteria, which shall include, but not be limited to, geographic distribution of generating capacity, areas of higher employment, or regional economic development.

(2) An electric utility may elect to petition the commission, outside of a base rate case proceeding, at any time for a prudency determination with respect to the purchase, construction and ownership by the electric utility of one or more renewable electric generating facilities, energy storage resources, or both. The commission’s final order regarding any such petition shall be entered by the commission within 150 days after the date of the filing of such petition.

(3) No renewable electric generating facility shall have a generating capacity greater than 50 megawatts until such time as 85 percent of that renewable electric generating facility’s annual energy output is being sold or is contracted to be sold to residential, commercial, or industrial customers pursuant to a renewable special contract or renewable tariff, and, thereafter, any expansion of that or another renewable energy generating facility’s generating capacity shall proceed in increments of up to 50 megawatts each until such time as 85 percent or more of all renewable energy generating facility’s aggregate, annual energy output is being sold or is contracted to be sold to customers pursuant to a renewable special contract or renewable tariff;

(4) No single renewable electric generating facility shall have a generating capacity greater than 200 megawatts;

(5) The cumulative generating capacity of all renewable electric generating facilities operating at any given time, and for which rate recovery is provided by the commission under this section, shall not exceed 400 megawatts among all investor-owned electric utilities in this state: *Provided*, That the cumulative generating capacity of all renewable electric generating facilities operating at any one time, and for which rate recovery is provided by the commission under this section, shall not exceed 200 megawatts for all electric utilities within the state owned by the same corporate parent company;

(6) The calculation of maximum megawatts of generating capacity for renewable electric generating facilities established in this subsection shall not include the storage capacity of energy storage resources;

(7) As part of the renewable energy facilities program, the electric utilities must offer the energy output for sale to customers from all classes of service.

(e) Applications made under this section are in lieu of an application for a certificate of public convenience and necessity pursuant to §24-2-11 of this code and shall contain the following:

(1) A description of the renewable electric generating facilities, energy storage resources, or both, in such detail as the commission prescribes, including, but not limited to, the generating capacity and location of the facilities and a description of the competitive purchase procurement process administered by the electric utility that is required under this section;

(2) A proposed concurrent cost recovery mechanism for actual and projected capital investments in the renewable electric generating facilities, energy storage resources, or both, and for operation and maintenance expenses and taxes associated with such facilities; and

(3) Other information that the applicant considers relevant or the commission requires.

(f) Upon filing of an application, the applicant shall publish, in the form the commission directs, which form shall include, but not be limited to, the anticipated rates and, if any, rate increase under the proposal, by average percentage and dollar amount for customers within a class of service, as a Class I legal advertisement in compliance with §59-3-1 *et seq.*, of this code, the publication area to be each county in which service is provided by the electric utility, a notice of the filing of the application and that the commission shall hold a hearing on the application within 90 days of the notice; unless no opposition to the rate change is received by the commission within one week of the proposed hearing date, in which case the hearing can be waived, and the commission shall issue a final order within 150 days of the application filing date.

(g) The planning, design, construction, purchase, ownership and operation of renewable electric generating facilities, energy storage resources, or both, pursuant to this section is in the public interest, and the commission shall so find when considering applications for renewable energy facilities programs submitted by an electric utility pursuant to this section.

(h) Upon notice and hearing, if required by the commission, the commission shall approve the applications made under this section and allow concurrent recovery of costs related to the expenditures, as provided in subsection (i) of this section, if the commission finds that the expenditures and the associated rate requirements are just and reasonable and that the applications comply with the requirements of this section.

(i) Upon commission approval, electric utilities shall be authorized to implement renewable electric facilities programs and to concurrently recover their costs, including a return on capital investments, operation and maintenance, depreciation, and tax expenses directly attributable to the renewable electric facilities program capital investments, if any, as provided in the following:

(1) An allowance for return shall be calculated by applying a rate of return to the average planned net incremental increase to rate base attributable to the renewable electric facilities program for the coming year, considering the projected amount and timing of capital investments under the renewable electric facilities program plus any capital investments in

previous years of the program. The rate of return shall be determined by utilizing the rate of return on equity and the capital structure authorized by the commission in the electric utility's most recent base rate case proceeding or in the case of a settled base rate case, a rate of return on equity set forth in or associated with such settlement or, if neither is set forth in or associated with such settlement, a rate of return on equity and a capital structure determined by the commission to be reasonable, and the projected average weighted cost of the electric utility's debt during the period of the renewable electric facilities program to determine the weighted cost of capital based upon the electric utility's capital structure determined as specified above.

