

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Friday, February 14, 2020

The Senate met at 11:07 a.m.

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

Prayer was offered by the Reverend Joseph McLaughlin, S. M., Holy Rosary Catholic Church, Buckhannon, 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, February 13, 2020,

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.

At the request of Senator Takubo, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the family of the Honorable Stephen Baldwin, a senator from the tenth district, privileges of the floor for the day.

On motion of Senator Takubo, at 11:21 a.m., the Senate recessed to permit Abigail Shaffer to address the Senate on behalf of the Frasure-Singleton Student Legislative Program.

The Senate reconvened at 11:23 a.m. and 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 16, Creating Protect Our Right to Unite Act.

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 676, Permitting fees from Child Abuse Registry be used for information technology support costs.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended with its Senate amended title, of

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

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 4088—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-4-9; and to amend and reenact §55-12A-7 of said code, all relating to funding the Oil and Gas Reclamation Fund; providing that proceeds from certain real property interests that are due to persons whose names or addresses are unknown or unlocatable which are being kept in special funds throughout the state, if unclaimed for seven years or more, shall be transferred to the Oil and Gas Reclamation Fund and used to plug orphaned and abandoned oil and natural gas wells; providing and clarifying that certain deed or will provisions purporting to convey or reserve interests created by this article are void; clarifying that receivers include both general and special receivers; providing that certain provisions take effect beginning when funds have been unclaimed for seven years after the Special Commissioner's lease regardless of when the lease was signed; and authorizing rulemaking.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2020, and requested the concurrence of the Senate in the passage of **Eng. House Bill 4113**—A Bill to amend and reenact §11-14C-9 and §11-14C-30 of the Code of West Virginia, 1931, as amended, all relating to refundable exemptions from tax on motor fuels generally; modifying certain refundable exemption from tax on motor fuel purchased for use as a motor fuel for certain internal combustion engines; extending certain refundable exemption from tax to tax on motor fuel used in a power take-off unit on a fuel delivery truck; and expanding certain refundable exemptions from tax on motor fuel claimable by certain taxpayers to include the variable rate component of the tax.

Referred to the Committee on Finance.

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

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

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 4158—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-6-2a, relating to allowing a person to manufacture a stated amount of alcoholic liquor for personal consumption.

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 4398—A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to required courses of instruction; and incorporating into these courses the original texts of the Declaration of Independence, the Constitution of the United States and its amendments, with emphasis on the Bill of Rights, the Federalist Papers, the Emancipation Proclamation, the Constitution of West Virginia, and their original context; and including the Federalist Papers in Celebrate Freedom Week instruction.

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 4437—A Bill to amend and reenact §12-3A-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Pay Card program; and providing additional eligible unbanked recipients of a pay card.

Referred 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 4551—A Bill to amend and reenact §49-4-112 of the Code of West Virginia, 1931, as amended, relating to subsidized adoption; establishing criteria for the continued receipt of adoption subsidies; providing an enhanced definition of support; and establishing mechanisms to limit the subsidy for families with children in long-term residential placement.

Referred to the Select Committee on Children and Families.

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 4615—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-10-34, relating to establishing the West Virginia Critical Infrastructure Protection Act; defining terms; creating a criminal offense of trespass upon property containing a critical infrastructure facility, upon property containing a critical infrastructure facility with intent to interrupt the lawful operations of the facility, and for causing willful damage to a critical infrastructure facility; establishing criminal offense of conspiracy to commit trespass; establishing criminal penalties; providing for civil liability; and providing nothing in this section will be construed to prevent lawful assembly and petition for redress of grievances.

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 4655—A Bill to amend and reenact §16-4C-8 of the Code of West Virginia, 1931, as amended, relating to automatic certification as an emergency medical technician-paramedic or emergency medical technician-basic upon application; providing that an applicant may have previously served in any branch of the United States military, National Guard, or Coast Guard; providing that an applicant must have been honorably discharged within two years of application; providing for similar military job titles that bear a rational nexus to the training and education required by the commissioner to be certified as a paramedic or emergency medical technician; providing that the commissioner must issue a license upon review of the application; and providing that if an individual permits a certification to expire the commissioner may require examination as a condition of recertification.

Referred to the Committee on Military.

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 4706—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-4-9; and to amend said code by adding thereto a new section, designated §55-12A-7a; all relating to providing transparency in government by creating reporting procedures and requirements concerning funds being held by fiduciaries, commissioners and receivers which are due to missing, unknown or unlocatable real estate interest owners from partition lawsuits and lawsuits concerning leasing and conveyancing of mineral interests by missing owners; providing reporting requirements to the State Treasurer, Legislature, and the Supreme Court of Appeals; defining and specifying the contents of the reports; establishing reporting dates; and providing for rule-making.

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 4790—A Bill to amend and reenact §18-2-7d of the Code of West Virginia, 1931, as amended, relating to Career Technical Education for middle school students; broadening workforce preparedness information to be communicated to students to include the knowledge, skills and characteristics needed for success in occupations and entrepreneurship; integration with career exploration beginning in middle school grades; and requiring county boards to provide elective Career Technical Education courses for middle school students beginning 2022 – 2023 school year.

Referred to the Committee on Education.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on February 14, 2020, he had approved **Enr. Committee Substitute for Senate Bill 311, Enr. Committee Substitute for Senate Bill 357, Enr. House Bill 4103** and **Enr. House Bill 4393**.

The Senate proceeded to the fourth order of business.

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 6, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights.

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

Respectfully submitted,

Charles S. Trump IV,
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 29, Relating to involuntary hospitalization order by physician in certain cases.

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

Com. Sub. for Senate Bill 29 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a, relating to permitting an authorized staff physician, after examination, to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill and likely to cause serious harm to himself or herself or other individuals; setting forth a procedure; defining terms; providing for payment for services; limiting liability; providing that no action taken is considered to be an adjudication; and requiring the West Virginia Supreme Court of Appeals to produce information to hospitals regarding contact information for mental hygiene commissioners, designated county magistrates, and circuit judges.

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,

Michael J. Maroney,
Chair.

The bill (Com. Sub. for S. B. 29), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 204, Providing for nonpartisan elections of county prosecuting attorneys.

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

Com. Sub. for Senate Bill 204 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-10-8 of said code, all relating to providing for the nonpartisan elections of county prosecuting attorneys; requiring that nonpartisan elections of prosecuting attorneys commence in 2024; requiring a runoff election be held concurrently with the general election between the two highest vote getters in the non-partisan election if no candidate receives a majority of votes cast; and providing that after that, appointments to fill vacancies in office shall be nonpartisan.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 291 (originating in the Committee on Health and Human Resources), Requiring PEIA and health insurance providers provide mental health parity.

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

Com. Sub. for Com. Sub. for Senate Bill 291 (originating in the Committee on Finance)—A Bill to repeal §33-15-4a of the Code of West Virginia, 1931, as amended; to repeal §33-16-3a of said code; to amend and reenact §5-16-7 of said code; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend and reenact §33-24-4 of said code; to amend said code by adding thereto a new section, designated §33-24-7u; to amend and reenact §33-25-6 of said code; to amend said code by adding thereto a new section, designated §33-25-8r; and to amend said code by adding thereto a new section, designated §33-25A-8u, all relating to requiring the Public Employees Insurance Agency and other health insurance providers to provide mental health parity between behavioral health, mental health, substance use disorders, and medical and surgical procedures; providing definitions; providing for mandatory annual reporting; providing for rulemaking; and setting forth an effective date.

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

Respectfully submitted,

Craig Blair,
Chair.

