

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE  
REGULAR SESSION, 2019  
SEVENTEENTH DAY

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Charleston, West Virginia, Friday, January 25, 2019

The Senate met at 11:10 a.m.

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

Prayer was offered by Rabbi Victor H. Urecki, B'nai Jacob Synagogue, Charleston, West Virginia.

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

Pending the reading of the Journal of Thursday, January 24, 2019,

At the request of Senator Hardesty, 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 2346**—A Bill to amend and reenact §29-22C-2, §29-22C-3, §29-22C-4, §29-22C-6, §29-22C-13, §29-22C-14, §29-22C-15, §29-22C-16, §29-22C-17, §29-22C-18, §29-22C-19, §29-22C-29, and §29-22C-31 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-2, §29-25-3, §29-25-8, §29-25-12, §29-25-13, §29-25-14, §29-25-15, §29-25-16, §29-25-17, §29-25-18, §29-25-22, §29-25-25, and §29-25-27, all relating to changing the licensing requirement for certain casino employees from a licensure to a registration; and granting emergency rule making authority.

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

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 2360**—A Bill to amend and reenact §29-5A-1a of the Code of West Virginia, 1931, as amended, relating to placing the Athletic Commission under the Lottery Commission, and continuing the terms of the current commissioners.

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

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

**Eng. House Bill 2412**—A Bill to repeal §5A-3-28, §5A-3-30, and §5A-3-31 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §61-5B-1, §61-5B-2, §61-5B-3, and §61-5B-4, relating to prohibited conduct concerning government procurement of commodities and services; moving certain provisions relating to government procurement from chapter 5A to chapter 61; defining terms; including the provision of cash, credit, and waivers of debt or liability as commodities; prohibiting procurement authorities from having personal interest in government procurement; applying provisions to all branches and units of state government; prohibiting fraud and attempts to defraud government entities in procurement; prohibiting knowing acceptance and delivery of inferior goods and services; defining unfair and corrupt acts regarding change orders; and establishing criminal penalties therefor.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2422**—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to providing for the county board to select the week for the observation of “Celebrate Freedom Week” and adding the Emancipation Proclamation as a document to be studied.

Referred to the Committee on Education.

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

**Eng. House Bill 2459**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-3a, relating to exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 2462**—A Bill to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended, relating to the training, qualification, certification and authorization for carry of firearms by correctional employees; providing that after successful completion of designated firearms training, the commissioner may issue a certificate to carry division issued firearms to correctional employees; establishing that authorized correctional employees may carry division-

issued firearms during performance of official duties and when traveling to and from work; establishing the commissioner's firearm training program must be equivalent to the firearms training requirements for deputy sheriffs; requiring that the correctional employee must successfully complete an annual designated firearms course as established by legislative rule to maintain the certificate; and, providing the certificate bearing the commissioner's signature shall be in a form prescribed by the commissioner.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

**Senate Bill 4**, Relating generally to Municipal Home Rule Program.

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

**Com. Sub. for Senate Bill 4** (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to municipal home rule; making legislative findings; establishing the Municipal Home Rule Pilot Program as a permanent program identified as the Municipal Home Rule Program; providing for continuation of plans and amendments approved during Municipal Home Rule Pilot Program; providing that any ordinance, act, resolution, rule, or regulation enacted pursuant to the Municipal Home Rule Pilot Program shall continue until repealed; expanding eligibility to participate in home rule to additional municipalities; establishing annual assessment for participants in Municipal Home Rule Program; establishing penalty for failing to timely pay annual assessment; creating special revenue account for Municipal Home Rule Board; authorizing certain expenditures from special revenue fund; providing suspension of annual assessment when certain conditions are met; clarifying the authority of the Municipal Home Rule Board; requiring Municipal Home Rule Board to reject any application or amendment that does not reasonably demonstrate municipality's ability to manage related costs or liabilities; requiring publication of administrative rules of Municipal Home Rule Board on its website and made available to the public in print upon request; clarifying procedures related to submitting amendment to approved plan; requiring certain notice prior to proposing or amending a plan; requiring public hearing and notice of hearing prior to municipality proposing a plan or amendment; amending certain prohibitions on the powers and duties of municipalities under home rule; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws governing professional licensing or certification of employees; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws, rules, or regulations governing enforcement of building codes or fire codes; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to West Virginia Workplace Freedom Act and Labor-Management Relations Act; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to federal laws, regulations, or standards that would affect state's required compliance or jeopardize federal funding; prohibiting municipalities from passing an ordinance, act, resolution, rule, or regulation contrary to laws or rules governing procurement of architectural and engineering services; prohibiting municipalities from passing an ordinance, act,