(2) Income taxes applicable to the return allowed on the renewable electric facilities program shall be calculated at the statutory rate for inclusion in rates.

(3) Incremental operation and maintenance, depreciation and property tax expenses directly attributable to the renewable electric facilities program shall be estimated for the upcoming year.

(4) Following commission approval of its application made under this section, an electric utility shall place into effect rates that include an increment for concurrent cost recovery that recovers the allowance for return, related income taxes at the statutory rate, operation and maintenance, depreciation and property tax expenses associated with the electric utility's actual and projected capital investments under the renewable electric facilities program for the upcoming year, net of contributions to recovery of those incremental costs provided by customers who have executed renewable special contracts, or who are taking power under renewable tariffs and are served by the renewable electric facilities program investments, if any, ("incremental cost recovery increment"). In each year subsequent to the order approving the renewable electric facilities program and the incremental cost recovery increment, the electric utility shall file an application with the commission setting forth a new proposed incremental cost recovery increment for concurrent cost recovery of forecasted costs to be made in the subsequent year, plus any under-recovery or minus any over-recovery of actual incremental costs attributable to the renewable electric facilities program, for the preceding year.

(5) The renewable electric generating facilities, energy storage resources, or both, constructed, purchased, contracted, owned, installed, and in service pursuant to an application approved by the commission shall be considered used and useful for rate recovery purposes. Any concurrent cost recovery mechanism approved by the Commission may limit the amount of cost to be recovered from any particular customer class of the electric utility, for good cause shown and so long as all costs are recovered by the electric utility. Customers who have executed renewable special contracts or are taking power under renewable tariffs pursuant to an approved renewable electric facilities program are not subject to any such limits imposed by the Commission.

(6) If an electric utility serves customers in more than one jurisdiction, and a jurisdiction other than this state denies the electric utility recovery of the costs incurred pursuant to a renewable electric facilities program approved by the commission and allocated to that jurisdiction, the electric utility shall recover all of the costs of the renewable electric facilities program from its West Virginia jurisdictional customers if the commission finds that the expenditures and the associated rate requirements are just and reasonable, and all attributes of the renewable electric facilities program, including energy, capacity, and renewable energy credits shall be assigned to this state.

(i) The electric utility may make any accounting accruals necessary to establish a regulatory asset or liability through which actual incremental costs incurred and costs recovered through the rate mechanism are tracked.

(k) With respect to renewable electric facilities programs, electric utilities may defer incremental operation and maintenance expenses attributable to regulatory and compliance-related requirements introduced after the electric utility's last base rate case proceeding and not included in the electric utility's current base rates or incremental cost recovery increment in lieu of current recovery. In a future base rate case, the commission shall allow recovery of such deferred costs amortized over a reasonable period of time to be determined by the commission provided the commission finds that the costs were reasonable and prudently incurred and were not reflected in rates in prior base rate cases.

(l) The provisions of this section shall expire on December 31, 2025. The expiration of this section shall not affect the full and timely cost recovery associated with a renewable energy facilities program for which an application has been filed with the commission pursuant to this section on or before December 31, 2025, nor for any projects previously approved by the commission pursuant to this section.

(m) Notwithstanding any provision of this article to the contrary, no provision herein this section shall displace any current levels of coal-fired generation capacity.

Following discussion,

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

The bill (Com. Sub. for S. B. 583), as amended, was then ordered to engrossment and third reading.

Senate Bill 733, Recognizing political party status.

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

On motion of Senator Hamilton, the following amendment to the bill was reported by the Clerk:

On page one, section eight, after line eleven, by adding the following:

§3-1-35. Ballots to be furnished voters.

(a) In general and special elections the ballots for all voters of an election precinct shall be the same.

(b) In primary elections a voter may request the ballot of the voter's political party or a ballot from any other party at that election in that precinct and the voter shall be furnished a ballot for the political party requested to the voter together with separate ballots, if any, on any nonpartisan candidates and any public questions submitted to the voters generally at such primary election.