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 578, Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

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,

Randy E. Smith,
Chair.

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

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

Your Committee on Health and Human Resources has had under consideration

Senate Bill 648, Providing dental coverage for adult Medicaid recipients.

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

Com. Sub. for Senate Bill 648 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-12a, relating to providing dental coverage for adult Medicaid recipients; providing limitations; defining terms; designating the Department of Health and Human Resources as the responsible department to implement these provisions; providing effective date; and providing for the Department of Health and Human Resources to seek authority for the Centers for Medicare and Medicaid Services to implement the program.

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. 648), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Education has had under consideration

Senate Bill 652, Authorizing School Building Authority promulgate legislative rules.

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

Respectfully submitted,

Patricia Puertas Rucker,
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 655, Relating to valuation of natural resources land property.

Com. Sub. for Senate Bill 719, Imposing health care-related provider tax on certain health care organizations.

And,

Senate Bill 740, Clarifying authorized users of Ron Yost Personal Assistance Services Fund.

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

Respectfully submitted,

Craig Blair,
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

Senate Bill 686, Exempting contract and common carrier laws for certain vehicles.

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

Com. Sub. for Senate Bill 686 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §24A-1-2 of the Code of West Virginia, 1931, as amended, to amend and reenact §24A-2-5 of said code; and to amend and reenact §24A-3-2 and §24A-3-3 of said code, all relating to authorizing use of an emergency substitute motor carrier when certificate of necessity and convenience or contract carrier permit is suspended; defining terms; allowing emergency substitute carrier to operate as common carrier without certificate of necessity and convenience; authorizing public service commission to suspend common carrier certificate of necessity and convenience and allow emergency service carrier to provide temporary replacement service; establishing procedure for seeking reinstatement of certificated service; prohibiting emergency service carrier from operating as a contract carrier except as authorized by Public Service Commission; allowing Public Service Commission to suspend contract carrier permit and authorize emergency substitute carrier to provide temporary replacement service; and establishing procedure for permit grantee to seek reinstatement of permit.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
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

Senate Bill 738, Creating Flatwater Trail Commission.

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

Com. Sub. for Senate Bill 738 (originating in the Committee on Government Organization)—
A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-9-1, relating to creating the Flatwater Trail Commission; describing role, function, and duties of the commission; establishing criteria qualifications for the appointment of members; specifying duties; declaring the responsibilities of the Department of Commerce regarding the commission; providing for reimbursement of the expenses for members; and defining a quorum to conduct business.

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,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 738), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Health and Human Resources has had under consideration

Senate Bill 747, Requiring Bureau for Public Health develop Diabetes Action Plan.

Senate Bill 748, Increasing awareness of palliative care services.

And,

Senate Bill 767, Relating to licensure of hospitals.

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

Respectfully submitted,

Michael J. Maroney,
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

Senate Concurrent Resolution 25, Requesting study on impact of future electromagnetic pulse catastrophe.

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

Respectfully submitted,

Mark R. Maynard,
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. Com. Sub. for House Bill 4026, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions.

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 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 4501, Relating to the ability to refuse offenders for commitment to a jail.

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.

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

By Senators Rucker and Plymale:

Senate Bill 781—A Bill to amend and reenact §18B-3C-16 of the Code of West Virginia, 1931, as amended, relating to removing information required to be included in report to the Legislature

and the Governor regarding the collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

Referred to the Committee on Education.

By Senator Maroney:

Senate Bill 782—A Bill to amend and reenact §16-29B-8 of the Code of West Virginia, 1931, as amended, relating to the fees assessed on certain hospitals by the Health Care Authority; eliminating the assessment termination date; correcting a mathematical error; and other technical cleanup.

Referred to the Committee on Health and Human Resources.

By Senator Tarr:

Senate Bill 783—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-18, relating to the creation of a special revenue fund for site certification and site closing.

Referred to the Committee on Finance.

By Senator Smith:

Senate Bill 784—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-15-24; and to amend said code by adding thereto a new section designated §61-3-45b all relating to nonferrous metal sales and transportation to a secondary recycler; providing for definitions; providing for permits for secondary metals recyclers; providing that employees of an entity holding a permit do not need a separate permit; providing for permit requirements for fixed sites; providing for permit requirements for nonfixed sites; providing for the Department of Environmental Protection to develop an application and permit; providing for a \$200 permit fee for secondary metals recyclers; providing that a permit is valid for 24 months; providing for a permit for persons or entities to transport nonferrous metals over the highways; providing that employees of an entity do not need a separate permit; providing for no initial permit fee; providing for a \$10 fee for a replacement permit for a lost or destroyed original permit; providing for record retention criteria of all transportation permits issued; providing that a transportation permit is valid for two years; providing for denial, revocation, or suspension of a permit for violations of law; providing for penalties for permit violations; providing that only secondary metals recyclers can purchase nonferrous metals from persons or entities with a valid permit; providing that secondary metals recyclers must retain records of all purchases of nonferrous metals; providing for record retention criteria; providing for record retention of at least one year; providing for limitations on secondary metals recyclers purchasing nonferrous metals through cash transactions; providing for a \$25 limit on cash transactions; providing for a required sign be displayed at all secondary metals recyclers locations where nonferrous metals are accepted for purchase; providing for penalties when a secondary metals recycler violates certain provisions; providing for limitations on selling nonferrous metals; providing for penalties for sellers violating certain provisions relating to selling nonferrous metals; providing for revocation of permits for secondary metals recyclers and sellers violating certain provisions of purchasing or selling nonferrous metals; providing for limitations for secondary metals recyclers to accept nonferrous metal sales from persons or entities without a valid transportation and sales permit; providing for holds placed on stolen nonferrous metals; providing for law enforcement to provide written notification to a secondary metals recycler relating to stolen nonferrous metals; providing that the notice must identify the potentially stolen nonferrous metals; providing for a 15 calendar day hold for the secondary metals recycler to retain the nonferrous metals as provided in the

written notice from law enforcement; providing for an extended hold issued after 15 calendar days by law enforcement; providing that law enforcement provide written notice to the secondary metals recycler relating to allegedly stolen nonferrous metals; providing for 30 calendar days for an extended hold of allegedly stolen nonferrous metals by the secondary metals recycler; providing for automatic release of any holds on a secondary metals recycler at the conclusion of a hold or extended hold by law enforcement if no order has been received to retain the nonferrous metals by a court; providing for limitations on transporting nonferrous metals on the highways of this state without a valid permit; providing for penalties for violating transportation requirements; providing for revocation of a permit for violating transportation requirements; providing for acceptable forms of identification; providing for exemptions from required permits to obtain, transport, or sell nonferrous metals to a secondary metals recycler; providing for preemption of other laws, rules, or regulations by any county or municipality; providing that any county or municipality may enact ordinances relating to the sale, transport, or purchase of nonferrous metals under certain conditions; providing for criminal offenses; providing for additional criminal offenses for illegally obtaining nonferrous metals; providing for penalties to property damage when the damage is below \$5,000; providing for penalties for property damage when the damage is greater than or equal to \$5,000; providing for penalties when another person receives a great bodily injury during the course of illegally obtaining nonferrous metals; providing for penalties when illegally obtaining nonferrous metals results in the death of a person; providing for penalties for disruption of communication or electrical services to more than 10 people; providing for revocation of a permit when the permittee is convicted of illegally obtaining nonferrous metals; providing for no civil liability for the owner of real or personal property for any injury sustained by a person attempting to or obtaining nonferrous metals illegally; providing for no civil liability for the owner or real or personal property for any injury caused by dangerous conditions to a person attempting to or obtaining nonferrous metals illegally; providing that no duty of care is expected of an owner of real or personal property to persons attempting to or obtaining nonferrous metals illegally; and providing for rule-making authority.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 785—A Bill to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating to establishing a uniform electioneering prohibition area by modifying the early voting electioneering prohibition area at satellite precincts or other properly designated community voting locations to prohibit displays or materials to influence the voting for or against any candidate or public question within 100 feet from the entrance of such early voting locations.

