

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

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

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Charleston, West Virginia, Wednesday, February 12, 2020

The Senate met at 11:07 a.m.

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

Prayer was offered by Pastor Larry Cooper, Springdale Free Will Baptist Church, Hurricane, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Chandler Swope, a senator from the sixth district.

Pending the reading of the Journal of Tuesday, February 11, 2020,

At the request of Senator Trump, 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 concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 46**, Defining “pepper spray” and exempting from definition of “deadly weapons”.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 364**, Authorizing Department of Transportation promulgate legislative rules.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page three, section one, line thirty-eight, after the word “authorized” by striking out the period and inserting in lieu thereof the following: with the following amendments:

On page 2, by striking out subsection 2.7 and renumbering the remaining subsections;

On page 5, subsection 4.4, after the words: “the application.”, by inserting the following: “When determining the time in which an application must be acted upon, if the final day to act falls on a federal or state holiday, the date to act upon the application shall be the next weekday that is not a federal or state holiday.”;

On page 5, subsection 4.5. by striking out the word “business”;

On page 5, subdivision 4.5.1. by striking out the word “business”;

On page 5, subdivision 4.5.2. by striking out the words “business days”;

And,

On page 8, subsection 5.1. by striking out the word “business”.

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

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 364, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Takubo and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 364) passed with its title.

Senator Weld moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Takubo and Woelfel—2.

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. 364) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 470**, Relating to use of crossbow to hunt.

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

**Eng. Com. Sub. for Senate Bill 487**, Providing exception that all DNR payments be deposited within 24 hours.

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

**Eng. Com. Sub. for Senate Bill 500**, Relating to Class Y special crossbow hunting permit.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section forty-two-w, line four, after the word “permit;” by inserting the word “or”.

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

Engrossed Committee Substitute for Senate Bill 500, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Takubo and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 500) passed with its title.

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

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

**Eng. Com. Sub. for Senate Bill 501**, Adding protection, operation of North Bend Rail Trail, Greenbrier River Trail, and Elk River Trail to Parks and Recreation Section of DNR.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section three, lines thirty-two and thirty-three, by striking out the words “approximately sixty and fifty-seven one-hundredths miles of”.

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

Engrossed Committee Substitute for Senate Bill 501, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Takubo and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 501) passed with its title.

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

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

**Eng. Com. Sub. for House Bill 4069**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, and §18-33-8, all relating to creating the West Virginia Student Religious Liberties Act; providing that public school district shall not discriminate against a student’s religious viewpoint or religious expression; providing that students may express their beliefs about religion in homework, artwork and other written assignments without being penalized or rewarded; providing that students in public schools may pray or engage in religious activities or religious expression before, during or after the school day; requiring school districts to adopt and implement a policy substantially similar to the model policy set forth herein; setting forth parameters for student speakers at nongraduation events; setting forth parameters for speakers at graduation ceremonies; providing for disclaimers by school authorities; providing that the act may not require participation in religious activity or violate a person’s constitutional rights; ensuring that public schools may still maintain order and discipline, protect the safety of students,

employees, and visitors of the public school, and adopt and enforce policies and procedures; and providing an effective date.

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

The Senate proceeded to the fourth order of business.

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 6**, Increasing weight limits for vehicles on certain state highways.

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

**Com. Sub. for Senate Bill 6** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17C-17-11 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of the Division of Highways to issue permits for certain tractors with certain trailers that do not exceed specified maximum axle weights.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

The bill (Com. Sub. for S. B. 6), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 229**, Requiring Public Health Commissioner create program for reimbursement of adult dental care and free and charitable clinics.

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

**Com. Sub. for Senate Bill 229** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-1-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-59-1, all relating to powers and duties of the Commissioner of the Bureau for Public Health; requiring the commissioner to create a grant pilot program to provide reimbursement of dental care for adults at free and charitable clinics; requiring establishment of fund; requiring rulemaking; and requiring reporting.

**Senate Bill 716**, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization.

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

**Com. Sub. for Senate Bill 716** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating to requiring Department of Health and Human Resources to make payment for tubal ligation without requiring at least 30 days between the date of informed consent and date of the tubal ligation procedure.

And,

**Senate Bill 719**, Imposing health care-related provider tax on certain health care organizations.

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

**Com. Sub. for Senate Bill 719** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §11-27-10a of the Code of West Virginia, 1931, as amended, relating to imposing a health care related provider tax on certain health care organizations; and extending termination date.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bills (Com. Sub. for S. B. 229, 716, and 719), under the original double committee references, were then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

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

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 285**, Eliminating WV Greyhound Breeding Development Fund.

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

**Com. Sub. for Senate Bill 285** (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 §11-21-12j; to amend and reenact §19-23-3, §19-23-7, §19-23-10, §19-23-12b, §19-23-13, and §19-23-13c of said code; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e, and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-8, §29-22C-10, §29-22C-27, and §29-22C-27a of said code, all relating generally to horse and dog racing lottery; modifying certain definitions; discontinuing the West Virginia Racing Commission special account known as the West Virginia Greyhound Breeding Development Fund; transferring all moneys in the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon transfer of moneys from the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund, a certain amount be withheld and deposited in the special account known as the Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs to include Spaying and Neutering Account; requiring that all moneys previously required to be directed to the West Virginia Greyhound Breeding Development Fund be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that all moneys previously required to be directed into any fund or paid for the purposes of funding purses, awards, or providing any other funding for greyhound races to be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to qualify for such a license; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to contract to receive telecasts and accept wagers; providing that a dog racetrack is required to hold a racing license to conduct simulcast racing regardless of whether the racetrack continues to conduct live dog racing; authorizing the West Virginia Racing Commission to promulgate rules, including emergency rules, regarding licensure of dog racetracks conducting only simulcast racing; eliminating the requirement that a video lottery licensee at a dog track must hold a racing license to renew a video lottery license or racetrack table games license; requiring the Lottery Commission to transfer a percentage of gross terminal revenue derived from racetrack video lottery at thoroughbred tracks, and deducted for administrative costs and expenses, to the Racing Commission's General Administrative Account; eliminating the requirement that an applicant for a video lottery license or license renewal at a dog racetrack must provide evidence of the existence of an agreement regarding proceeds from video lottery terminals with certain parties; providing that a percentage of net terminal income originating at thoroughbred racetracks will be deposited in the West Virginia Thoroughbred Development Fund; permitting a dog racetrack to continue to operate operational video lottery and racetrack table games in a location where live racing was previously conducted; eliminating the requirement that a racetrack table games licensee at a dog racetrack must race a minimum number of dates; providing a one-time credit toward personal income taxes for the adoption of displaced greyhounds; and requiring that a certain amount of money be withheld and deposited into a special revenue account known as the Displaced Workers Employment Retraining Fund to assist with the retraining of workers directly impacted by the termination of greyhound racing.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

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

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

**Com. Sub. for Senate Bill 279** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-22; to amend said code by adding thereto a new section, designated §33-16-18; to amend said code by adding thereto a new section, designated §33-24-45; to amend said code by adding thereto a new section, designated §33-25-22; and to amend said code by adding thereto a new section, designated §33-25A-36, all relating to the optional assignment of certain benefits in dental care insurance programs; detailing revocation and reimbursement requirements; excluding Medicaid, CHIP, and contracts approved by the Department of Health and Human Resources Bureau for Medical Services.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*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 306**, Licensing of drivers utilizing bioptic telescopic devices.

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

**Com. Sub. for Senate Bill 306** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17B-2B-3, §17B-2B-4, §17B-2B-5, and §17B-2B-7 of the Code of West Virginia, 1931, as amended, all relating to licensing of drivers utilizing bioptic telescopic devices.

With the recommendation that the committee substitute do pass.

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 Bill 589**, Relating to critical needs in state water and sewer systems.

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

**Com. Sub. for Senate Bill 589** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-15A-17c, all relating to critical needs in state water and sewer systems; creating a Critical Needs/Failing Systems Sub Account; funding the sub account with excess uncommitted loan balances; authorizing loans or grants to address a critical immediate need of water or sewer services; and exempting the sub account from grant limitations contained in §31-15A-10 of said code.

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.*

At the request of Senator Blair, 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 Transportation and Infrastructure.

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 597** (originating in the Committee on the Judiciary), Relating to judicial branch members' salaries and pensions.

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

**Com. Sub. for Com. Sub. for Senate Bill 597** (originating in the Committee on Finance)—A Bill to amend and reenact §50-1-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §51-1-10a of said code; to amend and reenact §51-2-13 of said code; to amend and reenact §51-2A-6 of said code; and to amend and reenact §51-9-1a and §51-9-5 of said code, all relating generally to salaries and pensions of magistrates, justices of the Supreme Court of Appeals, circuit judges, and family court judges; adopting and codifying the 2019, recommendations of the Judicial Compensation Commission as to salary increases for magistrates, justices of the Supreme Court of Appeals, circuit judges, and family court judges.

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

Respectfully submitted,

Craig Blair,  
*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 626**, Authorizing Office of Administrative Hearings hear appeals on suspension or revocation of graduated driver's license.

And,

**Senate Bill 660**, Regulating electric bicycles.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

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

Your Committee on Education has had under consideration

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

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

**Com. Sub. for Senate Bill 702** (originating in the Committee on Education)—A Bill to amend and reenact §18-2-7a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-2-7e, all relating to designating the specific grade levels to which the specified physical education requirements are applicable to; allowing a school district to develop or adopt a program in which the subject of nutrition and exercise education is taught instead of the program required to be prescribed by the state board; setting forth requirements for program developed or adopted; allowing school districts to apply for funding to support the implementation of the program; creating the Nutrition and Exercise Education Fund from which moneys are to be awarded on a competitive basis to eligible school districts; requiring the Department of Education to annually submit a report to the Governor and the Legislative Oversight Commission on Education Accountability; allowing a school district to make available to schools within the district a program in which the subject of nutrient and exercise education is taught; setting forth requirements applicable to the program; allowing school districts utilizing the program to be eligible to apply for funding from the Nutrition and Exercise Education Fund; setting forth requirements applicable to each school in a school district electing to participate in the program; allowing school districts to issue a request for proposals to contract with qualified service providers on a per-student rate to provide certain programs and/or products; setting forth certain

criteria that providers of programs and products must meet to be considered by school districts; and setting forth required program accountability measures.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

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

Your Committee on Education has had under consideration

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

And,

**Senate Bill 712**, Correcting name of Forensic Analysis Laboratory.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Maroney, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Senate Bill 704**, Allowing disabled purple heart recipients park free at municipal metered parking spaces.

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 Government Organization.

Respectfully submitted,

Michael J. Maroney,  
*Vice Chair.*

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

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 706**, Clarifying duties of law-enforcement training and certification subcommittee.