(c) In the event the voter is lawfully registered as "independent" or as an adherent of a political party not appearing on any primary election ballot to be voted in his precinct, he shall not, in a primary election, be given or entitled to vote any party ballot but shall be furnished any separate ballots to be voted thereat on nonpartisan candidates and public questions.

Senator Trump arose to a point of order that Senator Hamilton's amendment was not germane to the bill.

Which point of order, the President ruled well taken.

The bill (S. B. 733) was then ordered to engrossment and third reading.

Eng. House Bill 4381, Relating to lifetime hunting, fishing and trapping licenses for adopted children.

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

The Senate proceeded to the tenth order of business.

At the request of Senator Weld, unanimous consent being granted, the following bills on first reading, coming up in regular order, were considered read a first time and ordered to second reading:

Com. Sub. for Senate Bill 265, Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program.

Com. Sub. for Senate Bill 279, Requiring dental insurance plans honor assignment made in writing by person covered.

Com. Sub. for Senate Bill 285, Eliminating WV Greyhound Breeding Development Fund.

Com. Sub. for Senate Bill 306, Licensing of drivers utilizing bioptic telescopic devices.

Com. Sub. for Senate Bill 589, Creating Critical Needs/Failing Systems Sub Account.

Com. Sub. for Com. Sub. for Senate Bill 597, Relating to judicial branch members' salaries and pensions.

Com. Sub. for Senate Bill 702, Designating specific grade levels in which nutrition and physical fitness programs are taught.

Senate Bill 703, Increasing earning limit for employees who accept separation incentive.

Com. Sub. for Senate Bill 706, Clarifying duties of law-enforcement training and certification subcommittee.

Senate Bill 712, Correcting name of Forensic Analysis Laboratory.

Com. Sub. for Senate Bill 746, Providing contracted managed care companies access to uniform maternal screening tool.

Eng. Com. Sub. for House Bill 2497, Relating to the whistle-blower law.

Eng. House Bill 4166, Prohibiting certain sex offenders from being in a supervisory position over children.

Eng. House Bill 4353, Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making.

Eng. Com. Sub. for House Bill 4470, Relating to persons 18 years of age or older in the custody of the Bureau of Juvenile Services.

And,

Eng. House Bill 4476, Providing for the timely and efficient collection, submission, testing, retention, and disposition of forensic evidence in sexual assault cases.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Azinger, Smith, Prezioso, Plymale, and Woelfel.

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

At the request of Senator Woelfel, unanimous consent being granted, the remarks by Senators Smith and Plymale were ordered printed in the Appendix to the Journal.

At the request of Senator Weld, and by unanimous consent, the remarks by Senator Prezioso were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills:

Senate Bill 3 (*Relating to registration fees for certain military-related license plates*): Senator Facemire;

Senate Bill 21 (*Prohibiting certain misleading pharmaceutical advertising practices*): Senator Facemire;

Senate Bill 26 (*Increasing surcharge on fire and casualty insurance policies*): Senator Facemire;

Senate Bill 27 (*Requiring political action committees disclose contributors' names and addresses to Secretary of State*): Senator Facemire;

Senate Bill 72 (*Exempting nonprofit corporations from property tax for certain agricultural and industrial fairs and expositions*): Senator Facemire;

Senate Bill 86 (*Creating Stay in State Tax Credit*): Senator Plymale;

Senate Bill 153 (*Allowing certain motorcycle operators to ride without helmet*): Senator Facemire;

Senate Bill 154 (*Allowing certain out-of-state residents ride motorcycle without helmet*): Senator Facemire;

Senate Bill 236 (*Relating to online privacy protection of children*): Senator Facemire;

Senate Bill 514 (*Creating WV FinTech Regulatory Sandbox Act*): Senator Plymale;

Senate Bill 705 (*Allowing military veterans with certain experience qualify for examination as electrician or plumber*): Senator Rucker;

Senate Bill 752 (*Relating generally to medical cannabis*): Senator Stollings;

Senate Bill 753 (*Authorizing PSC approve plans to install middle-mile broadband fiber*): Senators Prezioso, Cline, Jeffries, Stollings, and Ihlenfeld;

Senate Bill 755 (*Relating to High-Wage Growth Business Tax Credit Act*): Senators Prezioso, Beach, Lindsay, and Stollings;

Senate Bill 756 (*Supplemental appropriation from State Excess Lottery Revenue Fund to Department of Veterans' Assistance, Veterans' Home Fund*): Senators Unger and Stollings;