Referred to the Committee on the Judiciary.

By Senator Rucker:

Senate Bill 786—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-10b, relating to the West Virginia Medical Practice Act; recognizing anesthesiologist assistants; providing for scope of practice and supervision; and requiring rules for minimum education and regulation.

Referred to the Committee on Health and Human Resources.

By Senators Tarr, Hardesty, Maroney, and Stollings:

Senate Bill 787—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-53-1, relating to providing benefits to pharmacists for

pharmacist care rendered within the pharmacist's scope of practice if benefits would be provided for such services performed by other health care providers.

Referred to the Committee on Health and Human Resources.

By Senators Tarr, Ihlenfeld, and Maroney:

Senate Bill 788—A Bill to amend and reenact §29-22D-2, §29-22D-3, §29-22D-5, §29-22D-7, §29-22D-8, §29-22D-11, §29-22D-12, §29-22D-16, §29-22D-17, §29-22D-20, §29-22D-21, and §29-22D-22 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §29-22D-6a and §29-22D-15a, all relating to permitting wagering on the results of certain professional or collegiate sports or athletic events and other events authorized as West Virginia Lottery sports wagering activities; providing legislative findings; defining terms; establishing license requirements and prohibitions; adopting house rules and the posting of the same; defining duties of a social sports wagering operator conducting social sports wagering; requiring the posting of betting limits; prohibiting unauthorized sports wagering in this state; creating the West Virginia Lottery Sports Wagering Fund; authorizing the collection of license fees; authorizing the West Virginia Lottery to collect an administrative allowance from gross sports wagering receipts; authorizing the West Virginia Lottery to levy and collect a tax in the amount of 10 percent of adjusted gross sports wagering receipts; defining how moneys deposited in the West Virginia Lottery Sports Wagering Fund shall be distributed; establishing the role of law enforcement; imposing civil and criminal penalties; establishing crimes; providing for the forfeiture of property for certain violations; and preempting this article from state and local law.

Referred to the Committee on Finance.

By Senator Carmichael (Mr. President):

Senate Bill 789—A Bill to repeal §4-2B-1 of the Code of West Virginia, 1931, as amended; and to repeal §4-3-3b of said code, relating to removing provisions regarding obsolete functions and completed tasks for the administration of, or by, the Legislature.

Referred to the Committee on Government Organization.

By Senators Cline, Smith, and Sypolt:

Senate Bill 790—A Bill to amend and reenact §17C-17A-2, §17C-17A-3, §17C-17A-5, and §17C-17A-12 of the Code of West Virginia, 1931, as amended, all relating generally to the Commissioner of the Division of Highways to effectively manage the Coal Resource Transportation roads; defining certain terms; requiring reports be filed with the Legislative Oversight Commission on Department of Transportation Accountability; specifying information to be provided; creating the Coal Resource Transportation Advisory Committee; simplifying process for the commissioner to designate or decertify a road in the Coal Resource Transportation System; revising reporting requirements; specifying information to be provided; and correcting technical errors.

Referred to the Committee on Transportation and Infrastructure.

By Senator Weld:

Senate Bill 791—A Bill to amend and reenact §15-2-24 of the Code of West Virginia, 1931, as amended, relating to allowing a name-based state and federal criminal history record check of each adult residing in a residence when, due to emergency, a minor child must be placed in home care due to the absence of parents or custodians.

Referred to the Committee on Health and Human Resources.

By Senators Stollings, Baldwin, Beach, Facemire, Hamilton, and Unger:

Senate Bill 792—A Bill to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-8 of said code, all relating to requirements for employment of nurses in public schools; changing student to school nurse staffing ratios; expanding its coverage to all grades; and eliminating the county's ability to obtain contract services for nursing and mandating that every school must have at least one nurse.

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

By Senator Smith:

Senate Bill 793—A Bill to amend and reenact §11-13-2q of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-13-2r, all relating to business and occupation taxes imposed on operators of certain coal-fired electric generating units located in this state; clarifying application of certain sections of code; providing for recomputation of taxable generating capacity of certain coal-fired electric generating units for business and occupation tax purposes under certain circumstances; defining certain terms, imposing recapture tax under certain circumstances; and specifying effective dates.

Referred to the Committee on Finance.

By Senator Maynard:

Senate Bill 794—A Bill to amend and reenact §49-2-106 of the Code of West Virginia, 1931, as amended, relating to responsibility for foster care homes by the Department of Health and Human Resources; and to require the department to cooperate with charter schools and the State Board of Education to develop programs for participation in by qualified neglected children who are in foster home placements, including developing a program or programs modeled after the Mountaineer Challenge Academy.

Referred to the Select Committee on Children and Families.

By Senator Maynard:

Senate Bill 795—A Bill to amend and reenact §11-1C-9 of the Code of West Virginia, 1931, as amended, relating to limiting the initial increase in assessment of residential real property as a result of the periodic reevaluation of such property.

Referred to the Committee on Finance.

By Senator Maynard:

Senate Bill 796—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3tt, relating to permitting prisoners or persons charged with a crime to be held in the jails of their counties of residence.

Referred to the Committee on the Judiciary.

Senators Cline and Weld offered the following resolution:

Senate Concurrent Resolution 33—Requesting the Division of Highways name bridge number 55-097/00-034.83 (55A102), locally known as Maben Bridge, carrying WV 97 over Slab Fork Creek in Wyoming County, the "U.S. Air Force MSGT Dvon Duncan Memorial Bridge".

Whereas, Dvon Duncan was born on January 18, 1953, to Paul and Dorothy Duncan; and

Whereas, Dvon Duncan was a graduate of Glen Rogers High School, and also received an Associate in Arts Degree, in General Studies from Hagerstown Junior College, an Associate in Applied Science Degree, in Communications Operations Technology from Community College of the Air Force, a Bachelor of Arts Degree in History from Auburn University and a Masters of Arts Degree in Liberal Studies and Strategic Leadership from the University of Memphis; and

Whereas, Dvon Duncan joined the U.S. Air Force on March 7, 1974, and stayed until her retirement in February 1991; and

Whereas, MSGT Dvon Duncan was awarded the Meritorious Service Medal with one Oak Leaf Cluster, the Joint Service Commendation Medal, the Air Force Commendation Medal, the Air Force Achievement Medal (GALLANT EAGLE 82), the Air Force Outstanding Unit Award Ribbon with one Oak Leaf Cluster, the Combat Readiness Medal, the Good Conduct Medal with one Oak Leaf Cluster, the Air Force Overseas Short Tour Ribbon, the Air Force Overseas Long Tour Ribbon with one Oak Leaf Cluster, and the Small Arms Expert Marksmanship Ribbon; and

Whereas, MSGT Dvon Duncan authored two books of poetry— “Signs in the Earth” and “Raven’s Call” and a short story entitled “Green Man of Milam Fork”, and moved back to West Virginia in 2006 where she operated Duncan Business Services which specialized in strategic business planning; and

Whereas, MSGT Dvon Duncan served on the Wyoming County Convention and Visitors Bureau where she coauthored the Guyandotte Scenic Drive Corridor Management Plan; and she also served on the Guyandotte River Water Trail Alliance, the Southern Conservation District, the Mountain Resource Conservation and Development Council and the Friends of Milam Creek; and

Whereas, MSGT Dvon Duncan died on July 7, 2019, and will be missed by many in Wyoming County; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Air Force MSGT Dvon Duncan and her 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 55-097/00-34.83 (55A102), locally known as Maben Bridge, carrying WV 97 over Slab Fork in Wyoming County, the “U.S. Air Force MSGT Dvon Duncan Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to be made and placed signs identifying the bridge as the “U.S. Air Force MSGT Dvon Duncan 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 Pitsenbarger, Azinger, Baldwin, Facemire, Hamilton, and Romano offered the following resolution:

Senate Concurrent Resolution 34—Requesting the Division of Highways name bridge number 34-001/00-000.10 (34A144), locally known as Strange Creek Bridge, carrying County Route 1 over Strange Creek in Nicholas County, the “U.S. Army CPL Dane Hampton Hamric Memorial Bridge”.