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

**Com. Sub. for Senate Bill 706** (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-29-3 and §30-29-5 of the Code of West Virginia, 1931, as amended, all relating to the duties of the law-enforcement training and certification subcommittee; providing for a minimum of 800 classroom hours for a law-enforcement academy; clarifying that the required classroom hours shall be accumulated on the basis of a full-time curricula; authorizing the law-enforcement training and certification subcommittee to deny an application for the establishment of a new law-enforcement academy if it is determined that no need exists; requiring that a person seeking certification complete the approved law-enforcement training academy within 18 consecutive months of the commencement of employment as a law-enforcement officer; authorizing extensions of such requirement; requiring graduates of state law-enforcement academies successfully complete an entry level law-enforcement examination promulgated by the law-enforcement training and certification subcommittee prior to certification; establishing time frames for completion of training requirements; and making technical corrections.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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 746**, Providing contracted managed care companies access to uniform maternal screening tool.

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

**Com. Sub. for Senate Bill 746** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-4E-6 of the Code of West Virginia, 1931, as amended, relating to providing that contracted managed care companies with the Bureau for Medical Services may be provided data from the uniform maternal screening tool regarding their own covered members; providing that the Bureau for Medical Services may be provided data from the screening tool regarding their own covered members; and requiring confidentiality must be maintained.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael J. Maroney,  
*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 8**, US Army 1st Lieutenant Harold H. Frazier Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 8** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 40-35-8.07, NB and SB (40A155, 40A156), locally known as US 35 Hurricane Creek bridges, carrying US Rt. 35 over Hurricane Creek in Putnam County, the “U.S. Army 1LT Harold H. Frazier Memorial Bridge”.

Whereas, Harold H. Frazier was born in Frazier’s Bottom, Putnam County, West Virginia, on April 19, 1923, the son of Argyll Elwood Frazier and Pearl C. Livesey. He attended Winfield High School, where he was the first student to achieve the honor of All-State Future Farmer of America. He graduated as class salutatorian in 1941. He immediately enlisted in the U.S. Army, citing growing tension around the world and his own sense of duty and patriotism as a reason for enlisting. His first duty station was in Hawaii, and he was stationed there when the Japanese attacked on December 7, 1941, making him a Pearl Harbor survivor; and

Whereas, After Pearl Harbor, Harold was promoted to lieutenant, and attended bombardier training school. After graduating bombardier training school, he was sent to Europe and flew many combat missions in Europe as a bombardier in a B-25 Mitchell Bomber. During his time in Europe, he was awarded the Silver Star, Distinguished Flying Cross, Purple Heart, and the Air Medal with 7 Oak Leaf Clusters; and

Whereas, After World War II, First Lieutenant Harold H. Frazier received a degree in forestry from West Virginia University and reenlisted in the U.S. Army to serve in the Korean War; and

Whereas, After the Korean War, First Lieutenant Harold H. Frazier settled in Dunbar, West Virginia, and spent the rest of his career as an industrial hygienist for Union Carbide Corporation; and

Whereas, First Lieutenant Harold H. Frazier died on April 9, 1996, in Cornelius, North Carolina, survived by his wife, Jane Frazier, and his children, Larry Frazier, Brad Frazier, Patty Frazier Gayhart, and John Frazier; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army First Lieutenant Harold H. Frazier 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 40-35-8.07, NB and SB (40A155, 40A156), locally known as US 35 Hurricane Creek bridges, carrying US Rt. 35 over Hurricane Creek in Putnam County, the “U.S. Army 1LT Harold H. Frazier 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 1LT Harold H. Frazier 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.*

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 12**, US Army PFC Gary Alcott Birkhimer Memorial Bridge.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

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

And has amended same.

And,

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

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

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

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

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

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

Senator Maroney, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

**Eng. House Bill 4412**, Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard.

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 Education.

Respectfully submitted,

Michael J. Maroney  
*Vice Chair.*

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

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

Your Committee on the Judiciary has had under consideration

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

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the fifth order of business.

Senator Takubo, from the Select Committee on Children and Families, submitted the following report, which was received:

Your Select Committee on Children and Families has had under consideration

**Senate Bill 639**, Relating to duties of prosecuting attorney in child abuse and neglect matters.

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

**Com. Sub. for Senate Bill 639** (originating in the Select Committee on Children and Families)—A Bill to amend and reenact §49-4-502 and §49-4-601 of the Code of West Virginia, 1931, as amended, all relating to the duties of the prosecuting attorney in child abuse and neglect matters; and providing for who may file a child abuse and neglect petition.

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

Respectfully submitted,

Tom Takubo,  
*Chair.*

The bill (Com. Sub. for S. B. 639), under the original double committee reference, was then referred to the Committee on the Judiciary.

The Senate proceeded to the sixth order of business.

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

**By Senator Takubo:**

**Senate Bill 752**—A Bill to repeal §16A-4-2 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4 of said code; to repeal §16A-13-1 of said code; to amend and reenact §16A-2-1 of said code; to amend and reenact §16A-3-1, §16A-3-2, §16A-3-3, and §16A-3-5 of said code; to amend and reenact §16A-4-3 and §16A-4-5 of said code; to amend and reenact §16A-



5-1 of said code; to amend and reenact §16A-6-2, §16A-6-3, §16A-6-6, §16A-6-12, and §16A-6-13 of said code; to amend said code by adding thereto a new section, designated §16A-6-14; to amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-2 of said code; to amend and reenact §16A-12-2, §16A-12-7, and §16A-12-8 of said code; to amend and reenact §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, and §16A-13-8 of said code; to amend and reenact §16A-14-1, §16A-14-2, and §16A-14-3 of said code; and to amend and reenact §16A-15-2 and §16A-15-4 of said code, all relating to medical cannabis generally; defining terms; authorizing the Commissioner of the Bureau for Public Health to approve additions to the forms of lawful medical cannabis which may be used and the conditions for which medical cannabis use is authorized pursuant to recommendations of the Medical Cannabis Advisory Board; requiring employees of medical cannabis organizations and establishing a registration fee; authorizing the commissioner to enter into reciprocity agreements with other jurisdictions for terminally ill cancer patients; authorizing the commissioner to promulgate rules relating to 30-day supplies of medical cannabis; removing the residency requirement for medical cannabis organization owners, operators, shareholders, partners, and members; adding certain convictions which preclude participation as or in a medical cannabis organization; clarifying that the Tax Division of the Department of Revenue is charged with monitoring medical cannabis pricing; modifying and clarifying the distance a medical cannabis dispensary must be from certain educational facilities; modifying and clarifying entities engaged in medical cannabis research subject to nondisclosure provisions; removing requirement that certain federal agencies must preapprove medical cannabis research projects; authorizing accredited colleges and medical schools to be eligible to engage in approved medical cannabis research; increasing the number of clinical registrants; clarifying that the governing body of an academic clinical research center must approve the institution's participation in a medical cannabis research project; clarifying that only those public officials directly involved in the administrations of the medical cannabis program are prohibited from having a monetary interest in a medical cannabis organization; and adding accredited educational institutions engaged in research to the list of persons, entities, and organizations exempt from licensure, discipline for lawful use, possession, or manufacture of medical cannabis.

Referred to the Committee on the Judiciary.

**By Senators Maynard, Trump, Rucker, Plymale, and Hardesty:**

**Senate Bill 753**—A Bill to amend and reenact §24-2-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §24-2-1o, all relating to authorizing the Public Service Commission to approve plans proposed by electric utilities to install middle-mile broadband fiber and provide expedited cost recovery.

Referred to the Committee on Government Organization.

**By Senator Prezioso:**

**Senate Bill 754**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1-1f; to amend and reenact to §18B-1-2 of said code; and to amend and reenact §18B-1B-6 of said code, all relating to public higher education governance by establishing matrix necessary for an institution of higher education to become exempt from the Higher Education Policy Commission; and identifying Fairmont State University, Shepherd University, and West Liberty University as exempted schools based on the matrix criteria.

Referred to the Committee on Education.

**By Senators Palumbo, Ihlenfeld, Jeffries, Takubo, Clements, and Hardesty:**

**Senate Bill 755**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4, and §11-13FF-5, all relating to the High-Wage Growth Business Tax Credit Act.

Referred to the Committee on Finance.

**By Senator Baldwin:**

**Senate Bill 756**—A Bill making a supplementary appropriation by adding a new item of appropriation from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, to the Department of Veterans' Assistance-Veterans Home Fund, fiscal year 2020, organization 0618, by supplementing and amending the appropriations for the fiscal year ending June 30, 2020.

Referred to the Committee on Finance.

**By Senators Prezioso, Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Romano, Stollings, Unger, and Woelfel:**

**Senate Bill 757**—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 an annual cost-of-living adjustment to certain retirees of the Public Employees Retirement System and the State Teachers Retirement System.

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

**By Senators Sypolt and Tarr:**

**Senate Bill 758**—A Bill to amend and reenact §16-4C-5 of the Code of West Virginia, 1931, as amended, relating to the authority of the Emergency Medical Services Advisory Council in reviewing rules proposed by the Commissioner of the Bureau for Public Health under the Emergency Medical Services Act.

Referred to the Committee on Government Organization.

**By Senator Plymale:**

**Senate Bill 759**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-5h, relating to authorizing municipalities to establish a low-cost alternative energy revolving loan program; defining terms; setting certain requirements for the program; requiring the adoption of an ordinance if the municipality decides to establish the program; setting forth certain provisions that must be contained in the ordinance; requiring interest rates to be below prevailing market rates; creating certain requirements for seeding the fund; and requiring quarterly reports with certain information.

Referred to the Committee on Government Organization.

**By Senator Rucker:**

**Senate Bill 760**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1-1F; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-4 and §18B-1B-6 of said code; to amend and reenact §18B-1D-7 of said code; and to amend and reenact §18B-19-4 of said code, all relating to state institutions of higher education under the authority of the Higher Education Policy Commission; providing findings; defining terms; allowing any state college or university to apply to the Higher Education

Policy Commission for designation as an administratively exempted school, a financially exempted school, or both; requiring Higher Education Policy Commission to propose rules for legislative approval that addresses loss of an exemption designation; setting forth specific exemptions for a college and university designated as an administratively exempted school; setting forth specific exemptions for a college and university designated as a financially exempted school; requiring Higher Education Policy Commission report to the Legislative Oversight Commission on Education Accountability certain information pertaining to exemption status for colleges and universities; updating institution names; removing obsolete language; updating code to reflect removal of statewide master plan and compact requirements by prior legislation; removing requirement for Higher Education Policy Commission to advise and confirm in the appointment of presidents of the institutions of higher education under its jurisdiction; removing requirement for Higher Education Policy Commission to promulgate a rule establishing a tuition and fee policy; replacing Higher Education Policy Commission with the Chancellor for Higher Education as having the responsibility to approve or disapprove proposed academic degree programs where approval required; requiring that Higher Education Policy Commission report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability that includes a recommendation on a formula for the allocation of general revenue to be appropriated to the institutions be annual rather than one time; making certain provisions pertaining to appointment of institutional presidents applicable to exempted schools; removing requirement for Higher Education Policy Commission to confirm appointment of institutional presidents; requiring classified employees be used when doing evaluations of institutional presidents; updating language to be consistent with replacing institutional and statewide report cards with a data reporting system in prior legislation; declaring that the geographic areas of responsibility for the West Virginia School of Osteopathic Medicine, Marshall University, and West Virginia University are statewide; and removing requirement for Higher Education Policy Commission confirmation of campus development plans.

Referred to the Committee on Education.

Senator Trump offered the following resolution:

**Senate Resolution 38**—Recognizing the contributions of AARP West Virginia State President Rich Stonestreet to the betterment of our state and its people.

Whereas, Mr. Rich Stonestreet was born and raised in the Wheeling area; the son of a third-generation steelworker and Italian immigrants; and

Whereas, Mr. Rich Stonestreet was educated in Ohio County schools, graduating from the former Triadelphia High School, before earning post-secondary degrees from West Liberty State College and the University of Tennessee; and

Whereas, Upon completing a 35-year career working in education and labor representation in the states of Maryland and West Virginia, Mr. Rich Stonestreet transitioned into retirement in 1998, and became actively engaged in his adopted home community of Charleston and the Kanawha Valley through volunteer service with several organizations; and

Whereas, Mr. Rich Stonestreet served as an AARP and AARP Foundation volunteer for more than a decade, providing extensive volunteer support to AARP state programs and initiatives; and

Whereas, In 2013, Mr. Rich Stonestreet was the state recipient of the AARP's highest volunteer recognition, the Andrus Award for Community Service, which honors those individuals

who are sharing their experience, talent, and skills to enrich the lives of their community members; and

Whereas, In 2014, Mr. Rich Stonestreet was selected to serve his initial two-year appointment as AARP West Virginia's State President, representing nearly 300,000 Mountain State members, and was reappointed to serve two additional two-year terms as state president; and

Whereas, Mr. Rich Stonestreet completed six years of dedicated service as the organization's lead state volunteer on December 31, 2019; and

Whereas, In this state volunteer leadership role, Mr. Rich Stonestreet maintained a very visible and active presence at the West Virginia State Capitol, working closely with lawmakers, legislative staff, and leaders to articulate the positions and views of AARP in the Mountain State; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the contributions of AARP West Virginia State President Rich Stonestreet to the betterment of our state and its people; and, be it

*Further Resolved*, That the Senate extends its sincere appreciation and gratitude to AARP West Virginia for its diligent advocacy and education efforts that raise awareness around the important issues impacting 50+ West Virginians and their families; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Mr. Stonestreet and AARP West Virginia.

Which, under the rules, lies over one day.

Senator Stollings offered the following resolution:

**Senate Resolution 39**—Designating February 13, 2020, as Tiny Hearts Day at the Legislature.

Whereas, The West Virginia Chapter of the American Academy of Pediatrics is a nonprofit organization of more than 290 private practice pediatricians, generalists, specialists, medical school faculty, pediatric trainees, nurse practitioners, physician assistants, public health practitioners, and administrators across the state of West Virginia; and

Whereas, The mission of the West Virginia Chapter of the American Academy of Pediatrics is to attain the optimal health and well-being of all infants, children, adolescents, and young adults by uniting and educating pediatricians and facilitating effective partnerships between pediatricians and other child experts and advocates; and

Whereas, Pediatricians play a critical role in improving the health of our citizens; and

Whereas, The prevention of major threats to children's health, including the management of chronic diseases, obesity, injury, communicable diseases, and other child health problems, cannot be managed solely in the pediatric office; and

Whereas, The 2020 advocacy priorities of the West Virginia Chapter of the American Academy of Pediatrics are improving access to care, including care for vulnerable populations such as those in foster care and kinship care; addressing Adverse Childhood Experiences and toxic stress; maintaining strong immunization laws; obesity prevention and treatment; promoting tobacco cessation; addressing the opioid epidemic and its impact on children; and firearm injury prevention; and

Whereas, The West Virginia Chapter of the American Academy of Pediatrics will continue to put kids' health first and be a voice for vulnerable children and families in West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate here by designate February 13, 2020, as Tiny Hearts Day at the Legislature; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the West Virginia Chapter of the American Academy of Pediatrics for the important work they do and for the positive impact they have on the health of West Virginia children and families; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Chapter of the American Academy of Pediatrics.

Which, under the rules, lies over one day.

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

Senator 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 761** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-6b; to amend said code by adding thereto a new section, designated §17-3-11; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, and §17-30-5, all relating generally to state resource enhancement; establishing roads accountability and transparency; directing the State Auditor to develop and maintain a searchable website of funding actions and expenditures relating to state and public roads; setting forth the minimum content to be contained in the website; directing the Commissioner of the Division of Highways to provide information and data to the State Auditor; requiring an annual update to the Joint Committee on Government and Finance; creating the Special Road Repair Fund as a subaccount of the State Road Fund; authorizing the commissioner to transfer certain funds into the subaccount for certain purposes; creating the Enhanced Road Repair and Maintenance Program; stating legislative finding and purpose of program; requiring Division of Highways county supervisors consult with county commissions and legislators to submit project requests to the Division of Highways; setting forth a funding formula; setting forth requirements concerning bidding, vendors, and contracts with private vendors; specifying uses of Special Road Repair Fund; defining terms; providing requirements for Commissioner of the Division of Highways and districts; requiring the promulgation of new rules; requiring reporting by Division of

Highways and Legislative Auditor; and requiring the Commissioner of the Division of Highways to make a report to the Joint Legislative Oversight Commission on Department of Transportation Accountability regarding the enforcement of oil and gas repair bonds.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

Senator Weld requested unanimous consent that the bill (S. B. 761) contained in the foregoing report from the Committee on Energy, Industry, and Mining be referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

Which consent was not granted, Senator Smith objecting.

Senator Weld then moved that the bill (S. B. 761) contained in the foregoing report from the Committee on Energy, Industry, and Mining be referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

Following discussion and points of inquiry to the President, with resultant responses thereto,

The question being on the adoption of Senator Weld's aforestated motion, and on this question, Senator Smith demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Clements, Cline, Mann, Palumbo, Plymale, Prezioso, Roberts, Rucker, Stollings, Swope, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Pitsenbarger, Romano, Smith, Sypolt, Unger, and Woelfel—16.

Absent: Takubo—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Weld's aforestated motion had prevailed.

Thereafter, the bill (S. B. 761) contained in the foregoing report from the Committee on Energy, Industry, and Mining was referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

The Senate proceeded to the seventh order of business.

**Senate Resolution 37**, Designating February 12, 2020, as WV Literacy Day.

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

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

On motion of Senator Weld, at 11:52 a.m., the Senate recessed to present Senate Resolution 37.

The Senate reconvened at 11:58 a.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 163**, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 163 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger—1.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 163) 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 180**, Relating to Second Chance Driver’s License Program.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 180) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 230**, Requiring State Board of Education provide routine education in suicide prevention.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 230 pass?”

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 230) passed with its title.

Senator Weld moved that the bill take effect from passage.

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

The nays were: None.

Absent: Takubo—1.

So, 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. 230) takes effect from passage.

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

**Eng. Senate Bill 545**, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 545) passed with its title.

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



**Eng. Com. Sub. for Senate Bill 571**, Expiring funds from State Excess Lottery Revenue Fund to various accounts.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members elected to the Senate and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 571) passed with its title.

Senator Weld moved that the bill take effect from passage.

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

The nays were: None.

Absent: Takubo—1.

So, 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. 571) takes effect from passage.

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

**Eng. Senate Bill 641**, Allowing WVCHIP flexibility in rate setting.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 641) passed.

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

**Eng. Senate Bill 641**—A Bill to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended, relating to the requirement that provider reimbursement schedules shall be no lower than the reimbursement provided for the same services under the plans offered in the West Virginia Public Employees Insurance Act; and making other technical changes.

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

**Eng. Senate Bill 647**, Permitting physician assistants and advanced practice registered nurses issue do-not-resuscitate orders.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 647) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 662**, Removing restrictions on fiduciary commissioners.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 662) 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 664**, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 664) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 674**, Permitting DOH purchase hardware items and equipment from local seller.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 674) passed with its title.

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

**Eng. Com. Sub. for House Bill 2602**, Including possession of known stolen property in the offense of receiving or transferring stolen property.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2602) passed.

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

**Eng. Com. Sub. for House Bill 2602**—A Bill to amend and reenact §61-3-18 of the Code of West Virginia, 1931, as amended, relating to criminalizing possession of property when a person knows or has reason to know it is stolen; making possession of stolen property larceny; and clarifying that possession of stolen property while acting in cooperation with law enforcement or at law enforcement's request is not a crime.

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

**Eng. Com. Sub. for House Bill 2924**, Permitting the West Virginia Tourism Office to decide to contract with the Division of Highways to sell advertising space on the WV511 website.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2924) passed with its title.

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

**Eng. Com. Sub. for House Bill 4129**, Relating to adoption.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4129) passed with its title.

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

**Eng. House Bill 4141**, Requiring the Department of Administration to publish its comprehensive annual financial report by the end of December.

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

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

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4141) passed with its title.

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

**Eng. House Bill 4179**, Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Takubo—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4179) passed.

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

**Eng. House Bill 4179**—A Bill to repeal §16-4C-8a of the Code of West Virginia, 1931, as amended; and to amend the code by adding thereto a new article, designated §16-59-1, §16-59-2, §16-59-3, §16-59-4, §16-59-5, §16-59-6, §16-59-7, §16-59-8, §16-59-9, §16-59-10, §16-59-11, §16-59-12, §16-59-13, §16-59-14, and §16-59-15, all relating to enacting the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact; entering into the Compact with all jurisdictions also enacting the Compact; stating purpose of Compact; defining terms; identifying member states as home states; retaining authority of member state to require license under circumstances not covered by Compact; setting conditions for home state's license to authorize practice in a remote state under the Compact; requiring member states to recognize licenses issued by another member state under certain conditions; setting requirements for individuals to exercise privilege to practice; setting scope of practice; making individuals practicing in remote states subject to that state's laws; authorizing remote states to take action against individual's privilege to practice within that state under certain circumstances; providing effect of restrictions on license on Compact privileges; setting conditions of practicing in remote state

under Compact terms; defining relationship of Compact with Emergency Management Assistance Compact; setting terms and requirements for certification of veterans, certain service members, and their spouses; recognizing exclusive power of home states to impose adverse action against license issued by home state; providing consequences for Compact participation if individual's license is subject to adverse action by home state; requiring member states to report adverse actions against licenses; authorizing states to take action against individual's privilege to practice within that state; requiring home state EMS authority investigate and take appropriate action based on reported conduct in remote state; authorizing alternative programs in lieu of adverse action; authorizing member state's EMS authority to issue subpoenas; authorizing member state's EMS authority to issue certain cease and desist orders; establishing Interstate Commission for EMS Personnel Practice; providing venue; maintaining state sovereign immunity; providing for membership; providing for voting; requiring annual meetings; requiring meetings to be public; providing exceptions; authorizing Commission prescribe bylaws and/or rules to govern conduct; granting certain powers to Commission; providing for financing for the Commission; making validity of annual assessment against state contingent upon funds being appropriated by the Legislature or otherwise being made available; providing for qualified immunity of certain persons; requiring Commission defend certain persons for actions arising out of actions occurring within the scope of duties related to the Commission; requiring Commission indemnify and hold harmless certain persons under certain circumstances; providing for development and maintenance of coordinated database and reporting system; requiring member states provide certain information to coordinated database; requiring notification by coordinated database administrator of adverse action taken against individual in member state; authorizing member state to designate information not to be shared with the public without express permission of contributing state; providing for removal of information from database when required to be expunged; authorizing rulemaking Commission; providing scope of rulemaking; providing procedures for rulemaking; authorizing emergency rulemaking by the Commission; providing that Commission rules are not binding on the State of West Virginia until they have been authorized as legislative rules; providing timeline and procedure for proposing legislative rules; authorizing emergency rulemaking; directing state government to enforce Compact and take necessary actions to effectuate its purposes and intent; directing courts take judicial notice of Compact and rules promulgated pursuant to Compact; providing procedures for the Commission to follow if member state has defaulted; authorizing member state be terminated from the Compact under certain conditions; setting terms of termination; authorizing appeal; authorizing mediation and binding dispute resolution between Commission and member state; authorizing enforcement of the Compact by the Commission; authorizing legal action; establishing venue; providing for venue in West Virginia; providing implementation date for the Compact; making any state joining after implementation subject to rules as they exist when the Compact is adopted; authorizing member state withdraw from the Compact; maintaining member state authority to enter into licensure or cooperative agreements with nonmember state; authorizing amendment of the Compact; providing for liberal construction; providing for severability of the Compact if it is found to violate constitution of member state; directing Emergency Medical Services Advisory Council review decisions of the Commission; and authorizing Emergency Medical Services Advisory Council make recommendation to Legislature for withdrawal from the Compact.

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

The Senate proceeded to the ninth order of business.

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

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

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

On page two, section three, line nineteen, after the word “that” by inserting the words “in the event a public service board has had a vacancy for more than one year”;

And,

On page two, section three, line twenty, by striking out the word “district”.

Following discussion,

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

The bill (S. B. 202), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 232**, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers.

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 288**, Relating to family planning and child spacing.

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

At the request of Senator Tarr, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

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

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

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

**Com. Sub. for Senate Bill 583**, Creating program to further development of renewable energy resources.

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

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

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

## **ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

### **§24-2-10. Renewable Energy Facilities Program.**

(a) The Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

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

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

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



“Renewable electric facilities program” means a program proposed by an electric utility to plan, design, construct, purchase, own, and operate renewable electric generating facilities, energy storage resources, or both, pursuant to this section: *Provided*, That a renewable electric facilities program may not consist solely of energy storage resources.

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

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

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

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

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

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

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

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

not exceed 200 megawatts for all electric utilities within the state owned by the same corporate parent company;

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

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

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

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

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

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

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

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

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

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

(1) An allowance for return shall be calculated by applying a rate of return to the average planned net incremental increase to rate base attributable to the renewable electric facilities program for the coming year, considering the projected amount and timing of capital investments under the renewable electric facilities program plus any capital investments in previous years of the program. The rate of return shall be determined by utilizing the rate of return on equity and the capital structure authorized by the commission in the electric utility's most recent base rate case proceeding or in the case of a settled base rate case, a rate of return on equity set forth in or associated with such settlement or, if neither is set forth in or associated with such settlement, the last commission authorized rate of return on equity from a previous base rate case proceeding, and a capital structure determined by the commission to be reasonable, and the projected average weighted cost of the electric utility's debt during the period of the renewable electric facilities program to determine the weighted cost of capital based upon the electric utility's capital structure determined as specified above.

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

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

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

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

(6) If an electric utility serves customers in more than one jurisdiction, and a jurisdiction other than this state denies the electric utility recovery of the costs incurred pursuant to a renewable electric facilities program approved by the commission and allocated to that jurisdiction, the electric utility shall recover all of the costs of the renewable electric facilities program from its West Virginia jurisdictional customers if the commission finds that the expenditures and the associated

rate requirements are just and reasonable, and all attributes of the renewable electric facilities program, including energy, capacity, and renewable energy credits shall be assigned to this state.

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

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

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

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

Following discussion,

Senator Weld requested unanimous consent that the bill (Com. Sub. for S. B. 583) lie over one day, retaining its place on the calendar with Senator Smith's amendment to the bill pending.

Which consent was not granted, Senator Woelfel objecting.

Senator Weld then moved that the bill lie over one day, retaining its place on the calendar with Senator Smith's amendment to the bill pending.

Following discussion,

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

Whereupon, the bill (Com. Sub. for S. B. 583) was laid over one day, retaining its place on the calendar with Senator Smith's amendment to the bill pending.

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

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.

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

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

**Senate Bill 733**, Recognizing political party status.

And,

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Trump and Maroney.

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

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following resolution:

**Senate Joint Resolution 8** (*Manufacturing Growth Amendment*): Senator Rucker.

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

**Senate Bill 54** (*Relating generally to occupational pneumoconiosis*): Senator Lindsay;

**Com. Sub. for Senate Bill 229** (*Requiring Public Health Commissioner create program for reimbursement of adult dental care and free and charitable clinics*): Senators Rucker, Takubo, and Palumbo;

**Com. Sub. for Senate Bill 265** (*Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program*): Senator Palumbo;

**Com. Sub. for Senate Bill 306** (*Licensing of drivers utilizing bioptic telescopic devices*): Senator Plymale;

**Senate Bill 528** (*Creating Uniform Worker Classification Act*): Senator Maynard;

**Com. Sub. for Com. Sub. for Senate Bill 597** (*Relating to judicial branch members' salaries and pensions*): Senators Palumbo and Plymale;

**Senate Bill 598** (*Creating WV Mutual to Mutual Insurance Holding Company Act*): Senator Maroney;

**Senate Bill 632** (*Clarifying time limitation for filing occupational pneumoconiosis claim does not limit claimant in obtaining evaluation*): Senator Lindsay;

**Senate Bill 648** (*Providing dental coverage for adult Medicaid recipients*): Senator Roberts;

**Senate Bill 703** (*Increasing earning limit for employees who accept separation incentive*): Senator Roberts;

**Senate Bill 723** (*Requiring Department of Education develop plan based on analyzed data on school discipline*): Senator Roberts;

**Com. Sub. for Senate Bill 746** (*Providing contracted managed care companies access to uniform maternal screening tool*): Senators Takubo and Palumbo;

**Senate Bill 747** (*Requiring Bureau for Public Health develop Diabetes Action Plan*): Senators Cline, Prezioso, Romano, Plymale, and Stollings;

**Senate Bill 748** (*Increasing awareness of palliative care services*): Senators Cline, Prezioso, Romano, Plymale, and Stollings;

**Senate Bill 749** (*Requiring Fatality and Mortality Review Team share data with CDC*): Senators Prezioso, Romano, and Plymale;

And,

**Senate Bill 750** (*Establishing extended learning opportunities*): Senator Cline.

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

**Senate Joint Resolution 5** (*Homestead Exemption Increase Amendment*): Senator Maynard;

**Senate Joint Resolution 8** (*Manufacturing Growth Amendment*): Senator Maynard;

**Com. Sub. for Senate Concurrent Resolution 8** (*US Army 1LT Harold H. Frazier Memorial Bridge*): Senator Jeffries;

**Senate Concurrent Resolution 15** (*Kaylee Grace Whetzel Memorial Bridge*): Senator Jeffries;

**Senate Concurrent Resolution 16** (*Firefighter Marvin Layton Hughes Memorial Bridge*): Senator Jeffries;

**Senate Concurrent Resolution 17** (*USMC PFC Manuel P. Markos Memorial Bridge*): Senator Jeffries;

And,

**Senate Resolution 37** (*Designating February 12, 2020, as WV Literacy Day*): Senators Prezioso, Lindsay, Rucker, Hamilton, Romano, Plymale, Stollings, and Palumbo.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 12:46 p.m., the Senate adjourned until tomorrow, Thursday, February 13, 2020, at 11 a.m.

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## SENATE CALENDAR

Thursday, February 13, 2020  
11:00 AM

### UNFINISHED BUSINESS

- Com. Sub. for S. C. R. 8 - US Army 1LT Harold H. Frazier Memorial Bridge **[ADOPT]**  
S. C. R. 12 - US Army PFC Gary Alcott Birkhimer Memorial Bridge **[ADOPT]**  
S. R. 38 - Recognizing contributions of AARP President Rich Stonestreet to WV and its people  
**[ADOPT]**  
S. R. 39 - Designating February 13, 2020, as Tiny Hearts Day **[ADOPT]**

### THIRD READING

- Eng. S. B. 202 - Allowing one member of PSD board to be county commissioner  
Eng. Com. Sub. for S. B. 232 - Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers (original similar to HB4809)  
Com. Sub. for S. B. 288 - Relating to family planning and child spacing - (With right to amend)  
Eng. Com. Sub. for S. B. 638 - Creating new private club licenses and requirements

### SECOND READING

- Com. Sub. for Com. Sub. for S. B. 490 - Relating to criminal offenses against agricultural facilities  
Com. Sub. for Com. Sub. for S. B. 554 - Relating to termination, expiration, or cancellation of oil or natural gas leases  
Com. Sub. for S. B. 583 - Creating program to further development of renewable energy resources - (Amend. pending) (original similar to HB4562)  
S. B. 733 - Recognizing political party status  
Eng. H. B. 4381 - Relating to lifetime hunting, fishing and trapping licenses for adopted children

### FIRST READING

- Com. Sub. for S. B. 265 - Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program  
Com. Sub. for S. B. 279 - Requiring dental insurance plans honor assignment made in writing by person covered (original similar to HB4171)  
Com. Sub. for S. B. 285 - Eliminating WV Greyhound Breeding Development Fund  
Com. Sub. for S. B. 306 - Licensing of drivers utilizing bioptic telescopic devices  
Com. Sub. for S. B. 589 - Creating Critical Needs/Failing Systems Sub Account

Com. Sub. for Com. Sub. for S. B. 597 - Relating to judicial branch members' salaries and pensions

Com. Sub. for S. B. 702 - Designating specific grade levels in which nutrition and physical fitness programs are taught

S. B. 703 - Increasing earning limit for employees who accept separation incentive

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

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

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

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

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

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

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

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



**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2020**

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**Thursday, February 13, 2020**

1 p.m.

Health & Human Resources

(Room 451M)