

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
REGULAR SESSION, 2022  
EIGHTH DAY

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Charleston, West Virginia, Wednesday, January 19, 2022

The Senate met at 11 a.m.

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

Prayer was offered by David Lavender, Senate Sergeant at Arms, Hurricane, West Virginia.

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

Pending the reading of the Journal of Tuesday, January 18, 2022,

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

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

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 35**, Adding grievance and appellate procedures for individuals participating in DMV Safety and Treatment Program.

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

**Com. Sub. for Senate Bill 35** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-5A-3 of the Code of West Virginia, 1931, as amended, relating to the addition of a grievance procedure and judicial review for participants who are aggrieved by decisions of a provider of the Division of Motor Vehicles' Safety and Treatment Program; and authorizing the Commissioner of the Division of Motor Vehicles to promulgate legislative and emergency 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,

Ryan W. Weld,  
*Vice Chair.*

The bill (Com. Sub. for S. B. 35), under the original double committee reference, was then referred to the Committee on Finance.

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 44**, Requiring State Fire Commission propose rules for sprinkler protection in basements of certain buildings.

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

**Com. Sub. for Senate Bill 44** (originating in the Committee on Government Organization)—A Bill to amend and reenact §15A-11-5 of the Code of West Virginia, 1931, as amended, relating to requiring State Fire Commission to propose rules relating to sprinkler protection for new buildings housing emergency fire, rescue, or ambulance services; and exempting emergency services buildings not exceeding a total of 2,500 square feet that house only equipment and do not have designated sleeping areas or quarters within them.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 60**, Allowing BOE create and provide course in family and consumer sciences in secondary schools.

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

Respectfully submitted,

Rollan A. Roberts,  
*Vice Chair.*

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

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill 105**, Returning refundable exemption for road construction contractors to State Road Fund.

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

**Com. Sub. for Senate Bill 105** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating to the consumers sales and service tax refundable exemption for sales of construction and maintenance materials; reinstating the refundable exemption for sales of construction and maintenance materials acquired by a second party for use in Division of Highways projects; specifying duties of Tax Commissioner and Division of Highways; specifying procedures for the refundable exemption; and setting forth calculation of reimbursement.

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,

Charles H. Clements,  
*Chair.*

The bill (Com. Sub. for S. B. 105), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 213**, Establishing licensed professional counseling compact.

And,

**Senate Bill 214**, Updating telepsychology compact.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 229**, Requiring impact statement in certain instances of school closing or consolidation.

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

**Com. Sub. for Senate Bill 229** (originating in the Committee on Education)—A Bill to amend and reenact §18-5-13a of the Code of West Virginia, 1931, as amended, relating to requiring an impact statement in certain instances of a school closing or consolidation; requiring State Board of Education rule detailing information that a county board is required to include as part of its impact statement; and setting forth minimum requirements for the rule.

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,

Rollan A. Roberts,  
*Vice Chair.*

At the request of Senator Tarr, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

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 262**, Relating generally to financial institutions engaged in boycotts of energy companies.

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

**Com. Sub. for Senate Bill 262** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by creating a new section, designated §12-1-15, relating generally to financial institutions engaged in boycotts of energy companies; defining terms; authorizing the State Treasurer to prepare, maintain, and publish a list of financial institutions engaged in boycotts of energy companies; requiring the Treasurer to post the list on his or her website and submit the list to certain public officials; setting forth sources of information on which the Treasurer may rely on preparing the list; requiring the Treasurer to send written notice to a financial institution of its inclusion on the list; requiring the Treasurer to remove a financial institution from the list if it presents information demonstrating that it is not engaged in a boycott of energy companies; authorizing the Treasurer to exclude financial institutions on the list from the selection process for state banking contracts; authorizing the Treasurer to refuse to enter into a banking contract with a financial institution on the list; authorizing the Treasurer to require, as a term of a banking contract, an agreement by the financial institution not to engage in a boycott of energy companies; and limiting liability of public officials, public employees, and members or employees of financial institutions for actions taken in compliance with the new code section

With the recommendation that the committee substitute do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Randy E. Smith,  
*Chair.*

At the request of Senator Smith, and by unanimous consent, the bill (Com. Sub. for S. B. 262) contained in the foregoing report from the Committee on Energy, Industry, and Mining was then referred to the Committee on Finance.

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

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 1**, US Army PFC Billy Keith Ford Memorial Bridge.