Whereas, Dane Hampton Hamric, born on December 14, 1920, in Sutton, West Virginia, was one of 10 children born to Allen Corley Hamric and Mable Goldie Craft Hamric of Braxton County; and

Whereas, CPL Dane Hampton Hamric served in the U.S. Army 60th Coast Artillery Regiment for seven years before his heroic death in a Japanese prisoner of war (POW) camp in the Philippines on December 18, 1944; and

Whereas, CPL Dane Hampton Hamric was stationed in Corregidor with the 1st Separate Marine Battalion when WWII broke out in December 1941. He fought there with what became the 3rd Battalion, 4th Marine Regiment which consisted of combined units from the U.S. Army, U.S. Navy, and locally recruited Filipino soldiers; and

Whereas, Units at Corregidor were forced to surrender to the Japanese on May 6, 1942, and were held in prison on Corregidor, until they were moved first to Manila and then to Puerto Princesa on the Island of Palawan. Of the thousands of allied military personnel taken prisoner by the Japanese, approximately 346 American POWs remained from August 1, 1942, until December 14, 1944, in the Philippines where they were shipped to Palawan to build an airfield for the Japanese; and

Whereas, The Palawan compound was known as Camp-10A, and the American POWs held captive there received brutal treatment from Japanese guards. The men starved, suffered from diseases like malaria, scurvy, and pellagra, and endured hard labor. Medical care was nonexistent and medical supplies from the American Red Cross, intended for American POWs, were seized by the Japanese for their own use. In September 1944, 159 of the American POWs were returned to Manila, leaving 150 men behind to complete the airfield; and

Whereas, On December 14, 1944, Japanese aircraft reported the presence of an American convoy which was mistakenly believed to be headed for Palawan, and POWs were sent into trenched shelters they had built for protection during allied air raids. Guards doused the shelters with gasoline and used torches to set them on fire with the men inside. Most of the American POWs who managed to escape the burning shelters were shot, bayoneted, or beaten to death as they hid among rocks on the beach or attempted to swim across Puerto Princesa’s bay. Four American officers, who were also held captive at the camp, had their dugout set on fire during the massacre; and

Whereas, Of the known 150 American POWs present at the Palawan camp, 139 were murdered on December 14, 1944, and 11 survived. CPL Dane Hampton Hamric was able to escape the prison yard but was hit in the arm by rifle fire. He hid in a cave on the beach for four days before succumbing to his injuries, and was buried in a makeshift grave by a surviving POW. His body was never recovered, and on December 18, 1944, he was recorded by the U.S. Army as Reported Dead While Captured, Prisoner of War; and

Whereas, CPL Dane Hampton Hamric is memorialized in the Tablets of the Missing at the Manila American Cemetery and Memorial in the Philippines. CPL Dane Hampton Hamric was awarded the Prisoner of War Medal and the Purple Heart, Service Number 15017127; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Dane Hampton Hamric for his service and sacrifice for his 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 34-001/00-000.10 (34A144), locally known as Strange Creek Bridge, carrying County Route 1 over Strange Creek in Nicholas County, the "U.S. Army CPL Dane Hampton Hamric 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 CPL Dane Hampton Hamric 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 and to David R. Hamric, P.O. Box 83, Dille, WV 26617.

Which, under the rules, lies over one day.

Senator Cline offered the following resolution:

Senate Concurrent Resolution 35—Requesting the Division of Highways name the entire portion of West Virginia Route 10 situated within the town limits of Oceana, Wyoming County, the "Veterans Memorial Drive".

Whereas, The town of Oceana has provided soldiers for the various branches of the nation's military; and

Whereas, Oceana veterans have served their country and their community with distinction; and

Whereas, Many veterans from Oceana gave their lives for their country or have suffered the scars of service many years after returning from military duty; and

Whereas, Many veterans returning to Oceana following military service have volunteered their energy and talents to build and strengthen the local community in service to others; and

Whereas, It is fitting that an enduring memorial be established to commemorate the many military veterans of Oceana and their 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 the entire portion of West Virginia Route 10, situated within the town limits of Oceana, Wyoming County, the "Veterans Memorial Drive"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the portion of road as the "Veterans Memorial Drive"; 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 Baldwin, Mann, Pitsenbarger, and Romano offered the following resolution:

Senate Concurrent Resolution 36—Requesting the Division of Highways name bridge number 13-060/00-034.93 (13A114), locally known as Caldwell Bridge, carrying U.S. 60 over Greenbrier River in Greenbrier County, the “Shafer Brothers U.S. Military Veterans Memorial Bridge”.

Whereas, The six Shafer brothers were born and raised in Caldwell, Greenbrier County. They all served in the United States military. Charles “Ovid” Shafer, the U.S. Army, World War II; “Harold” Harding Shafer, the U.S. Army, World War II; William “Bill” Shafer, the U.S. Army; World War II; Robert Lewis “Bob” Shafer, the U.S. Navy, World War II; Elmer “Ray” Shafer, the U.S. Navy, World War II; and Joseph Arthur “Joe” Shafer, the U.S. Marine Corps, Korean War. All six returned home safely after serving their great country; and

Whereas, These six men and their additional three brothers and two sisters lived in this community throughout their lives and, they and their many descendants, have travelled across the bridge that is the subject of this resolution; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Shafer brothers and their 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 13-060/00-034.93 (13A114), locally known as Caldwell Bridge, carrying U.S. 60 over Greenbrier River in Greenbrier County, the “Shafer Brothers U.S. Military 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 “Shafer Brothers U.S. Military 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.

Senator Cline offered the following resolution:

Senate Concurrent Resolution 37—Requesting the Division of Highways name the intersection where US Route 52 intersects with WV Route 97, locally known as Godfrey’s Corner, in Hanover, Wyoming County, as “Godfrey’s Corner”.

