

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2017  
TWENTY-THIRD DAY

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Charleston, West Virginia, Thursday, March 2, 2017

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Luke Adkins, Heritage Baptist Church, Elkview, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mike Hall, a senator from the fourth district.

Pending the reading of the Journal of Wednesday, March 1, 2017,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 2506**—A Bill to amend and reenact §22-11-7b of the Code of West Virginia, 1931, as amended, all relating to requiring permit limits to be calculated using the design flows recommended by the United States Environmental Protection Agency for the protection of human health; allowing overlapping mixing zones for calculating permit limits for drinking water criteria; and clarifying posted signage requirements.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Economic Development has had under consideration

**Senate Bill 61**, Providing consumers sales and service tax and use tax exemption for certain services and tangible personal property sold for repair, remodeling and maintenance of aircraft.

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

**Com. Sub. for Senate Bill 61** (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9p, relating to specifying exemption from the consumers sales and service tax and use tax for purchases of certain services and tangible personal property sold for the repair, remodeling and maintenance of certain specified aircraft; defining terms; and specifying method for claiming exemption.

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,

Michael J. Maroney,  
*Chair.*

The bill (Com. Sub. for S. B. 61), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Com. Sub. for Senate Bill 239**, Limiting use of wages by employers and labor organizations for political activities.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Pensions has had under consideration

**Senate Bill 392**, Relating to Municipal Police Officers and Firefighters Retirement System.

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

Respectfully submitted,

C. Edward Gaunch,  
*Chair.*

At the request of Senator Hall, 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 Pensions.

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 442**, Relating generally to crimes against persons.

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

**Com. Sub. for Senate Bill 442** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-9 and §61-2-28 of the Code of West Virginia, 1931, as amended, all relating generally to crimes against the person and modifying definitions of “assault”, “battery”, “domestic assault” and “domestic battery”; and establishing penalties therefore.

And,

**Senate Bill 456**, Relating to standards for termination of parental rights in child abuse and neglect cases.

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

**Com. Sub. for Senate Bill 456** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §49-4-605 of the Code of West Virginia, 1931, as amended, relating to standards for termination of parental rights in child abuse and neglect cases; and clarifying applicability of section when certain crimes are committed by one parent against another.

With the recommendation that the two committee substitutes do pass.

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. Com. Sub. for House Bill 2318**, Relating generally to human trafficking.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The Senate proceeded to the sixth order of business.

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

**By Senator Blair:**

**Senate Bill 495**—A Bill to amend and reenact §29-5A-1, §29-5A-6, §29-5A-15, §29-5A-16, §29-5A-20 and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to regulation of events by the State Athletic Commission; authorizing the commission in limited circumstances to approve certain event changes in writing; providing for the designation and payment of a scorekeeper; clarifying the authority of the commission to designate inspectors for an event; and providing for licensing and rules regarding the regulation of amateur mixed martial arts.

Referred to the Committee on Government Organization.

**By Senator Gaunch:**

**Senate Bill 496**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating generally to guaranteed asset protection waivers; providing short title, scope and legislative intent of section; defining certain terms; specifying requirements for offering guaranteed asset protection waivers; requiring contractual liability or other insurance policies; providing for disclosures and cancellation; exempting commercial transactions; providing for enforcement of section and severability; excluding waivers from consumers sales and service tax; specifying effective date of section; providing for section to apply to guaranteed asset protection waivers issued on and after specified date; and authorizing the Insurance Commissioner to impose a civil money penalty for all violations of section.

Referred to the Committee on the Judiciary.

**By Senators Stollings, Takubo, Plymale, Maroney and Facemire:**

**Senate Bill 497**—A Bill to amend and reenact §55-7-19 of the Code of West Virginia, 1931, as amended, relating to liability for physicians who provide services at school athletic events.

Referred to the Committee on the Judiciary.

**By Senators Stollings, Romano and Facemire:**

**Senate Bill 498**—A Bill to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended, relating to levying a five-tenths percent annual severance tax on Marcellus and Utica natural gas to be dedicated to retired public employees.

Referred to the Committee on Finance.

**By Senator Weld:**

**Senate Bill 499**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §14-1A-1, §14-1A-2 and §14-1A-3, all relating to the creation of the Debt Resolution Services Division within the Auditor's office.

Referred to the Committee on Government Organization.

**By Senators Trump, Boley, Clements, Cline, Ferns, Maynard, Rucker, Weld, Takubo, Maroney and Smith:**

**Senate Bill 500**—A Bill to amend and reenact §9-7-1, §9-7-3 and §9-7-6 of the Code of West Virginia, 1931, as amended, all relating to Medicaid fraud and abuse; and continuing the fraud control unit in the Medicaid Fraud Control Unit of the Attorney General's office after July 1, 2017.

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

Senators Palumbo and Stollings offered the following resolution:

**Senate Resolution 28**—Designating March 2, 2017, as All Kinds Are Welcome Here Day at the Capitol.

Whereas, A coalition of over 35 organizations dedicated to protecting and promoting the civil liberties of all West Virginians has come together to declare that in West Virginia All Kinds Are Welcome Here; and

Whereas, The coalition members are working to ensure that all West Virginians regardless of race, color, religion, creed, sex, sexual orientation, gender identity, national origin or disability may live openly, safely and with dignity, free from discrimination and oppression; and

Whereas, The coalition members agree that safe communities means having access to clean drinking water, access to quality education and affordable healthcare; and

Whereas, The coalition works to promote diversity in West Virginia; and

Whereas, The national perception of the Mountain State is improved by communicating that All Kinds Are Welcome Here; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates March 2, 2017, as All Kinds Are Welcome Here Day at the Capitol; and, be it

*Further Resolved*, The Senate invites all members of the West Virginia Legislature and all citizens of West Virginia to join in recognizing the important message that All Kinds Are Welcome Here; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of All Kinds Are Welcome Here Day.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Miller regarding the adoption of Senate Resolution 28 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and resumed business under the sixth order.

Senators Miller, Stollings, Plymale, Romano, Unger, Facemire and Cline offered the following resolution:

**Senate Resolution 29**—Recognizing the West Virginia Association of Retired School Employees for its dedicated public service.

Whereas, The West Virginia Association of Retired School Employees has members from all areas of education including teachers, cooks, bus drivers, custodians, secretaries, school nurses, administrators and aides with members in all 55 counties in West Virginia; and

Whereas, The West Virginia Association of Retired School Employees promotes the professional, economic, intellectual and social well-being of its members and encourages volunteer opportunities throughout West Virginia; and

Whereas, During the 2015-2016 year, the West Virginia Association of Retired School Employees served 1.4 million unpaid hours of volunteer service in the state; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia Association of Retired School Employees for its dedicated public service; and, be it

*Further Resolved,* That the Senate acknowledges the contributions of the West Virginia Association of Retired School Employees to our counties and state, and expresses its sincere gratitude to the association for its service; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Association of Retired School Employees.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Miller and Stollings regarding the adoption of Senate Resolution 29 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, the Senate recessed for one minute.

Upon expiration of the recess, the Senate reconvened and proceeded to the seventh order of business.

**Senate Concurrent Resolution 25**, Jeffrey Alan Clovis Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution 26**, US Marine Corps SSG Beecher J. Rhoades Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 4**, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

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

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

**Com. Sub. for Senate Bill 236**, Relating to damages for medical monitoring.

On third reading, coming up in regular order, with the right having been granted on Tuesday, February 28, 2017, for amendments to be received on third reading, was reported by the Clerk.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 190**, Eliminating preferences for vendors bidding on state contracts for commodities or printing.

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 410**, Relating to marking traps with DNR identification tag.

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 439**, Relating to venue for civil and criminal actions at Salem Correctional Center.

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

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 209**, Defining term “veteran” as it relates to veteran-owned business.

**Com. Sub. for Senate Bill 221**, Relating to composition of PEIA Finance Board.

**Com. Sub. for Senate Bill 224**, Repealing requirement for employer's bond for wages and benefits.

**Senate Bill 263**, Creating exemption from certain contract and common carrier laws for vehicles used exclusively for transportation of railroad personnel.

**Senate Bill 400**, Regarding appointments to WV Infrastructure and Jobs Development Council.

**Com. Sub. for Senate Bill 429**, Relating to monitoring inmate communications.

**Com. Sub. for Senate Bill 436**, Permitting investigators from Attorney General's office carry firearms.

And,

**Com. Sub. for Senate Bill 445**, Amending definition of "abused child".

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Maynard.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Friday, March 3, 2017, at 11 a.m.

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## **SENATE CALENDAR**

**Friday, March 03, 2017  
11:00 AM**

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### **SPECIAL ORDER OF BUSINESS Thursday, March 09, 2017 – 11:00 AM**

Consideration of executive nominations

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#### **THIRD READING**

- Eng. Com. Sub. for S. B. 4 - Allowing licensed professionals donate time to care of indigent and needy in clinical setting (original similar to HB2692)
- Eng. Com. Sub. for S. B. 190 - Eliminating preferences for vendors bidding on state contracts for commodities or printing
- Com. Sub. for S. B. 236 - Relating to damages for medical monitoring - (With right to amend) (original similar to HB2580)
- Eng. Com. Sub. for S. B. 410 - Relating to marking traps with DNR identification tag
- Eng. Com. Sub. for S. B. 439 - Relating to venue for civil and criminal actions at Salem Correctional Center

#### **SECOND READING**

- Com. Sub. for S. B. 209 - Defining term “veteran” as it relates to veteran-owned business
- Com. Sub. for S. B. 221 - Relating to composition of PEIA Finance Board
- Com. Sub. for S. B. 224 - Repealing requirement for employer’s bond for wages and benefits
- S. B. 263 - Creating exemption from certain contract and common carrier laws for vehicles used exclusively for transportation of railroad personnel
- S. B. 400 - Regarding appointments to WV Infrastructure and Jobs Development Council
- Com. Sub. for S. B. 429 - Relating to monitoring inmate communications
- Com. Sub. for S. B. 436 - Permitting investigators from Attorney General’s office carry firearms
- Com. Sub. for S. B. 445 - Amending definition of “abused child” (original similar to HB2758)

## **FIRST READING**

- Com. Sub. for S. B. 239 - Limiting use of wages by employers and labor organizations for political activities (original similar to HB2583)
- S. B. 392 - Relating to Municipal Police Officers and Firefighters Retirement System
- Com. Sub. for S. B. 442 - Relating generally to crimes against persons
- Com. Sub. for S. B. 456 - Relating to standards for termination of parental rights in child abuse and neglect cases (original similar to HB2732)
- Eng. Com. Sub. for H. B. 2318 - Relating generally to human trafficking - (Com. amend. and title amend. pending)

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2017**

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**Friday, March 3, 2017**

9:30 a.m.	Finance	(Room 451M)
10 a.m.	Confirmations	(Room 208W)