**Senate Concurrent Resolution 3**, USMC CAPT Dempsey Stowers Memorial Bridge.

And,

**Senate Concurrent Resolution 6**, Holden 22 Coal Miners Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 5**, US Marine Corps CPL James "Bud" Cox Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 5** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 54-068/00-009.73 (54A259), (39.19674, -81.65356) locally known as Race Track Bridge, carrying WV Route 68 over the North Fork of Lee Creek in Wood County, the "U.S. Marine Corps CPL James 'Bud' Cox Memorial Bridge".

Whereas, James "Bud" Cox was born on May 25, 1946, in Parkersburg, West Virginia, the son of James Blake Cox and Betty Jane Cox; and

Whereas, James "Bud" Cox and his lifelong friend, Joseph A. Memel, grew up playing under the bridge located at WV Route 68 South across from the local racetrack, which is now being replaced with the bridge being requested herein to be named in honor of James; and

Whereas, James "Bud" Cox graduated from Parkersburg High School with the Class of 1965. While in high school, he was a member of the woodworking club and a student in home room #120; and

Whereas, James "Bud" Cox and his friend, Joseph A. Memel, enlisted together in the U.S. Marine Corps on December 14, 1965. James "Bud" Cox took his boot camp training at Parris Island and infantry training at Camp Lejuene. He was stationed in Cuba before being issued orders for Vietnam; and

Whereas, When CPL James "Bud" Cox arrived in Vietnam on May 14, 1967, he was assigned to Weapons with 3rd Platoon, Echo Company, 2nd Battalion, 3rd Marine Regiment, 3rd Marine Division; and

Whereas, CPL James "Bud" Cox received shrapnel wounds to his leg from a mortar round on May 24, 1967, in the vicinity of Gio Linh District. He was medevacked to and recovered aboard the USS Princeton, and he returned to the field June 10, 1967; and

Whereas, On December 28, 1967, CPL James "Bud" Cox was serving as a machine gun squad leader with the E Company Weapons Platoon, 2nd Battalion 3rd Marines. Echo Company was conducting a sweep of Quang Nam Province when they made heavy contact with a large force with the North Vietnamese Army and he was fatally wounded by a mine/booby trap during combat at LZ Hawk, Bao An Dong, Go Noi Island, during Operation Auburn; and

Whereas, At the time of his death, CPL James "Bud" Cox was 21 years old and had served in Vietnam for seven months and 14 days; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Marine Corps CPL James "Bud" Cox and his sacrifice for 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 54-068/00-009.73 (54A259), (39.19674, -81.65356) locally known as Race Track Bridge, carrying WV Route 68 over the North Fork of Lee Creek in Wood County, the "U.S. Marine Corps CPL James 'Bud' Cox 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 CPL James "Bud" Cox Memorial Bridge"; and, be it

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

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senator Takubo:**

**Senate Bill 426**—A Bill to amend and reenact §11-17-3 and §11-17-4B of the Code of West Virginia, 1931, as amended, all relating to increasing the tax on cigarettes to the amount of \$1.50 and an equal rate of tax on the nicotine in e-cigarettes and vape products.

Referred to the Committee on Finance.

**By Senator Takubo:**

**Senate Bill 427**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-19, relating to permitting West Virginia Board of Medicine investigators to carry a concealed weapon; establishing procedures and criteria for allowing investigators to carry a concealed weapon; and limiting liability for good faith acts or omissions.

Referred to the Committee on the Judiciary.

**By Senator Geffert:**

**Senate Bill 428**—A Bill to amend and reenact §21-5C-1 and §21-5C-2 of the Code of West Virginia, 1931, as amended; all relating generally to minimum wage; deleting the proviso excluding employers who have 80 percent of their employees subject to a federal act relating to maximum hours and overtime compensation; increasing the state minimum wage to \$10.50 after December 31, 2022; and requiring the minimum wage to be annually increased with the rate of inflation as determined by the consumer price index and on the thirtieth day of September beginning in 2024, to be effective after the following thirty-first day of December.

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

**By Senator Sypolt:**

**Senate Bill 429**—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to increasing the exclusion for West Virginia Public Employees' Retirement System participants from \$2,000 to \$20,000.

Referred to the Committee on Finance.

**By Senators Grady, Clements, Phillips, Roberts, and Stover:**

**Senate Bill 430**—A Bill to amend and reenact §33-2-5 of the Code of West Virginia, 1931, as amended, relating to modifying the witness fee rate paid by the State of West Virginia to match the U.S. Federal Court system.

Referred to the Committee on the Judiciary.

**By Senator Weld:**

**Senate Bill 431**—A Bill to amend and reenact §60A-4-416 of the Code of West Virginia, 1931, as amended, relating to the Uniform Controlled Substances Act; offenses and penalties; drug delivery resulting in death; and defining and clarifying the phrase "engaged in the illegal use of a controlled substance".

Referred to the Committee on the Judiciary.

**By Senators Nelson and Clements:**

**Senate Bill 432**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-22m; and to amend said code by adding thereto a new section, designated §18-7A-26x, all relating to the Public Employees Retirement System and the State Teachers Retirement System; and providing a one-time bonus of \$1,500 for certain annuitants.

Referred to the Committee on Finance.

**By Senator Nelson:**

**Senate Bill 433**—A Bill to amend and reenact §8-15-1 of the Code of West Virginia, 1931, as amended, relating to municipal fire departments; granting municipal fire marshal the authority to assist in the lawful execution of another law-enforcement officer's official duties.

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

**By Senator Nelson:**

**Senate Bill 434**—A Bill to amend and reenact §8-28-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-29-1, §8-29-2, §8-29-3, §8-29-4, §8-29-5, §8-29-6, §8-29-8, §8-29-9, §8-29-12, §8-29-17, and §8-29-20 of said code; and to amend and reenact §8-29B-2, §8-29B-3, and §8-29B-5 of said code, all relating to defining abandoned aircraft and providing for the disposal of such abandoned aircraft; to increasing the cost of violations for pedestrian traffic near airports and airport rules and regulations; updating certain terms and definitions; adding the term "international airport" and "vertiport" to certain areas of the code; adding to the authority of airports; and updating retirement information.

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

**By Senator Trump:**

**Senate Bill 435**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2D-8, relating to awarding the service weapon of a retiring Division of Protective Services member to the retiree without charge when the retiring member honorably retires with at least 10 years of service or with less than 10 years of service based upon determination that the retiring member is totally physically disabled as a result of service with the Division of Protective Services; prohibiting the award of a service weapon to a retiring member whom the Division of Protective Services knows is prohibited from possessing a firearm, is mentally incapacitated, or a danger to any person or the community; authorizing the sale of service weapons that are taken out of service due to routine wear to any active or retired Division of Protective Services member; providing that proceeds from the sales be used to offset the cost of new service weapons; and exempting the sale from the requirements of the Purchasing Division.

Referred to the Committee on the Judiciary.

**By Senator Trump:**

**Senate Bill 436**—A Bill to amend and reenact §20-3-6 of the Code of West Virginia, 1931, as amended, relating to correcting an incorrect code citation in regard to the enforcement authority of the State Fire Marshal.

Referred to the Committee on Government Organization.

**By Senator Trump:**

**Senate Bill 437**—A Bill to amend and reenact §62-12-18 of the Code of West Virginia, 1931, as amended, relating to the granting of early discharge to parolees after a minimum of one year on parole; allowing the Commissioner of the Division of Corrections and Rehabilitation or designee to request early discharge of a parolee; and providing that the Chairperson of the Parole Board grant early discharge from parole for a parolee upon review of the request for early discharge.

Referred to the Committee on the Judiciary.

Senators Stover, Grady, Maynard, Phillips, Roberts, Sypolt, and Woodrum offered the following resolution:

**Senate Concurrent Resolution 13**—Requesting the Division of Highways name the bridge at coordinates 37.501667, -81.336111, carrying WV 10 over Noseman Branch in Wyoming County, the "U. S. Army PFC Joseph Stanley McKinney Memorial Bridge".

Whereas, Joseph Stanley McKinney was born July 20, 1947, in Herndon, West Virginia; and

Whereas, Joseph Stanley McKinney graduated from Herndon High School in 1966; and

Whereas, PFC Joseph Stanley McKinney entered the U. S. Army during the Vietnam War as a member of the 4th Infantry, Division 12th Infantry, 3rd Battalion; and

Whereas, PFC Joseph Stanley McKinney was killed in action on January 23, 1968, in the Kontum Province of Vietnam during the Tet Offensive; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Joseph Stanley McKinney and his ultimate sacrifice 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 the bridge at coordinates 37.501667, -81.336111, carrying WV 10 over Noseman Branch in Wyoming County, the "U. S. Army PFC Joseph Stanley McKinney Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army PFC Joseph Stanley McKinney 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.

Senator Takubo offered the following resolution:

**Senate Concurrent Resolution 14**—Requesting the Division of Highways name bridge number 20-060/00-028.94 (20A347), locally known as 13th St. Overpass, carrying US 60 over CR 60/18 in Kanawha County, the "U.S. Army SSGT Elson M. Kuhn Memorial Bridge".

Whereas, U.S. Army SSGT Elson Merrill Kuhn was born on September 28, 1921, in Bim, West Virginia, and attended Van High School. He served in the First Cavalry Division, U.S. Army, in the Pacific Theater, comprising the Philippines, New Guinea, New Caledonia, and the occupation force in Japan during World War II as duration duty orders, entering in 1942, and honorably discharged as a Staff Sergeant on January 14, 1946; and

Whereas, After serving in the U.S. Army for four years, SSGT Elson Merrill Kuhn returned to West Virginia to work for the coal industry and the industrial baseball league. He remained employed in the mining industry for a 40-year career as an electrician, after becoming licensed by the state and federal government; and

Whereas, Before U.S. Army, SSGT Elson Merrill Kuhn contributed significantly to the building and upkeep of Kanawha State Forest through his membership in the Civilian Conservation Corps, No. 2599 S76 Camp at Kanawha State Forest. He assisted in building the recreation areas and other infrastructure, including the dam, roads, fire towers, bridges, restrooms, picnic shelters, and log home of the superintendent. Throughout his life, he also participated in raising funds, building shelters, replacing dilapidated foot bridges, and holding reunions at Kanawha State Forest; and

Whereas, U. S. Army SSGT Elson Merrill Kuhn died after a long illness on Tuesday, September 9, 2003, at Hubbard Hospice House in Charleston, West Virginia. He died at the age of 81, leaving behind a wife of 56 years, seven children, 11 grandchildren, eight great-grandchildren, two siblings, and many nieces and nephews; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army SSGT Elson M. Kuhn 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 20-060/00-028.94 (20A347), locally known as 13th St. Overpass, carrying US 60 over CR 60/18 in Kanawha County, the "U. S. Army SSGT Elson M. Kuhn Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SSGT Elson M. Kuhn 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.

Senator Takubo offered the following resolution:

**Senate Concurrent Resolution 15**—Requesting the Division of Highways name bridge numbers 20-077/00-113.44 (NB & SB) (20A232, 20A450), locally known as I-77 White Chapel Bridge, carrying Interstate 77 (NB & SB) over CR 21 in Kanawha County, the "U.S. Army PVT Shirley E. Bailey Memorial Bridge".

Whereas, PVT Shirley E. Bailey served in World War II, and was killed in action in the Hurtgen Forest, on the Belgium/Germany border on November 29, 1944; and

Whereas, PVT Shirley E. Bailey was born on April 17, 1925, and attended schools in Sissonville, West Virginia. He dropped out of school in the ninth grade to work on a dairy farm to help support his family; and

Whereas, PVT Shirley E. Bailey was drafted by the United States Army at the age of 18 in September 1943, and was sent to France after completing basic training; and

Whereas, In France, PVT Shirley E. Bailey was injured during a battle and recuperated in a hospital, after which he received a Purple Heart and a Silver Star for his bravery and efforts during battle; and

Whereas, After recuperating, PVT Shirley E. Bailey was sent to the front lines in Germany as a medic with the U.S. Army's Company G, 8<sup>th</sup> Infantry Regiment, 4<sup>th</sup> Infantry Division. He provided medical support to dozens of casualties during the Battle of the Hurtgen Forest; and

Whereas, During the Battle of Hurtgen Forest, PVT Shirley E. Bailey earned the recognition of officers in his unit who recommended him for a Silver Star, with a citation that noted he "worked continually for over 14 hours under recurrent hostile artillery barrages to administer aid to the wounded and to direct litter carriers in evacuation of the seriously wounded"; and

Whereas, PVT Shirley E. Bailey went back and forth through mine fields from one point to another until all wounded were evacuated. He was not wounded on the first day of fighting east of Schevenhutte; and