Whereas, David L. Godfrey was born on November 18, 1944, in Hanover, West Virginia, and passed away on August 29, 2019; and

Whereas, When Mr. Godfrey was just a young man, he had an old school bus parked at the intersection of US Route 52 and WV Route 97 in Hanover and sold watermelons in the summertime; and

Whereas, In 1968, construction of the railroad began, and the family moved to where Godfreys Corner is today. In the summertime, they would pass the candy and chips and dip through the window and sell it on the open porch. Mr. Godfrey and his dad hauled hay and straw from Ohio in the wintertime and watermelons from Florida in the summertime; and

Whereas, As time went on, business increased, and the building grew larger. Mr. Godfrey, his mother Leona Godfrey, wife Connie, and sister Sheila, opened the Godfreys Corner store permanently in January 1971. The store at Godfreys Corner is now run by Mr. Godfrey's sister and her husband, Sheila and Gary St. Clair; and

Whereas, Mr. Godfrey was always a great talker and businessman. All of his life he wheeled and dealt on anything honest to make a dollar. He was pretty good at it, but a few times he failed; and

Whereas, To this day Godfreys Corner is used as a direction for people traveling, and people don't refer to the intersection as routes 52 and 97, they refer to it as Godfreys Corner or just Godfreys, but everyone knows where it is and where you are talking about; and

Whereas, Mr. Godfrey also served in the U.S. Army as a helicopter mechanic; and

Whereas, It is fitting that an enduring memorial be established to commemorate David L. Godfrey's contributions to his country, state, and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the intersection where US Route 52 intersects with WV Route 97 in Hanover, Wyoming County, as "Godfrey's Corner"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs 50 feet before the intersection on routes 52 and 97, one on each road before reaching the intersection, identifying the intersection as "Godfrey's Corner"; and, be it

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

Which, under the rules, lies over one day.

Senator Smith offered the following resolution:

Senate Resolution 41—Designating February 17, 2020, as Pancreatic Cancer Day at the Capitol.

Whereas, In 2020, an estimated 57,000 people will be diagnosed with pancreatic cancer in the United States, which equates to 158 people every single day; and

Whereas, Pancreatic cancer is one of the deadliest cancers, is currently the third-leading cause of cancer death in the United States, and it is projected to become the second-leading cause around within the next decade; and

Whereas, Pancreatic cancer is one of the deadliest cancers with a five-year relative survival rate at just 10 percent; and

Whereas, When symptoms of pancreatic cancer present themselves, it is generally in later stages, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis, while 91 percent of pancreatic cancer patients die within the first five years; and

Whereas, Approximately 310 deaths will occur in West Virginia in 2020; and

Whereas, This is the same disease which claimed the life of former West Virginia Governor William Marland, actor Patrick Swayze, Super Bowl MVP Harvey Martin, and the Queen of Soul, Aretha Franklin, just to name a few. In addition, Jeopardy Host Alex Trebek was diagnosed with the disease in March 2019. And on February 4, 2020, pancreatic cancer claimed the life of Delegate John Mandt's mother, Donna; and

Whereas, Two of the less than 20 percent of patients diagnosed with pancreatic cancer who were able to have the Whipple Surgery are the Senate's own, Fiscal Officer Jay Eckhart, and John Homburg, who is a currently a bill drafter for the West Virginia Legislature and retired as the Director of Legislative Services in 2014; and

Whereas, Pancreatic cancer is the seventh-most common cause of cancer-related death across the world; and

Whereas, While overall cancer incidence and cancer death rates are declining, the incidence of pancreatic cancer and death rate for pancreatic cancer patients has been increasing. The number of new pancreatic cancer incidences has been increasing, and is projected to increase by 55 percent between now and 2030; and

Whereas, The good health and well-being of the residents of West Virginia are enhanced as a direct result of increased awareness about the symptoms and risk factors of pancreatic cancer, and research into early detection, causes, and effective treatments; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 17, 2020, as Pancreatic Cancer Day at the Capitol; and, be it

Further Resolved, That the Senate extends its best wishes and unwavering support to its very dear friend and colleague, Jay Eckhart, who has demonstrated courage and resiliency in his recovery and fight against pancreatic cancer; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Pancreatic Cancer Day at the Capitol and Jay Eckhart.

Which, under the rules, lies over one day.

Senators Boley, Rucker, and Cline offered the following resolution:

Senate Resolution 42—Commemorating the centennial of the ratification of the 19th Amendment to the Constitution of the United States.

Whereas, Led by suffragists Elizabeth Cady Stanton and Lucretia Mott, women began the fight for their right to vote in July of 1848 when a meeting of over 300 people convened in Seneca Falls, New York; and

Whereas, In the decades to follow that meeting, women around the United States protested, picketed, and were imprisoned to secure their constitutional right to vote; and

Whereas, Perhaps the most widely known suffragist of her generation, Susan B. Anthony traveled the country to give speeches, circulate petitions, and organize local women's rights organizations; and

Whereas, Nearly 70 years after the struggle began, the United States Congress passed the 19th Amendment in June of 1919; and

Whereas, On March 10, 1920, West Virginia voted to ratify the 19th Amendment, becoming the 34th state to do so. By August of 1920, 36 states ratified the amendment, ensuring that the right to vote could not be denied or abridged based on sex; and

Whereas, The Senate joins the citizens of West Virginia and our fellow Americans in celebrating this monumental moment in our country's history; therefore, be it

Resolved by the Senate:

That the Senate hereby commemorates the centennial of the ratification of the 19th Amendment to the Constitution of the United States; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Women's Commission, the West Virginia Secretary of State, and the West Virginia Department of Arts, Culture, and History.

Which, under the rules, lies over one day.

Senator Azinger offered the following resolution:

Senate Resolution 43—Recognizing President George Washington and President Abraham Lincoln on President's Day.

Whereas, George Washington, also called Father of His Country, was the first president of the United States of America. President Washington's first term as president was from 1789 to 1793 and his second term from 1793 to 1797; and

Whereas, Prior to becoming president, George Washington played important roles in the military, leading the American Continental Army to victory over the British in 1783; and

Whereas, The likeness and name of President Washington can still be seen in many places in the United States, including: Mount Rushmore National Memorial in South Dakota; his image is also used on the one-dollar bill and the quarter-dollar coin; the capital of the United States, Washington D.C., Washington State, and at least three universities are named after him; and

Whereas, Abraham Lincoln was the 16th president of the United States and is regarded as one of America's greatest heroes due to his role as savior of the Union and emancipator of slaves; and

Whereas, President Lincoln was known as Honest Abe, the Rail-Splitter, or the Great Emancipator, and his rise from humble beginnings to achieving the highest office in the land is a remarkable story; and

Whereas, President Lincoln holds a special place in West Virginia history, as West Virginia, the 35th state to be admitted to the Union, was one of two added to the nation in the administration of Abraham Lincoln; and

Whereas, It is fitting that the Senate recognize President George Washington and President Abraham Lincoln for their many important contributions and sacrifices to our state and nation; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes President George Washington and President Abraham Lincoln on President's Day; and, be it

Further Resolved, That the Senate urges the public-school system of West Virginia to emphasize these two important historical figures in the education of our students; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the State Board of Education.

Which, under the rules, lies over one day.

Senator Lindsay offered the following resolution:

Senate Resolution 44—Urging Major League Baseball to rescind the ill-advised proposal that threatens the future of professional baseball in West Virginia.

Whereas, The history of professional baseball in West Virginia dates back more than a century from the Charleston Statesmen in 1910 through four Minor League Baseball teams today: the West Virginia Black Bears in Morgantown, the West Virginia Power in Charleston, the Bluefield Blue Jays, and the Princeton Rays; and

Whereas, West Virginia's four Minor League Baseball teams, and others in surrounding states nearby, including the Hagerstown Suns, add to the quality of life for many people in West Virginia by providing access to live action, affordable family entertainment throughout the spring and summer months; and

Whereas, These four teams within West Virginia are engines of tourism, welcoming 226,000 fans to their games in 2019 and attracting thousands of visitors to come to West Virginia who might not otherwise visit our state, from every other state in the nation and several other countries; and

Whereas, These first-time and repeat visitors include players and coaches, their families and friends, umpires and professional scouts, baseball professionals, and avid fans of the game, and they stay in our hotels, eat in our restaurants, shop in our stores, visit our attractions, and discover our state in ways they otherwise would never experience; and

Whereas, Minor League Baseball teams in West Virginia are small businesses that provide paychecks to dozens of full-time and hundreds of part-time employees in our state, form partnerships with hundreds of other West Virginia businesses, generate millions of dollars in economic impact and assist West Virginia charities and community organizations in raising several hundred thousand dollars every year; and

Whereas, A proposal from Major League Baseball seeks to eliminate 42 teams from its player development structure with Minor League Baseball and, if implemented, would jeopardize the future of professional baseball throughout West Virginia and in other nearby communities in neighboring states; therefore, be it

Resolved by the Senate:

That the West Virginia Senate hereby urges Major League Baseball to rescind the ill-advised proposal that threatens the future of professional baseball in West Virginia; 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 Major League Baseball.

Which, under the rules, lies over one day.

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

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

Your Committee on Economic Development has had under consideration

Senate Concurrent Resolution 38 (originating in the Committee on Economic Development)—Requiring the Secretary of Commerce conduct a study and present certain information to the Joint Committee on Government and Finance during the 2020 legislative interim sessions

Whereas, The Secretary of Commerce shall present to the Joint Committee on Government and Finance during the 2020 legislative interim sessions a list of the foremost challenges to being competitive in attracting businesses to West Virginia, and draft legislation necessary to affect a minimal level of funding to address these challenges.

Whereas, The goal of the West Virginia Development Office is to enhance economic growth by developing comprehensive economic strategies; and

Whereas, In the information provided, the Secretary of Commerce shall include the following: (1) site certification funding; (2) closing funding; (3) any other considerations; (4) a vision and mission statement for the West Virginia Development Office; (5) A list of what the West Virginia Development Office is doing now that should be a function of government; (6) a list of what the West Virginia Development Office is doing now that should be done by private enterprise; (7) a list of what the West Virginia Development Office is mandated to do now that should not be a function of the West Virginia Development Office; (8) a plan for the Legislature's consideration of a public-private structure to replace the current West Virginia Development Office that comprehensively considers the items identified herein, and a date certain that the office can be

transitioned to a public-private structure, should legislation be passed to make it possible in the 2021 Legislative Session.

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Secretary of Commerce study the foremost challenges to being competitive in attracting businesses to West Virginia and provide a list of these challenges to the Joint Committee on Government and Finance, and draft legislation; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of Commerce, requesting his or her cooperation.

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

Respectfully submitted,

Chandler Swope,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 38) contained in the foregoing report from the Committee on Economic Development was then referred to the Committee on Rules.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 30, Stanley W. and Evelyn C. See 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 31, US Marine Corps PFC Manuel P. Markos 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 32, US Marine Corps PFC James R. "Johnny" Corder 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 Resolution 40, Recognizing WV Gold Star Mothers for dedication and commitment to veterans and families.

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 and reference to a committee dispensed with.

The question being on the adoption of the resolution, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mann, Maroney, and Maynard—3.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 40) adopted.

Thereafter, at the request of Senator Lindsay, and by unanimous consent, the remarks by Senators Jeffries and Weld regarding the adoption of Senate Resolution 40 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:44 a.m., the Senate recessed to present Senate Resolution 40.

The Senate reconvened at 11:47 a.m. and proceeded to the eighth order of business.

Com. Sub. for Senate Bill 288, Relating to family planning and child spacing.

On third reading, coming up in regular order, with the right having been granted on Wednesday, February 12, 2020, for amendments to be received on third reading, was reported by the Clerk.

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

On page one, section one, line six, after the word “visits” by inserting the words “or prior authorization”.

Following discussion,

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

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 288 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 288 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mann, Maroney, and Maynard—3.

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

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, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mann, Maroney, and Maynard—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 554) 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 583, Creating program to further development of renewable energy resources.

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 583 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Mann, Maroney, and Maynard—3.

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. 583) passed.

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

Eng. Com. Sub. for Senate Bill 583—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1o, relating to creating a program to further the development of renewable energy resources and renewable energy facilities for solar energy by modifying the powers and duties of the Public Service Commission; providing for legislative findings and declarations; providing for definitions; providing for an application process and program for multiyear comprehensive renewable energy facilities for electric utilities, as defined, to plan, design, construct, purchase, own, and operate renewable energy-generating facilities, energy-storage resources, or both; providing for commission review and approval of said programs; allowing cost recovery for said programs; providing for requirements for said programs; providing for application requirements and contents in lieu of applications for certificates of public convenience and necessity; providing for public notice at the direction of the commission for anticipated rates and rate increases in interested counties; providing for a hearing on applications within 90 days of notice; defining circumstances when a hearing can be waived for lack of opposition; defining a time period of 150 days within which the commission shall issue a final order after the application date; requiring the commission to find the programs as in the public interest; requiring the commission, after notice and hearing, to approve applications and allow cost recovery for just and reasonable expenditures; establishing accounting methods, practices, rates of return, calculations, dates, and procedures relevant for cost recovery; requiring a utility to place in effect commission-approved rates that include cost recovery with certain defined items; defining “concurrent cost recovery”; requiring yearly application filings by the utility with the commission regarding cost recovery; and providing for non-displacement of current levels of coal-fired generation capacity.

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

Eng. Senate Bill 733, Recognizing political party status.

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 Senate Bill 733 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Hamilton, Ihlenfeld, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Beach, Facemire, Hardesty, Jeffries, Lindsay, Romano, and Stollings—7.

Absent: Mann, Maroney, and Maynard—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 733) 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 4381, Relating to lifetime hunting, fishing and trapping licenses for adopted children.

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

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

(Senator Weld in the Chair.)

The Senate proceeded to the ninth order of business.

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

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

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 285, Eliminating WV Greyhound Breeding Development Fund.

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

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

Com. Sub. for Senate Bill 306, Licensing of drivers utilizing bioptic telescopic devices.

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

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

Having been read a second time on yesterday, Thursday, February 13, 2020, and now coming up in regular order, was reported by the Clerk.

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

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

ARTICLE 3B. TRESPASS.**§61-3B-7. Animal or crop facilities trespass; penalties; injunctive relief.**

(a) As used in this section:

(1) "Animal" means poultry, livestock, domestic animals, and captive cervids owned and possessed by persons licensed pursuant to §19-2H-1 et seq. of this code. The term does not include an animal used for illegal gaming.

(2) "Animal or crop facility" means a facility that is used in the production, management, sale, or processing of animals or crops. The term includes, but is not limited to:

(A) A building, greenhouse, structure, laboratory, pasture, field, paddock, pond, impoundment, or premises where animals or crops are located;

(B) A managed bee colony;

(C) A livestock market;

(D) A facility used for the preparation of, or processing of, animals, crops, or value-added foods for sale; and

(E) A facility used to carry out any agritourism activity, as that term is defined and used in §19-36-1 et seq. of this code.

(3) "Crop" means a shrub, vine, tree, seedling, shoot, slip, or other plant capable of producing food, fiber, medicine, nursery stock, floral products, or aesthetic beauty.

(b) Any person who willfully trespasses on the property of another which constitutes an animal or crop facility with the intent to commit larceny, destroy property, or disrupt the operation of the facility is guilty of willful trespass upon an animal or crop facility.

(c) Any person who conspires with one or more persons to violate subsection (b) of this section and commits an overt act in furtherance thereof is guilty of conspiracy to willfully trespass upon an animal or crop facility.

(d) Any person who violates subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 or confined in jail not more than 30 days, or both fined and confined.

(e) Notwithstanding the provisions of subsection (d) of this section, any person convicted of a second or subsequent violation of subsection (b) or a violation of subsection (c) of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(f) Notwithstanding and in addition to any other penalties provided by law, any person who performs, or causes damage to property in the course of, a willful trespass in violation of this section is liable to the owner or operator of the animal or crop facility in the amount of twice any damage caused.

(g) The owner or operator of an animal or crop facility may bring an action for injunctive relief against a person who engages in, or threatens to engage in, conduct that constitutes a violation of this section:

(1) The action may be brought in the circuit court of any county in which any part of the conduct or threatened conduct occurs or is threatened to occur.

(2) The circuit court may grant any appropriate injunctive relief to prevent or abate the conduct or threatened conduct, including a temporary restraining order, preliminary injunction, or permanent injunction.

(3) The circuit court may issue injunctive relief without the owner or operator of an animal or crop facility giving security for its issuance.

The bill (Com. Sub. for Com. Sub. for S. B. 490), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 589, Creating Critical Needs/Failing Systems Sub Account.

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

Com. Sub. for Com. Sub. for Senate Bill 597, Relating to judicial branch members' salaries and pensions.

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

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

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

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

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

Senate Bill 712, Correcting name of Forensic Analysis Laboratory.

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

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

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

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

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

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

ARTICLE 1. WHISTLE-BLOWER LAW.

§6C-1-3. Discriminatory and retaliatory actions against whistle-blowers prohibited; promotion, increased compensation protected.

(a) No employer may discharge, threaten, or otherwise discriminate or retaliate against an employee by changing the employee's compensation, terms, conditions, location, or privileges of employment because the employee, acting on his or her own volition, or a person acting on behalf of or under the direction of the employee, makes a good faith report, or is about to report, verbally or in writing, to the employer or appropriate authority, an instance of wrongdoing or waste.

(b) No employer may discharge, threaten, or otherwise discriminate or retaliate against an employee by changing the employee's compensation, terms, conditions, location, or privileges of employment because the employee is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry held by an appropriate authority or in a court action.

(c) No employer may deny a whistle-blower covered by the civil service system, because of his or her status or actions as a whistle-blower, a promotion or other increase in compensation that the whistle-blower otherwise would have received.

§6C-1-4. Civil action by whistle-blower for violation; limitation on actions; burden of proof; defense; use of evidence in civil service proceeding; grievance action available; other rights and actions not limited.

(a) A person who alleges that he or she is a victim of a violation of this article may bring a civil action in a court of competent jurisdiction for appropriate injunctive relief or damages, or both, within ~~180 days~~ two years after the occurrence of the alleged violation.

(b) An employee alleging a violation of this article must show by a preponderance of the evidence that, prior to the alleged reprisal, the employee, or a person acting on behalf of or under the direction of the employee, had reported or was about to report in good faith, verbally or in writing, an instance of wrongdoing or waste to the employer or an appropriate authority.

(c) It shall be a defense to an action under this section if the defendant proves by a preponderance of the evidence that the action complained of occurred for separate and legitimate reasons, which are not merely pretexts.

(d) An employee covered by the civil service system who contests a civil service action, believing it to be motivated by his the employee having made a disclosure of information, may submit as admissible evidence any or all material relating to the action as whistle-blower and to the resulting alleged reprisal.

(e) Any employee covered by the civil service system who has suffered a retaliatory action as a result of being a whistle-blower may pursue a grievance under the West Virginia Public Employees Grievance Procedure.

(f) Nothing in this article shall impair or limit any other right or legal action of an employee covered by the civil service system.

§6C-1-7. Limitations on scope of construction; protections related to political activity and membership in organization of employee.

(a) The provisions of this article shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing, or inquiry held by an appropriate authority or impair the rights ~~of any person under a collective bargaining or other labor management agreement~~ of any employee covered by the civil service system to be a member of an organization of employees or to refrain from being a member of an organization of employees.

(b) Except when on duty or acting in an official capacity, and except where otherwise prohibited by state or federal law, no employee covered by the civil service system may be prohibited from engaging in political activity or be denied the right to refrain from engaging in political activity.

The bill (Eng. Com. Sub. for H. B. 2497), as amended, was then ordered to third reading.

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

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

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

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

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

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.

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

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

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

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

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

ARTICLE 9B. SEXUAL ASSAULT EXAMINATION NETWORK.

§15-9B-1. Sexual Assault Forensic Examination Commission.

(a) The Sexual Assault Forensic Examination Commission is continued as a subcommittee of the Governor's Committee on Crime, Delinquency and Correction. The purpose of the commission is to establish, manage, and monitor a statewide system to facilitate the timely and efficient collection, submission, testing, retention, tracking, and disposition of forensic evidence in sexual assault cases. As used in this article, the word "commission" means the Sexual Assault Forensic Examination Commission.

(b) Membership on the commission shall consist of the following:

(1) A representative chosen from the membership of the West Virginia Prosecuting Attorneys Association who shall be chosen by the president of that organization;

(2) A representative chosen from the membership of the West Virginia Association of Counties who shall be chosen by the executive director of that organization;

(3) The Commissioner of the Bureau for Public Health, or his or her designee;

(4) A representative from the State Police Forensic Laboratory who shall be chosen by the Superintendent of the West Virginia State Police;

(5) A representative from the membership of the West Virginia Child Advocacy Network;

(6) The President of the West Virginia Hospital Association, or his or her designee;

(7) A representative from the membership of the West Virginia Foundation for Rape and Information Services who shall be chosen by the state coordinator of that organization;

(8) A representative of the West Virginia University Forensic and Investigative Sciences Program who shall be chosen by the director of that program; and

(9) A representative of the Marshall University Forensic Science Center who shall be chosen by the director of that organization.

(c) If any of the representative organizations listed in subsection (b) of this section cease to exist, the director of the Division of ~~Justice and Community~~ Administrative Services, or his or her designee, may select a person from a similar organization.

(d) The director of the Division of Administrative Services, or his or her designee, shall appoint the following additional members of the commission:

(1) An emergency room physician licensed to practice and practicing medicine in this state;

- (2) A victim advocate from a rape crisis center employed in this state;
- (3) A sexual assault nurse examiner who is engaged in an active practice within this state;
- (4) A law-enforcement officer in this state with experience in sexual assault investigations;
- (5) A health care provider with pediatric and child abuse expertise licensed in this state; and
- (6) A director of a child advocacy center licensed and operating in this state.

(e) The commission shall establish mandatory statewide protocols for conducting sexual assault forensic examinations, including designating locations and providers to perform forensic examinations, establishing minimum qualifications and procedures for performing forensic examinations, and establishing protocols to assure the proper collection of evidence.

§15-9B-1a Definitions.

As used in this article:

(1) "Biological evidence" includes a sexual assault forensic examination kit, semen, blood, saliva, hair, skin tissue, or other identified biological material.

(2) "DNA" means deoxyribonucleic acid. DNA is located in the nucleus of cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification.

(3) "Nonreported kit" means a kit collected from an alleged victim who has consented to the collection of the kit, but has not consented to participation in the criminal justice process.

(4) "Sexual assault forensic examination kit" or "kit" means a set of materials, including, but not limited to, swabs and tools for collecting blood samples, clothing, or other materials used to gather forensic evidence from a victim of a reported sexual offense and the evidence obtained with the materials.

(5) "Sexual offense" means any offense or attempted offense in the jurisdiction of the state in which a sexual assault forensic examination kit is collected, including, but not limited to, the following sections:

(A) §61-8-12 of this code;

(B) §61-8A-2 of this code;

(C) §61-8A-4 of this code;

(D) §61-8A-5 of this code;

(E) Any offenses listed in §61-8B-1 et seq. of this code;

(F) Any offenses listed in §61-8C-1 et seq. of this code;

(G) Any offenses listed in §61-8D-1 et seq. of this code.