resolution, rule, or regulation contrary to Chapter 17C of the Code of West Virginia, 1931, as amended; prohibiting municipalities from passing an ordinance, act, resolution, rule, or regulation contrary to laws, rules, or regulations governing communication technologies or telecommunication carriers; prohibiting municipalities from enacting any ordinance, act, resolution, rule, or regulation that imposes duties on another governmental entity; providing certain exceptions to that prohibition; prohibiting municipalities from passing an ordinance, act, resolution, rule, or regulation that prohibits or limits rental of a property or regulates duration, frequency, or location of such rental; providing certain exceptions to that prohibition and limitation; providing procedures for protesting enactment or amendment of ordinance, act, resolution, rule, or regulation through petition; providing that duly protested enactments shall not become effective unless ratified through majority vote at a regular or special election; specifying voting procedure; providing that certain bonds must be ratified by majority vote before becoming effective; specifying voting procedure for bond ratification; modifying reporting requirements; and eliminating automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 14**, Creating WV Farm-to-School Grant Program.

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

**Com. Sub. for Senate Bill 14** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, §19-37-3, and §19-37-4, all relating to creating the West Virginia Farm-to-School Grant Program; setting out findings and purpose; creating the fund; providing method for allocating grants; limiting grants; authorizing rulemaking; and requiring program review and reports.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. 14), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 72**, Creating Sexual Assault Victims' Bill of Rights.

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

**Com. Sub. for Senate Bill 72** (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 §61-11A-9, relating to creating the Sexual Assault Victims' Bill of Rights; declaring additional rights bestowed upon sexual assault survivors regarding medical forensic examinations, sexual assault evidence collection kits, and other similar topics; clarifying the right of a victim to be accompanied by a personal representative during certain proceedings; requiring sexual assault victims be informed or notified of certain rights; incorporating other rights contained in code; and defining terms.

With the recommendation that the committee substitute 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

**Senate Bill 102**, Relating generally to powers and authority of courthouse security officers.

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

**Com. Sub. for Senate Bill 102** (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 §51-3-19, relating to granting courthouse security officers arrest powers under certain circumstances; authorizing certain West Virginia courthouse security officers to carry concealed firearms while off duty with court approval; setting forth firearm training and qualification requirements; requiring supervising authority to issue photo identification and certification cards; specifying policy content; and stating legislative intent that the new code section be consistent with the federal Law-Enforcement Officers Safety Act.

And,

**Senate Bills 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, and 222**, Athletic Commission rule relating to administrative rules of State Athletic Commission.

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

**Com. Sub. for Senate Bill 199** (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-9-1, §64-9-2, §64-9-3, §64-9-4, §64-9-5, §64-9-6, §64-9-7, §64-9-8, §64-9-9, §64-9-10, and §64-9-11 of the Code of West Virginia, 1931, as amended, all relating generally

to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules of the West Virginia State Athletic Commission; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to industrial hemp; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to rural rehabilitation loan program; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid farming; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farm to food bank tax credit; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to agritourism; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to farmers markets; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to seed certification program; authorizing the Board of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures: physicians; podiatric physicians and surgeons; authorizing the Board of Medicine to promulgate a legislative rule relating to permitting and disciplinary procedures: educational permits for graduate medical interns, residents, and fellows; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to Board of Pharmacy rules for registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacy permits; authorizing the Board of Pharmacy to promulgate a legislative rule relating to regulations governing pharmacists; authorizing the Board of Pharmacy to promulgate a legislative rule relating to rules for the substitution of biological pharmaceuticals; authorizing the Real Estate Appraiser Licensing and Certification Board to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to policies, standards, and criteria for the evaluation, approval and national nursing accreditation of prelicensure nursing education programs; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure, and conduct constituting professional misconduct; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to advanced practice registered nurse licensure requirements; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to scope of professional nursing practice; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to fees for services rendered by the board and supplemental renewal fee for the Center for Nursing; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to dialysis technicians; authorizing the Secretary of State to promulgate a legislative rule relating to filing and formatting rules and related documents and other documents for publication in the State Register; authorizing the Secretary of State to promulgate a legislative rule relating to loan and grant programs under the Help America Vote Act for the purchase of voting equipment, election systems, software, services, and upgrades; authorizing the Secretary of State to promulgate a legislative rule relating to early voting in-person satellite precincts; authorizing the Secretary of State to promulgate a legislative rule relating to notaries public; Board of Social Work Examiners to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Board of Social Work Examiners to promulgate a legislative rule relating to code of ethics; and authorizing the Treasurer's Office to promulgate a

legislative rule relating to reporting and claiming unknown and unlocatable interest owners reserved interests.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 149**, Exempting certain veterans from concealed weapons license fees.

**Senate Bill 256**, Allowing certain deductions from individual personal income tax refunds.

And,

**Senate Bill 297**, Extending expiration of military members' spouses' driver's license.

And reports the same back with the recommendation that they each 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 243**, Requiring racetrack participate in WV Thoroughbred Development Fund.

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

**Com. Sub. for Senate Bill 243** (originating in the Committee on Finance)—A Bill to amend and reenact §29-22A-10b of the Code of West Virginia, 1931, as amended, relating to modifying the requirement that a racetrack must have participated in the West Virginia Thoroughbred Development Fund since, on, or before January 1, 1999, in order for counties to receive two percent of the net terminal income where the video lottery terminals are located

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 270**, Streamlining process for utilities access to DOH rights-of-way.

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

**Com. Sub. for Senate Bill 270** (originating in the Committee on Government Organization)—A Bill to amend and reenact §17-2A-17a of the Code of West Virginia, 1931, as amended; and to amend and reenact §17-2E-2, §17-2E-3, §17-2E-5, and §17-2E-6 of said code, all relating to the use of state-owned rights-of-way; modifying requirements related to accommodation leases; providing for the determination of fair market value and compensation for accommodation leases; amending procedures and requirements of the state's dig once policy; modifying definitions; providing for the determination of fair market value and compensation to Division of Highways relating to dig once policy; modifying notice requirements for permit applicants; amending procedures for the adjudication of disputes between telecommunications carriers; providing certain exemptions from dig once requirements; and authorizing the Division of Highways to, upon approval of the Governor, transfer or assign the ownership, control, or any rights related to any in-kind compensation received by the division to any other state agency.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

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

Your Committee on Agriculture and Rural Development has had under consideration

**Senate Bill 285**, Relating to modification of cottage food laws.

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

**Com. Sub. for Senate Bill 285** (originating in the Committee on Agriculture and Rural Development)—A Bill to amend and reenact §19-35-2 and §19-35-5 of the Code of West Virginia, 1931, as amended, all relating to modification of cottage food laws.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

The bill (Com. Sub. for S. B. 285), under the original double committee reference, was then referred to the Committee on Government Organization.



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

Your Committee on Economic Development has had under consideration

**Senate Bill 390**, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

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

**Com. Sub. for Senate Bill 390** (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 §31G-4-4 all relating to determining the feasibility of electric utilities constructing and operating middle-mile broadband Internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in determining the feasibility of certain proposed middle-mile broadband development projects; permitting that the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband Internet projects within a certain period of time; and requiring certain reports be submitted to certain officials and committees.

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

**Eng. House Bill 2351**, Relating to regulating prior authorizations.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The Senate proceeded to the sixth order of business.

At the request of Senator Weld, and by unanimous consent, the following bills were considered introduced, read by their titles, and referred to the appropriate committees as shown on the Chamber Automation System:

**By Senators Sypolt, Boso, Cline, Stollings, and Roberts:**

**Senate Bill 426**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto six new sections, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, §17-30-5, and §17-30-6, all relating to creating the Road Maintenance Program; providing for legislative intent; providing for certain maintenance activities to be performed by private contractors; providing for payment; providing for purchasing requirements; providing for reports and audit reviews; providing an effective date; and providing severability.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

**By Senators Sypolt, Romano, Boso, and Baldwin:**

**Senate Bill 427**—A Bill to amend and reenact §17-16A-29 of the Code of West Virginia, 1931, as amended, relating to including emergency response vehicles in the single fee program for EZ Pass transponders.

Referred to the Committee on Transportation and Infrastructure.

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

**Senate Bill 428**—A Bill to amend and reenact §15A-4-21 of the Code of West Virginia, 1931, as amended, relating to requiring the Division of Corrections and Rehabilitation to assist inmates, prior to release, obtain a certified copy of his or her birth certificate, a Social Security card, and a driver's license or a state issued identification card; and requiring the commissioner to provide those inmates instruction in basic life skills, including, but not limited to, managing personal finances, writing a check, balancing a check book, writing a resume, and being interviewed for employment.

Referred to the Committee on the Judiciary.

**By Senators Romano, Baldwin, Beach, Facemire, Jeffries, Lindsay, Stollings, Swope, Woelfel, Hardesty, and Palumbo:**

**Senate Bill 429**—A Bill to amend and reenact §3-2-6 of the Code of West Virginia, 1931, as amended, relating to allowing voters who register in person at the office of the county clerk to register and vote during early in-person voting.

Referred to the Committee on the Judiciary.

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

**Senate Bill 430**—A Bill to amend and reenact §16-1-9c of the Code of West Virginia, 1931, as amended, relating to authorizing the Secretary of the Department of Health and Human Resources to propose rules related to completion or updating source water protection plans.

Referred to the Committee on Government Organization.

**By Senators Boso, Roberts, Swope, and Cline:**

**Senate Bill 431**—A Bill to amend and reenact §9-6-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-2-809 of said code, all relating to mandatory reporting procedures of abuse and neglect of adults and children.

Referred to the Committee on Health and Human Resources.

**By Senators Sypolt and Boso:**

**Senate Bill 432**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-56-1, §16-56-2, §16-56-3, §16-56-4, §16-56-5, §16-56-6, §16-56-7, §16-56-8, §16-56-9, §16-56-10, §16-56-11, §16-56-12, §16-56-13, §16-56-14, and §16-56-15, 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 rule-making 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 time line 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.

Referred to the Committee on Government Organization.

**By Senators Plymale (By Request) and Boso:**

**Senate Bill 433**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-31, relating to recognizing a fetus as a separate victim.

Referred to the Committee on the Judiciary.

**By Senators Boso and Swope:**

**Senate Bill 434**—A Bill to repeal §16-5C-16 and §16-5C-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5C-2, §16-5C-4, §16-5C-5, §16-5C-6, §16-5C-7, §16-5C-8, §16-5C-9, §16-5C-9a, §16-5C-10, §16-5C-11, §16-5C-12, §16-5C-12a, §16-5C-13, §16-5C-14, §16-5C-15, §16-5C-18, §16-5C-20, §16-5C-21, and §16-5C-22 of said code, all relating to the licensure of nursing homes; repealing duplicative sections of code; defining terms; clarifying rule requirements; and clarifying enforcement action and due process procedures.

Referred to the Committee on Health and Human Resources.

**By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):**

**Senate Bill 435**—A Bill supplementing and amending by increasing an existing item of appropriation and adding new item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the State Board of Education, State Department of Education, fund 0313, fiscal year 2019, organization 0402, and to the State Board of Education, Vocational Division, fund 0390, fiscal year 2019, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

**By Senators Baldwin, Mann, and Boso:**

**Senate Bill 436**—A Bill to amend and reenact §11-3-9 of the Code of West Virginia, 1931, as amended, relating to exempting from property tax certain real properties in this state owned by a nonprofit corporation with the purpose of organizing, supporting, and maintaining a contemporary agricultural and industrial fair and exposition.

Referred to the Committee on Finance.

**By Senator Baldwin:**

**Senate Bill 437**—A Bill to amend and reenact §3-1-8 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-2-5 of said code, all relating to the criteria for political party status; allowing a group of affiliated voters to become a recognized political party if the group's candidate receives one percent of the votes in an election for any one of six statewide offices, including that of Governor, Secretary of State, Treasurer, Auditor, Attorney General, or Commissioner of Agriculture; allowing a group of affiliated voters to become a recognized political party if 5,000 or more individuals have identified as members of the group on their current voter registration forms;

and requiring voting registration forms to provide a space for individuals who do not select a political party affiliation to write the name of a group of affiliated voters to which they belong.

Referred to the Committee on the Judiciary.

**By Senators Romano and Baldwin:**

**Senate Bill 438**—A Bill to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to creating an online voters' guide; requiring all information in the certificate of announcement; permitting candidates running for statewide office to submit a personal statement; directing the State Election Committee to create the guide; and requiring the Secretary of State post the voters' guide on its website.

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

**By Senators Beach, Baldwin, Cline, Lindsay, and Jeffries:**

**Senate Bill 439**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, and §11-28-3, all relating to creating five-year tax credits for persons engaged in industrial hemp manufacturing; setting eligibility requirements for tax credit; establishing amount of tax credit allowed; establishing how the credit may be applied; and authorizing rules.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

Senators Romano, Azinger, Baldwin, Beach, Hardesty, Jeffries, Lindsay, Maynard, Unger, Boso, Palumbo, Swope, and Stollings offered the following resolution:

**Senate Concurrent Resolution 16**—Requesting the Division of Highways name bridge number 08-1-17.04 (08A003), locally known as the Queen Shoals Bridge, carrying Queen Road on County Route 1 over the Elk River in Clay County, the "U. S. Army SP4 Wilbur Allen Smith Memorial Bridge".

Whereas, Wilbur Allen Smith, known throughout his life as "Al", was born to Wilbur Amos Smith and Mary Eloise Rogers on January 8, 1948, in Madison, West Virginia, and grew up in Clay County on Camp Creek Hill at Bomont, West Virginia; and

Whereas, Wilbur Allen Smith attended Clay County schools, graduated from Clay County High School in 1965, and was a member of the National Honor Society. He also attended Glenville State College with a goal of becoming a biology teacher; and

Whereas, Wilbur Allen Smith was inducted in the U. S. Army in 1968 and, after training at Fort Bragg, North Carolina, and Fort Polk, Louisiana, he was sent to serve in Vietnam, beginning in October 1968. He served in the First Cavalry Division (Airmobile), an infantry division converted into a new kind of fighting force known as an air assault division for its extensive use of the mobility of helicopters, where he attained the rank of Specialist 4; and

Whereas, On June 2, 1969, two companies of SP4 Wilbur Allen Smith's division encountered a large number of enemy soldiers in fortified bunkers along the Dong Nai River. What followed was an intense firefight resulting in more than 55 casualties. During the battle, SP4 Wilbur Allen Smith volunteered to neutralize one of the bunkers and he maneuvered to within 15 feet of the enemy's position. Tragically, he was killed by the explosion of an enemy rocket grenade; and

Whereas, SP4 Wilbur Allen Smith was laid to rest in the Smith Family Cemetery on Camp Creek Hill near Bomont, West Virginia, and he is survived by two sisters and a large extended family who remember his life and spirit with great sentiment; and

Whereas, It is fitting that an enduring memorial be established to commemorate SP4 Wilbur Allen Smith and his contributions and sacrifice for our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 08-1-17.04 (08A003), locally known as the Queen Shoals Bridge, carrying Queen Road on County Route 1 over the Elk River in Clay County, the "U. S. Army SP4 Wilbur Allen Smith 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 SP4 Wilbur Allen Smith Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senators Romano, Baldwin, Lindsay, Hardesty, Woelfel, Beach, Unger, Boso, Palumbo, Swope, Jeffries, and Stollings offered the following resolution:

**Senate Concurrent Resolution 17**—Requesting the Division of Highways name bridge number 17-7-4.07 (17A042), locally known as Sardis Bridge, carrying County Route 7 over Tenmile Creek in Harrison County, the "Sardis District Veterans Memorial Bridge".

Whereas, Naming this bridge after all the men and women who have served in the United States armed forces from the Sardis District is a fitting and enduring memorial to commemorate their service; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-7-4.07 (17A042), locally known as Sardis Bridge, carrying County Route 7 over Tenmile Creek in Harrison County, the "Sardis District Veterans 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 "Sardis District Veterans Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 253**, Protecting consumers from automatic purchase renewal and continuous service offers.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 253 pass?”

Senator Tarr requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is a business owner in West Virginia who has businesses that bill on a monthly basis.

The Chair replied that any impact on Senator Tarr would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Maynard, and Tarr—3.

Absent: Boley, Boso, Mann, and Takubo—4.

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. 253) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Senate Bill 55**, Relating to driving privileges and requirements for persons under 18.

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 101**, Equalizing penalties for intimidating and retaliating against certain public officers and other persons.

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 124**, Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal.

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

**Senate Bill 233**, Relating to age requirements for deputy sheriff.

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 241**, Permitting county court clerks scan certain documents in electronic form.

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 258**, Establishing common law “veil piercing” claims not be used to impose personal liability.

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.

**Senate Bill 268**, Updating meaning of federal taxable income in WV Corporation Net Income Tax Act.

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

**Senate Bill 269**, Updating terms used in WV Personal Income Tax Act.

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.

**Senate Bill 63**, Relating to partial filling of prescriptions.

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

**Com. Sub. for Senate Bill 236**, Providing notice of eligibility to persons to vote after completion of punishment or pardon.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Hardesty, the name of Senator Hardesty was removed as a sponsor of **Senate Bill 359** (*Creating Youth Mental Health Protection Act*).

At the request of Senator Weld, and by unanimous consent, leaves of absences for the day were granted Senators Boley, Boso, Mann, and Takubo.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 11:52 a.m., the Senate adjourned until Monday, January 28, 2019, at 11 a.m.

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## **SENATE CALENDAR**

**Monday, January 28, 2019  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 16 - US Army SP4 Wilbur Allen Smith Memorial Bridge

S. C. R. 17 - Sardis District Veterans Memorial Bridge

### **THIRD READING**

Eng. Com. Sub. for S. B. 55 - Relating to driving privileges and requirements for persons under 18

Eng. Com. Sub. for S. B. 101 - Equalizing penalties for intimidating and retaliating against certain public officers and other persons

Eng. Com. Sub. for S. B. 124 - Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal

Eng. S. B. 233 - Relating to age requirements for deputy sheriff

Eng. Com. Sub. for S. B. 241 - Permitting county court clerks scan certain documents in electronic form

Eng. S. B. 268 - Updating meaning of federal taxable income in WV Corporation Net Income Tax Act (original similar to HB2414)

Eng. S. B. 269 - Updating terms used in WV Personal Income Tax Act (original similar to HB2413)

### **SECOND READING**

S. B. 63 - Relating to partial filling of prescriptions - (Com. title amend. pending)

Com. Sub. for S. B. 236 - Providing notice of eligibility to persons to vote after completion of punishment or pardon

Com. Sub. for S. B. 258 - Establishing common law "veil piercing" claims not be used to impose personal liability

### **FIRST READING**

Com. Sub. for S. B. 4 - Relating generally to Municipal Home Rule Program

Com. Sub. for S. B. 72 - Creating Sexual Assault Victims' Bill of Rights

Com. Sub. for S. B. 102 - Relating generally to powers and authority of courthouse security officers

S. B. 149 - Exempting certain veterans from concealed weapons license fees (original similar to HB2672)

Com. Sub. for S. B. 199 - Authorizing certain miscellaneous agencies and boards promulgate legislative rules (original similar to HB2282)

Com. Sub. for S. B. 243 - Requiring racetrack participate in WV Thoroughbred Development Fund

S. B. 256 - Allowing certain deductions from individual personal income tax refunds

Com. Sub. for S. B. 270 - Streamlining process for utilities access to DOH rights-of-way (original similar to HB2416)

S. B. 297 - Extending expiration of military members' spouses' driver's license

Com. Sub. for S. B. 390 - Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects

Eng. H. B. 2351 - Relating to regulating prior authorizations - (Com. amend. pending)

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2019**

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**Monday, January 28, 2019**

9:30 a.m.

Judiciary

(Room 208W)