Whereas, On November 29, 1944, during another battle, the 2nd Battalion lost 35 soldiers, with as many as 15 men from Company G killed or wounded and with PVT Shirley E. Bailey as one of the casualties. PVT Shirley E. Bailey was fatally wounded as he assisted other soldiers in need of medical aid, and for his bravery, he earned another Purple Heart and Silver and Bronze Stars; and

Whereas, PVT Shirley E. Bailey's remains were left on the battlefield, found by a local German citizen three years later, and ultimately buried in the Ardennes American Cemetery, Neuville-en-Condroz, Belgium where he remained for 70 years unidentified; and

Whereas, PVT Shirley E. Bailey is memorialized on the Walls of the Missing at the Netherlands American War Cemetery and Memorial in the village of Margraten; and

Whereas, The U.S. Army in Nebraska worked to identify fallen soldiers in an effort to bring them home and identified PVT Shirley E. Bailey after extensive DNA testing, notifying his family, and returning his remains to Yeager Airport, on November 29, 2017; and

Whereas, PVT Shirley E. Bailey was given a memorial service with full military rites at Keller Funeral Home in Dunbar, West Virginia. He was laid to rest at the Donel C. Kinnard Memorial State Veteran's Cemetery in Institute, West Virginia on December 2, 2017, being the first veteran killed in action to be buried there; and

Whereas, 74 years after PVT Shirley E. Bailey was drafted and after having been awarded two Purple Hearts, two Silver Stars, and one Bronze Star, he was finally home to West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate the contributions of PVT Shirley E. Bailey 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 numbers 20-077/00-113.44 (NB & SB) (20A232, 20A450), locally known as I-77 White Chapel Bridge, carrying Interstate 77 (NB & SB) over CR 21 in Kanawha County, the "U.S. Army PVT Shirley E. Bailey Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army PVT Shirley E. Bailey 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.

Senator Romano offered the following resolution:

**Senate Resolution 11**—Designating January 20, 2022, as a day to recognize the importance and contributions of Aviation and Aerospace in the great State of West Virginia.

Whereas, The Aviation industry in West Virginia has existed for nearly a century; and

Whereas, Airports had played, and continue to play a critical role in promoting economic development opportunities, serving national defense purposes, and facilitating response to natural disasters, medical emergencies, and search and rescue operations; and

Whereas, Affordable, reliable, and safe air service is integral to our communities, citizens, businesses, and state; and

Whereas, Growth for air service in West Virginia equates to increased economic development and vital funding improvements to West Virginia's airports and creates increased access to our state; and

Whereas, West Virginia airports, with strategic commercial air service, provide convenience to our state's 1.8 million residents and the hundreds of thousands of visitors to our state annually; and

Whereas, General aviation airports provide access to all corners of our state's rural and urban metropolitan. Such areas facilitating important business activities and constituting the majority of our state's aviation activities including air charter, emergency medical transport, law enforcement, and flight training operations; and

Whereas, The location of federal aerospace facilities in West Virginia has contributed to the continued growth of the aerospace industry; and

Whereas, The results of the 2020 West Virginia Aviation Economic Impact Study indicate airports in West Virginia contribute over \$1.6 billion to the state's economy, support over 10,700

jobs with a payroll of \$550 million, and generates over \$75 million in state and local tax revenues annually; and

Whereas, The West Virginia Aeronautics Commission, charged with promoting and expanding aviation in our state, is an agency of the West Virginia Department of Transportation; and

Whereas, The West Virginia Airport Managers Association represents commercial and general aviation airports and industry partners throughout the Mountain State; and

Whereas, West Virginia has 24 airports in the National Plan of Integrated Airport Systems—seven of which are served by commercial airlines, one is a large reliever airport within the Washington, DC metropolitan region, and 16 serve general aviation purposes; and

Whereas, West Virginia has been a host to aircraft industries for more than 90 years. From the opening of a Fokker Aircraft plant in Marshall County in 1928, it intends to be on the forefront of emerging technologies serving aviation and aerospace activities; and

Whereas, The State of West Virginia recognizes the critical role that aviation and aerospace activities had played in our past and will play in our future; and

Whereas, Our state is committed to continue through both private and public means to expand commercial service, aerospace industries, and general aviation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 20, 2022, as a day to recognize the importance and contributions of Aviation and Aerospace in the great State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Aeronautics Commission and the West Virginia Airport Managers Association.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Resolution 9**, Designating January 19, 2022, as WV Tourism Day.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Weld regarding the adoption of Senate Resolution 9 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the ninth order of business.

**Senate Bill 244**, Relating to appointment of judges to Intermediate Court of Appeals.

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

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

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

**ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.**

**§51-11-6. Election of judges; initial appointment and election; vacancies; length and conditions of judicial terms.**

(a) The three judges of the Intermediate Court of Appeals shall be elected on a nonpartisan basis to serve 10-year terms, subject to the exceptions for initial appointments and elections contained in subsection (b) and subsection (c) of this section.

(b) *Nomination and election to fill initial vacancies.* — The judges shall be nominated and appointed according to the following procedure:

(1) (A) On or before January 1, 2022, the Judicial Vacancy Advisory Commission, established pursuant to §3-10-3a of this code, shall publish notice of the judicial vacancies for the Intermediate Court of Appeals and begin accepting applications from qualified individuals for the position of judge of the Intermediate Court of Appeals. The commission is responsible for reviewing and evaluating candidates for possible appointment to the Intermediate Court of Appeals by the Governor. In reviewing candidates, the commission may accept applications from any attorney who believes he or she to be qualified for the judgeships. The commission may accept comments from and request information from any person or source.

(B) The commission shall recommend three qualified nominees for each position for Intermediate Court of Appeals judge: *Provided*, That each person on the list must meet the requirements of §51-11-3(d) of this code at the time such person will begin his or her term on the court.

(2) The Governor shall review the list certified by the Judicial Vacancy Advisory Commission and nominate three qualified candidates to serve as judge. The Governor shall make his or her nominations without regard to political partisanship or affiliation. If the Governor does not select a nominee for the position of judge from the names provided by the commission, he or she shall notify the committee of that circumstance and the commission shall provide additional names for consideration by the Governor.

(3) The initial appointment term for each of the judges, at the discretion of the Governor, shall be as follows: one judge shall be selected to serve a two and one-half year term set to expire on December 31, 2024, one judge shall be selected to serve a four and one-half year term set to expire on December 31, 2026, and one judge shall be ~~elected~~ selected to serve a six and one-half year term set to expire on December 31, 2028.

(4) Upon confirmation by the West Virginia Senate, an individual appointed to serve as a judge of the Intermediate Court of Appeals pursuant to this subsection shall take an oath of office and commence his or her duties on or before July 1, 2022, but no earlier than May 1, 2022.

(c) After the initial appointment, the judges of the Intermediate Court of Appeals shall be elected on a nonpartisan basis by division during the primary election in every year during which

a sitting judge's term will expire for a 10-year term of office, and the judge's term shall commence on January 1 of the year following, as set forth in §3-5-1 *et seq.* of this code.

(d) If a vacancy occurs in the office of Intermediate Court judge, the Governor shall fill the vacancy by appointment as provided in §3-10-3 and §3-10-3a of this code.

(e) The Legislature recognizes that the Chief Justice of the West Virginia Supreme Court of Appeals has authority to temporarily assign judges to the Intermediate Court of Appeals pursuant to section eight, article VIII of the Constitution of West Virginia, in the event that a judge is temporarily unable to serve on the court.

(f) The amendments to §51-11-6(b)(3) of this code enacted by the regular session of the Legislature, 2022, shall be applied retrospectively to December 27, 2021.

The bill (S. B. 244), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

**Senate Bill 253**, Relating to voting precincts and redistricting.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Takubo, unanimous consent being granted, leaves of absence for the day were granted Senators Jeffries, Plymale, Maroney, and Azinger.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills on January 18, 2022:

**Senate Bill 41:** Senator Grady;

**Senate Bill 134:** Senator Woodrum;

**Senate Bill 273:** Senator Hamilton;

And,

**Senate Bill 274:** Senator Hamilton.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on January 18, 2022:

**Senate Bill 4:** Senators Karnes and Plymale;

**Senate Bill 5:** Senator Plymale;

**Senate Bill 17:** Senator Grady;

**Senate Bill 21:** Senator Karnes;

**Senate Bill 26:** Senator Martin;  
**Senate Bill 36:** Senator Karnes;  
**Senate Bill 52:** Senator Karnes;  
**Senate Bill 57:** Senator Karnes;  
**Senate Bill 67:** Senator Martin;  
**Senate Bill 70:** Senator Hamilton;  
**Senate Bill 75:** Senator Karnes;  
**Senate Bill 76:** Senator Woelfel;  
**Senate Bill 87:** Senator Martin;  
**Senate Bill 125:** Senator Karnes;  
**Senate Bill 126:** Senator Karnes;  
**Senate Bill 127:** Senator Karnes;  
**Senate Bill 131:** Senator Karnes;  
**Senate Bill 132:** Senator Karnes;  
**Senate Bill 157:** Senator Martin;  
**Senate Bill 159:** Senator Martin;  
**Senate Bill 182:** Senator Karnes;  
**Senate Bill 187:** Senator Karnes;  
**Senate Bill 189:** Senator Karnes;  
**Senate Bill 190:** Senator Karnes;  
**Senate Bill 192:** Senator Karnes;  
**Senate Bill 193:** Senator Karnes;  
**Senate Bill 203:** Senator Martin;  
**Senate Bill 213:** Senator Plymale;  
**Senate Bill 214:** Senator Woodrum;  
**Senate Bill 221:** Senator Plymale;

**Senate Bill 246:** Senators Woodrum and Martin;

**Senate Bill 247:** Senator Woelfel;

**Senate Bill 253:** Senator Phillips;

**Senate Bill 262:** Senators Karnes, Hamilton, and Woodrum;

**Senate Bill 270:** Senator Lindsay;

**Senate Bill 413:** Senators Baldwin, Phillips, Plymale, and Martin;

**Senate Bill 416:** Senator Roberts;

**Senate Bill 417:** Senators Woelfel and Lindsay;

**Senate Bill 419:** Senators Woelfel and Lindsay;

**Senate Bill 420:** Senators Roberts, Baldwin, Phillips, Jeffries, Woelfel, and Lindsay;

**Senate Bill 421:** Senators Baldwin, Woelfel, Plymale, and Nelson;

**Senate Bill 423:** Senators Baldwin and Martin;

**Senate Bill 424:** Senators Hamilton, Martin, and Lindsay;

**Senate Bill 425:** Senators Caputo, Jeffries, Stollings, Beach, and Woelfel;

**Senate Joint Resolution 3:** Senators Hamilton and Nelson;

**Senate Joint Resolution 4:** Senators Karnes, Hamilton, and Woelfel;

**Senate Joint Resolution 5:** Senator Martin;

**Senate Joint Resolution 6:** Senator Hamilton;

**Senate Joint Resolution 8:** Senator Nelson;

**Senate Resolution 4:** Senator Woodrum;

And,

**Senate Resolution 9:** Senators Roberts, Hamilton, Baldwin, Caputo, Jeffries, Stollings, Plymale, Nelson, and Lindsay.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 11:21 a.m., the Senate adjourned until tomorrow, Thursday, January 20, 2022, at 11 a.m.

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## **SENATE CALENDAR**

**Thursday, January 20, 2022  
11:00 AM**

### **UNFINISHED BUSINESS**

- S. C. R. 1 - US Army PFC Billy Keith Ford Memorial Bridge
- S. C. R. 3 - USMC CAPT Dempsey Stowers Memorial Bridge
- Com. Sub. for S. C. R. 5 - US Marine Corps CPL James "Bud" Cox Memorial Bridge
- S. C. R. 6 - Holden 22 Coal Miners Memorial Bridge
- S. C. R. 13 - US Army PFC Joseph Stanley McKinney Memorial Bridge
- S. C. R. 14 - US Army SSGT Elson M Kuhn Memorial Bridge
- S. C. R. 15 - US Army PVT Shirley E Bailey Memorial Bridge
- S. R. 11 - Recognizing contributions of aviation and aerospace in WV

### **THIRD READING**

- Eng. S. B. 244 - Relating to appointment of judges to Intermediate Court of Appeals

### **SECOND READING**

- S. B. 253 - Relating to voting precincts and redistricting - (Com. title amend. pending)

### **FIRST READING**

- Com. Sub. for S. B. 44 - Requiring State Fire Commission propose rules for sprinkler protection for certain new buildings
- S. B. 60 - Allowing BOE create and provide course in family and consumer sciences in secondary schools
- S. B. 213 - Establishing licensed professional counseling compact
- S. B. 214 - Updating telepsychology compact
- Com. Sub. for S. B. 229 - Requiring impact statement in certain instances of school closing or consolidation



**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2022**

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**Thursday, January 20, 2022**

9:30 a.m.

Finance

(Room 451M)