And,

Senate Bill 758 (*Relating to authority of Emergency Medical Services Advisory Council*): Senator Unger.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

Senate Resolution 37 (*Designating February 12, 2020, as WV Literacy Day*): Senator Pitsenbarger;

Senate Resolution 38 (*Recognizing contributions of AARP President Rich Stonestreet to WV and its people*): Senators Weld, Prezioso, Beach, Cline, Lindsay, Jeffries, Unger, Stollings, and Ihlenfeld;

And,

Senate Resolution 39 (*Designating February 13, 2020, as Tiny Hearts Day*): Senators Prezioso, Beach, Cline, Lindsay, Baldwin, Jeffries, Unger, and Rucker.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 12:26 p.m., the Senate adjourned until tomorrow, Friday, February 14, 2020, at 11 a.m.

SENATE CALENDAR

Friday, February 14, 2020
11:00 AM

UNFINISHED BUSINESS

- S. C. R. 30 - Stanley W. and Evelyn C. See Memorial Bridge
- S. C. R. 31 - US Marine Corps PFC Manuel P. Markos Memorial Bridge
- S. C. R. 32 - US Marine Corps PFC James R. "Johnny" Corder Memorial Bridge
- S. R. 40 - Recognizing WV Gold Star Mothers for dedication and commitment to veterans and families **[ADOPT]**

THIRD READING

- Com. Sub. for S. B. 288 - Relating to family planning and child spacing - (With right to amend)
- Eng. Com. Sub. for Com. Sub. for S. B. 554 - Relating to termination, expiration, or cancellation of oil or natural gas leases
- Eng. Com. Sub. for S. B. 583 - Creating program to further development of renewable energy resources (original similar to HB4562)
- Eng. S. B. 733 - Recognizing political party status
- Eng. H. B. 4381 - Relating to lifetime hunting, fishing and trapping licenses for adopted children

SECOND READING

- Com. Sub. for S. B. 265 - Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program
- Com. Sub. for S. B. 279 - Requiring dental insurance plans honor assignment made in writing by person covered (original similar to HB4171)
- Com. Sub. for S. B. 285 - Eliminating WV Greyhound Breeding Development Fund
- Com. Sub. for S. B. 306 - Licensing of drivers utilizing bioptic telescopic devices
- Com. Sub. for Com. Sub. for S. B. 490 - Relating to criminal offenses against agricultural facilities
- Com. Sub. for S. B. 589 - Creating Critical Needs/Failing Systems Sub Account
- Com. Sub. for Com. Sub. for S. B. 597 - Relating to judicial branch members' salaries and pensions
- Com. Sub. for S. B. 702 - Designating specific grade levels in which nutrition and physical fitness programs are taught
- S. B. 703 - Increasing earning limit for employees who accept separation incentive

Com. Sub. for S. B. 706 - Clarifying duties of law-enforcement training and certification subcommittee

S. B. 712 - Correcting name of Forensic Analysis Laboratory

Com. Sub. for S. B. 746 - Providing contracted managed care companies access to uniform maternal screening tool

Eng. Com. Sub. for H. B. 2497 - Relating to the whistle-blower law - (Com. amend. and title amend. pending)

Eng. H. B. 4166 - Prohibiting certain sex offenders from being in a supervisory position over children (original similar to HB4536)

Eng. H. B. 4353 - Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making - (Com. amend. pending) (original similar to SB499)

Eng. Com. Sub. for H. B. 4470 - Relating to persons 18 years of age or older in the custody of the Bureau of Juvenile Services

Eng. H. B. 4476 - Providing for the timely and efficient collection, submission, testing, retention, and disposition of forensic evidence in sexual assault cases - (Com. amend. and title amend. pending)

FIRST READING

S. B. 572 - Expiring funds from General Revenue and Lottery Net Profits to various accounts (original similar to HB4488)

Com. Sub. for S. B. 717 - Relating generally to adult protective services

S. B. 725 - Supplemental appropriation to various Department of Education accounts

S. B. 778 - Supplemental appropriation of expiring funds from State Excess Lottery Revenue Fund to DHHR

S. B. 779 - Supplemental appropriation of expiring funds in State Excess Lottery Revenue to Department of Veterans' Assistance

S. B. 780 - Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS

Eng. H. B. 4601 - Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds