

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2018  
TWENTY-FIRST DAY

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Charleston, West Virginia, Tuesday, January 30, 2018

The Senate met at 11:10 a.m.

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

Prayer was offered by the Reverend Junius Lewis, Central United Methodist Church and Trinity United Methodist Church, Fairmont, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles H. Clements, a senator from the second district.

Pending the reading of the Journal of Monday, January 29, 2018,

At the request of Senator Swope, 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 then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2546**—A Bill to amend and reenact §21-5-4 of the Code of West Virginia, 1931, as amended, all relating to the Wage Payment and Collection Act; relating to allowing actual cash value of employer provided property to be deducted from an employee's final paycheck if the property is not returned; setting forth conditions upon which an employer may withhold, deduct or divert the actual cash value of employer provided property that has not been timely returned; requiring written agreements before withholding or deductions for the actual cash value of employer provided property may be made; specifying certain contents of such written agreements; authorizing withholding, deduction or diversion of actual cash value of employer provided property with consent of employee; requiring employer to provide notice of intent to withhold, deduct or divert actual cash value of employer provided property; specifying contents of that notice; requiring employer to relinquish withheld wages if the employee provides the employer provided property by the deadline contained in the notice; providing exceptions; providing option to employee to object to actual cash value of employer provided property to be withheld, deducted

or diverted; providing that employer place contested amounts in interest bearing escrow account; requiring employee to file civil action to recoup contested amounts within three months or contested amount in escrow account reverts to employer; providing that new subsection does not abolish or limit any other remedies available to employers under law; exempting collective bargaining agreements; and defining terms.

Referred to the Committee on the Workforce.

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 4183**—A Bill to amend and reenact §18-28-3 of the Code of West Virginia, 1931, as amended, relating generally to standardized testing requirements for nonpublic schools; removing restrictions on specific forms of nationally normed achievement tests that must be administered; requiring standardized tests to be administered to nonpublic students at same grade levels and subject areas required in public schools; requiring standardized achievement test administered to be published or normed within ten years from the date of administration; allowing additional testing at sole discretion of school; limiting accountability for composite scores to grade levels and subject areas required in public schools; removing requirement that every child be tested; and requiring minimum student participation rate on test for composite score to be valid.

Referred to the Committee on Education.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 29th day of January, 2018, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. 263)**, Eliminating film tax credits.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 258** (originating in the Committee on Military), Exempting honorably discharged veterans from fees for license to carry deadly weapons.

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

**Com. Sub. for Com. Sub. for Senate Bill 258** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to application fees to obtain a state license to carry a concealed deadly weapon; and exempting active members and honorably discharged veterans of the armed forces of the United States, National Guard, and Reserve from payment of fees and costs required to get a license to carry a deadly weapon.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 268**, Eliminating requirement that certain agencies purchase commodities produced on institutional farms.

**Senate Bill 324**, Removing restrictions where certain traditional lottery games may be played.

And,

**Senate Bill 357**, Relating generally to limited video lottery.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill 345**, Authorizing DNR establish procedures and fee schedule for limited permit hunts.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

**Senate Bill 348**, Allowing for disposal of service weapons of special DNR police officers.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

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 350**, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State.

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

Respectfully submitted,

Charles S. Trump IV,  
*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 386**, Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission.

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

**Com. Sub. for Senate Bill 386** (originating in the Committee on Finance)—A Bill supplementing and amending by decreasing and increasing existing appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Higher Education Policy Commission, Marshall University – School of Medicine, fund 0347, fiscal year 2018, organization 0471, and to the Higher Education Policy Commission, Marshall University – General Administration Fund, fund 0348, fiscal year 2018, organization 0471, by supplementing, amending, increasing, and decreasing the appropriations for the fiscal year ending June 30, 2018.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

**By Senators Maynard and Cline:**

**Senate Bill 416**—A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to providing that noodling, or fishing for catfish using one's bare hands, is lawful.

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

**By Senators Rucker, Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Plymale:**

**Senate Bill 417**—A Bill to amend and reenact §9-1-2 of the Code of West Virginia, 1931, as amended, relating to amending the definition of “medical services”, to exclude abortion.

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

**By Senators Maynard, Azinger, Karnes, Rucker, Smith, Sypolt, Cline, and Boso:**

**Senate Bill 418**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act of 2018; prohibiting the removal, renaming, alteration, or relocation, of any statue, monument, memorial, nameplate, plaque, school, street, bridge, building, park, preserve, or reserve recognized by the West Virginia State Historic Preservation Office and which is located on public property and has been erected for, or named, or dedicated in honor of certain historical, military, labor, civil rights, and Native American events, figures, and organizations; prohibiting any

person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas recognized by the West Virginia State Historic Preservation Office; and authorizing the West Virginia State Historic Preservation Office to grant waivers under certain circumstances.

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

**By Senators Boley, Rucker, Cline, and Boso:**

**Senate Bill 419**—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to establishing the classification and base salaries of certain civilian employees of the West Virginia State Police Forensic Laboratory as evidence technicians, forensic technicians, forensic analysts, and forensic analyst supervisors; authorizing the superintendent to appoint a forensic laboratory director and set the director's salary; requiring manuals to be provided; and authorizing the inclusion of certain exempt civilian employees in supplemental pay option.

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

**By Senators Rucker, Karnes, Smith, Sypolt, Trump, Cline, and Boso:**

**Senate Bill 420**—A Bill to amend and reenact §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as amended, all relating to transferring the Safety and Treatment Program, which treats and educates people whose licenses were revoked due to concerns of alcohol and/or drug use while operating a motor vehicle, from the Department of Health and Human Resources to the Division of Motor Vehicles; and to amend references thereto in said code.

Referred to the Committee on the Judiciary.

**By Senators Maynard and Cline:**

**Senate Bill 421**—A Bill to amend and reenact §20-2-42a, §20-2-42q, §20-2-42s, and §20-2-42v of the Code of West Virginia, 1931, as amended, all relating to crossbow hunting; and clarifying use of crossbows with certain licenses and stamps.

Referred to the Committee on Natural Resources.

**By Senator Blair:**

**Senate Bill 422**—A Bill to amend and reenact §60-3-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-3A-17, §60-3A-18, and §60-3A-25 of said code, all relating to the regulation of liquor sales; providing for the days on which state stores and agencies may be open; eliminating the prohibition on the sale of liquor by retail licensees on any Sunday; providing for when retail licensees may not sell liquor on Sundays and other days; and providing that the wholesale markup on all liquor, other than wine, shall be a maximum of 28 percent.

Referred to the Committee on the Judiciary.

**By Senators Maynard and Cline:**

**Senate Bill 423**—A Bill to amend and reenact §20-7-9 of the Code of West Virginia, 1931, as amended, relating to criminal penalties for the offenses of hunting, trapping, or fishing on the lands

of another person, entering on to posted lands, and destroying posted land signs; and setting the penalties to match those of the offense of criminal trespass.

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

**By Senators Maynard, Cline, and Boso:**

**Senate Bill 424**—A Bill to amend and reenact §20-2-30a of the Code of West Virginia, 1931, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training; providing that the developmentally disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a person over the age of 18 years; and providing criminal penalties for violations.

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

**By Senators Ferns, Cline, and Plymale:**

**Senate Bill 425**—A Bill to amend and reenact §8-22-25a of the Code of West Virginia, 1931, as amended, relating to removing sunset dates upon which members of the policemen's or firemen's pension and relief fund are eligible for and elect to commence participation in a deferred retirement option plan.

Referred to the Committee on Pensions.

**By Senators Trump, Weld, and Boso:**

**Senate Bill 426**—A Bill to amend and reenact §60-1-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3b of said code; to amend and reenact §60-6-7, §60-6-8, and §60-6-9 of said code; to amend and reenact §60-7-3, §60-7-4, §60-7-5, and §60-7-12 of said code; and to amend and reenact §60-8-3 and §60-8-20 of said code, all relating to modernizing certain wine and alcohol laws by creating alternating wine proprietorships for wineries and farm wineries; clarifying sampling procedures and requirements for wineries and farm wineries; permitting certain charitable events to auction wine bottles for off-premises consumption; clarifying that consumption of alcoholic liquors in public is unlawful; clarifying that West Virginia licensees can only sell liquor by the drink; clarifying certain licensing requirements for licensure; clarifying prohibition on liquor bottle sales in Class A licenses; providing guidance on certain lawful conduct such as wine bottle sales and frozen drink machines; and permitting the sale of wine in Division II college stadiums.

Referred to the Committee on the Judiciary.

**By Senators Gaunch and Facemire:**

**Senate Bill 427**—A Bill to amend and reenact §11-6-23 of the Code of West Virginia, 1931, as amended, relating to modifying the form of notice for certain tax delinquencies due the state, county, district, or municipal corporations of the state.

Referred to the Committee on Government Organization.

**By Senators Gaunch, Facemire, Cline, Boso, and Romano:**

**Senate Bill 428**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, and §11-13EE-3, all relating to

providing a tax credit for modifications to homes made more accessible for an elderly person or a person with a disability.

Referred to the Committee on Finance.

**By Senators Maynard, Boso, Cline, Plymale, Sypolt, and Facemire:**

**Senate Bill 429**—A Bill to amend and reenact §20-3-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §20-3-5a, all relating to forest fires; clarifying civil and criminal penalties for failure to remove flammable material, failure to create a safety strip, or permitting fire to escape; and creating a prescribed burn program.

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

Senators Rucker and Unger offered the following resolution:

**Senate Concurrent Resolution 11**—Requesting the Congressional delegation of West Virginia to name the West Virginia National Guard 167th Maintenance Operations Center the “Evans Center for Excellence in Aircraft Maintenance”.

Whereas, SMSgt. Kenneth “Catbird” W. Evans is a native West Virginian who was born and raised in Corton, West Virginia. Upon his high school graduation in 1955, SMSgt. Evans attended and graduated aircraft maintenance technical training at Sheppard AFB, TX. SMSgt. Evans served in the West Virginia Air National Guard at Charleston Regional Airfield, Charleston, West Virginia, until 1958, when he entered full-time service with the National Guard in Martinsburg; and

Whereas, SMSgt. Evans enlisted in the West Virginia Air National Guard in 1954 at the age of 17. He completed basic military training at Samson AFB, NY, during his summer break before completing his senior year of high school in Clendenin, WV; and

Whereas, On June 4, 1958, SMSgt. Evans was credited with acts of heroism when he rushed into a burning cargo plane that crashed at the airfield in Martinsburg and pulled the unconscious pilot who was trapped in the nose section and two other souls to safety. On October 7, 1958, SMSgt. Evans was awarded the Soldier’s Medal for his heroic actions. This medal is the highest peacetime award a service member can earn, equivalent to the Distinguished Flying Cross. SMSgt. Evans is on a very short list of American service members who have received such a prestigious award; and

Whereas, During SMSgt. Evans’ 39 years of service, he flew numerous combat missions in Vietnam, logged over 10,000 flying-hours as a flight engineer in multiple aircraft, led the aircraft maintenance team that resulted in two VOLANT RODEO victories (1974-1985), and was considered a subject matter expert both in aircraft maintenance and as a flight engineer. When the strut system on the C-130 began to fail, SMSgt. Evans single-handedly identified an engineering flaw and served as the subject matter expert leading Lockheed Martin’s efforts in the redesign of the aircraft’s strut system. This accomplishment sustained the C-130’s mission readiness for the Department of Defense; and

Whereas, The West Virginia Air National Guard, specifically the 167th Airlift Wing, has become a world-class force multiplier because of the superior leadership, mentorship, dedication, and commitment of SMSgt. Evans. SMSgt. Evans’ efforts and accomplishments during his 39



years of service well exceed those of his peers and make him a significant role model for other Mountaineer Airman to follow; and

Whereas, SMSgt. Kenneth “Catbird” W. Evans will forever be a Mountaineer Airmen and has earned recognition for his lifelong service and commitment to the 167th, the citizens of West Virginia, and this nation; and

Whereas, It is fitting that the West Virginia National Guard 167th Maintenance Operations Center be named the “Evans Center for Excellence in Aircraft Maintenance” as an everlasting tribute to SMSgt. Kenneth “Catbird” W. Evans for his dedicated public service to his state and nation; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby requests the Congressional delegation of West Virginia to name the West Virginia National Guard 167th Maintenance Operations Center the “Evans Center for Excellence in Aircraft Maintenance”; and, be it

*Further Resolved,* That the Senate extends its most sincere gratitude and apperception to SMSgt. Kenneth “Catbird” W. Evans for his dedicated public service; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to SMSgt. Kenneth “Catbird” W. Evans, the West Virginia National Guard, and to Senator Manchin, Senator Capito, Representative McKinley, Representative Mooney, and Representative Jenkins.

Which, under the rules, lies over one day.

Senators Beach, Prezioso, Stollings, Facemire, Unger, and Plymale offered the following resolution:

**Senate Resolution 20**—Celebrating the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia.

Whereas, Monongalia County is known as the mother county, in reference to the many other counties created from its original territory. Monongalia County was founded in 1776 from the West Augusta County of Virginia, following small settlements along the Monongahela River and its tributaries to the Ohio River; and settled by a small group of people along the banks of Decker’s Creek; and

Whereas, Monongalia County, being the third largest county by population (104,622) of the 55 counties of West Virginia, has had an annual growth rate exceeding 1.6 percent for more than a decade; and

Whereas, Monongalia County was recognized by the West Virginia Association of Counties with the first Patti Hamilton Imagine award for the efforts of community leaders from the public and private sectors to cooperate and collaborate on innovative ways to solve the region’s problems; and

Whereas, Monongalia County is home to West Virginia University, a public land-grant institution, founded in 1867, and recognized as a top research university by the Carnegie

Foundation for the Advancement of Teaching. WVU welcomes and shapes the minds of students from across the State of West Virginia, every state in the United States, and approximately one hundred other nations; and

Whereas, Monongalia County has an award-winning baseball park which is the home of the West Virginia University baseball team and the home of the West Virginia Black Bears minor league team that provide all our citizens the ability to follow our baseball heroes throughout their Pittsburgh Pirates career; and

Whereas, Monongalia County offers to its citizens and visitors from around the world the best in medical care; tourism experiences from Mountainfest to the University Arts Series; from a beautiful view from Cooper's Rock to a peaceful stroll on the Caperton Trail; top-rated educational experiences at all levels; a thriving and innovative business community; a nationally acclaimed economic model; and a place that offers big-city amenities with the neighborly feel of small-town life; and

Whereas, Monongalia County has been recognized in recent years in the following ways: Best Performing Small Metros (Milken Institute); Best Small Metros for Business and Careers (Forbes); Best Quality of Life and Knowledge Worker Metros (Expansion Manage); Smart Places to Live (Kiplinger's); Boom Town (Inc.); Morgantown-Top College Destination (American Institute for Economic Research); Designated Retirement Community (CLIC); Best Places to Retire for Under \$100 a Day (AARP); Most Secure Small Cities (Farmer's Insurance); Adventure Town (National Geographic Adventure Magazine); Best Small Town to Live (Men's Journal); and Best Sports Cities (Sporting News); and

Whereas, In Monongalia County, from Blacksville to Star City, from Westover to Granville, in the heart of Morgantown and everywhere in between, every day is a great day to be a Mountaineer; therefore, be it

*Resolved by the Senate:*

That the Senate hereby celebrates the achievements and contributions of Monongalia County and its citizens to the great State of West Virginia; and, be it

*Further Resolved,* That the Senate acknowledges the vibrancy and contributions made to our state and nation by the people, past and present, of Monongalia County; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Monongalia County.

At the request of Senator Beach, 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 Prezioso, and by unanimous consent, the remarks by Senator Beach regarding the adoption of Senate Resolution 20 were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, and by unanimous consent, the remarks by Senator Clements regarding the adoption of Senate Resolution 20 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:27 a.m., the Senate recessed to present Senate Resolution 20.

The Senate reconvened at 11:31 a.m. today and resumed business under the sixth order.

Senators Beach, Stollings, Facemire, Prezioso, and Plymale offered the following resolution:

**Senate Resolution 21**—Recognizing Bryan Schuerman for being named the 2017 Outstanding Earth Science Teacher for the State of West Virginia.

Whereas, Bryan Schuerman was born on July 21, 1985, in Cincinnati, Ohio, the son of David and Annette Schuerman. Annette Schuerman having been born and raised in Wheeling, West Virginia; and

Whereas, Bryan Schuerman received a Bachelor of Science degree in Science and Technology and a Master of Education in Advanced Studies in Secondary Education and Teacher Leadership from California University of Pennsylvania, where he holds a seat on the Alumni Association Board of Directors; and

Whereas, Bryan Schuerman is a member of the National Weather Association and the American Meteorological Society; and

Whereas, Bryan Schuerman began his career as a meteorologist in North Central West Virginia at WDTV 5/WVFX 10 News as the Weekend Meteorologist and General Assignment/Weather Reporter. He joined the WBOY Storm Tracker 12 Weather Team in November 2014 as Chief Meteorologist; and

Whereas, Bryan Schuerman teaches General Science, Grades 7 and 8, at Lincoln Middle School in Shinnston, West Virginia, and previously worked with the Harrison County Public Schools as a long-term substitute teacher; and

Whereas, Bryan Schuerman leads the way for the StormReady School Program created by the National Weather Forecast Office in Charleston, WV, with his school, Lincoln Middle School, being the first StormReady school in the state. He is currently working with the remaining 24 schools in Harrison County to get them StormReady certified; and

Whereas, Bryan Schuerman was one of ten teachers nominated for the Outstanding Earth Science Teacher for the State of West Virginia award from the National Association of Geoscience Teachers, nominated by Faith Borden, former Warning Coordination Meteorologist at the National Weather Service Forecast Office in Charleston, West Virginia; and

Whereas, Bryan Schuerman did receive the award as the Outstanding Earth Science Teacher for the State of West Virginia, on Saturday, June 17, 2017, at the Community College of Baltimore County, Catonsville, Maryland, at the National Association of Geoscience Teachers Eastern Section Meeting. He has further been recognized by the West Virginia Science Teachers Association and the Harrison County Board of Education; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Bryan Schuerman for being named the 2017 Outstanding Earth Science Teacher for the State of West Virginia; and, be it

*Further Resolved*, That the Senate congratulates Bryan Schuerman for his remarkable achievement and extends its most sincere gratitude and appreciation to him for his dedication and commitment to his students and the State of West Virginia; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to Bryan Schuerman.

At the request of Senator Beach, 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 Prezioso, and by unanimous consent, the remarks by Senator Beach regarding the adoption of Senate Resolution 21 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:34 a.m., the Senate recessed to present Senate Resolution 21.

The Senate reconvened at 11:36 a.m. today and resumed business under the sixth order.

### **Petitions**

Senator Sypolt presented a petition from Sheila Coleman-Castells and numerous fourteenth senatorial district residents, opposing Senate Bill 270 (*Authorizing DNR implement silvicultural management for state park lands*).

Referred to the Committee on Natural Resources.

Without objection, the Senate returned to the third order of business.

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on January 29, 2018, he had approved **Enr. Senate Bill 263**.

The Senate again proceeded 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 430** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §18B-3C-16, relating to encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 163**, Authorizing DEP promulgate legislative rules.

Having been read a third time on Friday, January 26, 2018, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Trump, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motions of Senators Smith, Romano, and Trump, the following amendment to the bill was reported by the Clerk:

On page three, section one, lines twenty-six through thirty-three, by striking out all of subparagraph 12.2.a.4.B. and inserting in lieu thereof a new subparagraph, designated subparagraph 12.2.a.4.B., to read as follows:

12.2.a.4.B. The operator has provided irrevocable financial assurances in a form satisfactory to the Secretary through a contract or other mechanism enforceable under provisions of law, such as delineated in subsection 11.3 of this rule, adequate to provide for long term treatment of the drainage as required by the federal Clean Water Act at 33 U.S.C 1251 *et seq.*, the West Virginia Water Pollution Control Act at §22-11-1 *et seq.* and the operator's National Pollutant Discharge Elimination System permit issued under 47 CSR 30. Default on a treatment obligation under this paragraph will subject the operator to penalties and sanctions, including permit blocking.

In order to make this demonstration, the applicant shall address, at a minimum, the current and projected quantity and quality of drainage to be treated, the anticipated duration of treatment, the estimated capital and operating cost of the treatment facility, and the calculations that demonstrate the adequacy of the remaining bond or other financial assurance.

Following discussion,

The question being on the adoption of the amendment offered by Senators Smith, Romano, and Trump to the bill, the same was put and prevailed.

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 163 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 163) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 163) takes effect from passage.

*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 165**, Authorizing DHHR promulgate legislative rules.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 165) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 165) takes effect from passage.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 284**, Increasing access to career education and workforce training.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 284 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 284) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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 Com. Sub. for S. B. 284) takes effect July 1, 2018.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Drennan, Mann, Cline, Romano, Karnes, Plymale, Gaunch, Trump, and Blair regarding the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 284 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for Senate Bill 285**, Establishing regional recreation authorities and areas.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 285) passed.

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

**Eng. Com. Sub. for Senate Bill 285**—A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10, and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4, and §20-15-5 of said code, all relating to establishing regional recreation authorities and areas; providing for reimbursement by authority for natural resources police officers; adding Division of Natural Resources police officers to class of law-enforcement officers whose pension benefits are exempt from state income taxation; modifying the amount and timing of subsistence payments to natural resource police officers; setting forth findings and definitions; providing for creation of regional recreation authorities as joint development entities formed by a prescribed number of contiguous counties; providing for establishment of new trail systems for off-highway recreational vehicle use; providing for board to govern regional recreation authorities; providing for the appointment and terms of board members; providing for quorum, executive director, and expenses of board; providing for financial review and oversight of regional recreation authorities; establishing powers and duties of regional recreation authority boards; establishing powers of regional recreation authorities; prohibiting certain conduct in regional recreation areas; providing civil and criminal penalties; limiting liability of certain landowners; establishing requirements for bidding and purchasing; prohibiting contracts that pose conflicts of interests; providing civil remedies for unlawful purchasing contracts; and incorporating references to new code sections and regional recreation authorities and areas into the ATV Responsibility Act.

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

**Eng. Senate Bill 338**, Changing date for employers to file annual reconciliation and withholding statements.

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: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 338) passed with its title.



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

**Eng. Senate Bill 393**, Relating to compensation and composition of WV Racing Commission.

On third reading, coming up in regular order, was reported by the Clerk.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 10**, Relating generally to PSC jurisdiction.

On second reading, coming up in regular order, was reported by the Clerk.

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

**Com. Sub. for Senate Bill 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs.

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 71**, Defining "veteran" as it pertains to veteran-owned business.

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 184**, Authorizing DOT promulgate legislative rules.

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 237**, Authorizing Department of Revenue promulgate legislative rules.

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

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

On page two, section one, line twenty, after the word "authorized" by changing the period to a comma and inserting the following: with the amendment set forth below:

On page 23, subsection 12.2., after the word "manner." by inserting the following: "The Tax Commissioner shall comply with West Virginia and federal law prohibiting nepotism, favoritism, discrimination or unethical practices related to employment and promotion, and the public employee grievance system."

Following discussion,

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

The bill (Com. Sub. for S. B. 237), as amended, was then ordered to engrossment and third reading.

**Senate Bill 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment.

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

On motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page one, section four-l, by striking out the section heading and substituting therefor a new section heading, to read as follows:

**§33-15-4p. Lyme Disease to be covered by all health insurance policies.;**

On page two, section three-x, by striking out the section heading and substituting therefor a new section heading, to read as follows:

**§33-16-3zz. Lyme Disease to be covered by all health insurance policies.;**

And,

On page two section eight-l, by striking out the section heading and substituting therefor a new section heading, to read as follows:

**§33-25A-8p. Lyme Disease to be covered by all health insurance policies.**

On motion of Senator Maroney, the following amendments to bill (S. B. 242) were next reported by the Clerk and considered simultaneously:

On page one, section thirty-eight, line five, after the word "treatment." by striking out the remainder of the section;

On page two, section four-l, line seven, after the word "treatment." by striking out the remainder of the section;

On page two, section three-x, line seven, after the word "treatment." by striking out the remainder of the section;

And,

On page three, section eight-l, line seven, after the word "treatment." by striking out the remainder of the section.

Following discussion,

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

The bill (S. B. 242), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 267**, Increasing salaries of certain state employees.

On second reading, coming up in regular order, was reported by the Clerk.

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

**Com. Sub. for Senate Bill 327**, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty.

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

**Senate Bill 384**, Decreasing and increasing appropriations from State Fund, General Revenue to DHHR.

On second reading, coming up in regular order, was reported by the Clerk.

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

**Senate Bill 385**, Decreasing and adding appropriations out of Treasury to DHHR and MAPS.

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

**Senate Bill 388**, Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration.

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

The Senate proceeded to the tenth order of business.

**Com. Sub. for Senate Bill 336**, Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance.

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

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Maynard.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Baldwin, the name of Senator Baldwin was removed as a sponsor of **Senate Bill 288** (*Regulating cremation, embalming and directing of funeral service*).

At the request of Senator Romano, the name of Senator Romano was removed as a sponsor of **Senate Bill 369** (*Relating to powers and authority of newly created divisions of Administrative Services and Corrections and Rehabilitation within MAPS*).

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Ferns, at 12:46 p.m., the Senate adjourned until tomorrow, Wednesday, January 31, at 11 a.m.

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## **SENATE CALENDAR**

**Wednesday, January 31, 2018  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 11 - Evans Center for Excellence in Aircraft Maintenance

### **THIRD READING**

Eng. Com. Sub. for S. B. 46 - Permitting pharmacists to inform customers of lower-cost alternative drugs

Eng. Com. Sub. for S. B. 71 - Defining "veteran" as it pertains to veteran-owned business

Eng. Com. Sub. for S. B. 184 - Authorizing DOT promulgate legislative rules (original similar to HB4099)

Eng. Com. Sub. for S. B. 237 - Authorizing Department of Revenue promulgate legislative rules (original similar to HB4102)

Eng. S. B. 242 - Requiring health insurance providers provide coverage for certain Lyme disease treatment (original similar to HB4328)

Eng. Com. Sub. for S. B. 327 - Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty

Eng. S. B. 385 - Decreasing and adding appropriations out of Treasury to DHHR and MAPS

Eng. S. B. 388 - Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration

Eng. S. B. 393 - Relating to compensation and composition of WV Racing Commission

### **SECOND READING**

Com. Sub. for S. B. 10 - Relating generally to PSC jurisdiction (original similar to HB4355)

Com. Sub. for S. B. 267 - Increasing salaries of certain state employees (original similar to HB4145)

Com. Sub. for S. B. 336 - Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance

S. B. 384 - Decreasing and increasing appropriations from State Fund, General Revenue to DHHR

## FIRST READING

- Com. Sub. for Com. Sub. for S. B. 258 - Exempting honorably discharged veterans from fees for license to carry deadly weapons
- Com. Sub. for S. B. 268 - Eliminating requirement that certain agencies purchase commodities produced on institutional farms (original similar to HB4143)
- S. B. 324 - Removing restrictions where certain traditional lottery games may be played
- S. B. 345 - Authorizing DNR establish procedures and fee schedule for limited permit hunts
- S. B. 350 - Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State
- S. B. 357 - Relating generally to limited video lottery (original similar to HB4303)
- Com. Sub. for S. B. 386 - Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission
- S. B. 430 - Encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2018**

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**Wednesday, January 31, 2018**

2 p.m.                      Pensions    (Room 451M)

**Thursday, February 1, 2018**

1 p.m.                      Energy, Industry & Mining    (Room 208W)