(6) “Unfounded” means evidence exists that proves no crime occurred or an alleged crime where the alleged victim has recanted.

§15-9B-2. Powers and duties of the commission.

(a) The commission shall facilitate the recruitment and retention of qualified health care providers that are properly qualified to conduct forensic examinations. The commission shall work with county and regional officials to identify areas of greatest need, and develop and implement recruitment and retention programs to help facilitate the effective collection of evidence.

(b) The commission shall authorize minimum training requirements for providers conducting exams and establish a basic standard of care for victims of sexual assault. The commission may adopt necessary and reasonable requirements relating to establishment of a statewide training and forensic examination system, including, but not limited to, developing a data collection system to monitor adherence to established standards, assisting exam providers to receive training and support services, advocating the fair and reasonable reimbursement to exam providers, and facilitating transportation services for victims to get to and from designated exam locations.

(c) The commission shall approve local plans for each area of the state or a county or regional basis. If the commission determines it necessary, it may add or remove a county or portion of a county from a region to assure that all areas of the state are included in an appropriate local plan. Upon the failure of any county or local region to propose a plan, the commission may implement a plan for that county or region.

(d) Once a plan is approved by the commission, it can only be amended or otherwise altered as provided by the rules authorized pursuant to subsection (e) of this section. Designated facilities and organizations providing services shall give the commission 30 days' advance notice of their intent to withdraw from the plan. If there is a change of circumstances that would require a change in a county or regional plan, the members of the local board and the state commission shall be notified.

(e) The commission may adopt and modify bylaws, policies, and procedures for the conduct of its meetings and the operation of the committee. The commission may propose rules for legislative approval, in accordance with §29A-3-1 *et seq.* of this code, that are necessary to implement this article.

(f) The commission shall elect a chair and a vice chair, and any other officers as it considers necessary. Special meetings may be held upon the call of the chair, vice chair, or a majority of the members of the commission. A majority of the members of the commission present in person, by proxy or designation, or by electronic means constitutes a quorum.

(g) Any member appointed to the commission who is a written, designated representative has the full rights of a member, including the right to vote, serve on subcommittees, or perform any other function.

(h) The commission may make recommendations to the Governor's Committee on Crime, Delinquency and Correction for legislation related to the commission's duties and responsibilities, or for research or studies by the Division of ~~Justice and Community~~ Administrative Services, Justice and Community Services Section on topics related to the commission's duties and responsibilities.

(i) On or before December 1, 2020, the Commission shall develop a written plan to:

(1) Prioritize the testing of kits;

(2) Ensure all kits are tested; and;

(3) Establish a system of tracking kits received which shall be available to victims;

(j) The Commission may suggest additional protocols to the superintendent which it determines might improve the efficacy of testing;

(k) Any reports generated by the Commission shall be submitted to the Joint Committee on Government and Finance.

§15-9B-4. Submission, testing, and retention of sexual assault forensic examination kits.

(a) The Sexual Assault Forensic Examination Commission created by §15-9B-1 of this code shall establish a subgroup of persons with subject matter expertise to establish best-practice protocols for the submission, testing, retention, and disposition of sexual assault forensic examination kits collected by health care providers. The commission shall propose rules for legislative approval, in accordance with §29A-3-1 *et seq.* of this code, detailing best-practice protocols. Upon approval of the legislative rules, local sexual assault forensic examination boards shall follow the rules.

(b) Rules promulgated pursuant to subsection(a) of this section shall include:

(1) Time frames for submission of sexual assault forensic examination kits in the possession of law enforcement; and

(2) Protocols for storage of DNA samples and sexual assault forensic examination kits.

(c) The commission may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code in order to implement this section: *Provided*, That no emergency rule may permit the destruction of any DNA evidence.

(d) Upon collection, a sexual assault forensic examination kit shall be submitted for testing by the health care provider to the West Virginia State Police Forensic Laboratory within 30 days of collection or as soon thereafter as practicable. All packaging kits for transmittal and transmittal protocols shall be designed to meet applicable standards for maintaining the efficacy of the sample and chain of custody.

(e) No sexual assault forensic examination kit need be tested where the alleged victim has not consented to the testing, requests that the kit not be tested, where he or she recants as to the allegation of a sexual offense, or the allegation that a sexual offense occurred is determined to be unfounded. If the alleged victim does not consent to law enforcement involvement, the kit shall be designated a nonreported kit and transmitted to the Marshall University Forensic Science Center.

(f) The Commission shall, in cooperation with the West Virginia State Police, develop protocols for storage of previously tested materials to be made available for secondary testing upon a court order to do so.

(g) Biological evidence obtained through tests of a sexual assault forensic examination kit shall not be destroyed:

(1) During the time period of incarceration of a person whose DNA was identified by the use of the biological evidence, or while the person remains under continued supervision, whichever is later in time; or;

(2) For as long as the offense from which the biological evidence is obtained remains unresolved;

(h) Notwithstanding any provision of this code, or any rule or policy promulgated thereunder, upon completion of the processing and testing set forth in subsection (d) of this section, the sexual assault forensic examination kit shall be transmitted to the appropriate investigating local or state law-enforcement agency which shall retain all identified biological material that is secured in connection with any sexual offense or attempted sexual offense for the periods set forth in subsection (g) of this section.

(i) After processing and testing of a sexual assault forensic examination kit, the West Virginia State Police Laboratory shall transmit the sexual assault forensic examination kit to the appropriate investigating state or local law-enforcement agency through any reasonable means sufficient to establish the proper chain of custody, including, but not limited to, use of the United States Postal Service or hand delivery by appropriate personnel or a law-enforcement officer. The appropriate investigating state or local law-enforcement agency shall preserve the sexual assault forensic examination kit for the period of time prescribed in subsection (g) of this section in a condition where any biological evidence is suitable for DNA testing. The lack of timely submission, or the inadvertent loss or destruction of a sexual assault forensic examination kit, standing alone, shall not constitute a bar to the prosecution of a sexual offense.

(j) Sexual assault forensic examination kits retained pursuant to this section shall be made available for DNA testing pursuant to §15-2B-7 of this code or pursuant to an appropriate order of a circuit court of competent jurisdiction for secondary testing.

(k) The appropriate investigating state or local law-enforcement agency responsible for retaining the sexual assault forensic examination kit shall obtain approval from the circuit court of competent jurisdiction for the county in which the crime occurred before disposal of any biological evidence. Before the disposal of any sexual assault forensic examination kit, reasonable efforts shall be made to provide written notice to the victim by the prosecuting attorney of the county in which the crime occurred.

(l) Nothing in this section shall be construed as limiting a state or local law-enforcement agency's discretion concerning the conditions under which biological evidence is retained, preserved, or transferred among different entities if the evidence is retained in a condition that is suitable for DNA testing.

§15-9B-5 Offenses; penalty.

Any person who willfully neglects or refuses to do or perform any duty imposed by this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50 nor more than \$200, or be confined in jail for a period of not more than 60 days, or both fined and confined.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 4476) was reported by the Clerk and adopted:

On page three, section one-a, by striking out all of subdivision (6) and inserting in lieu thereof a new subdivision, designated subdivision (6), to read as follows:

(6) "Unfounded" means evidence developed after reasonable investigation and supported by proper documentation proving no crime occurred or where the alleged victim has recanted.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. H. B. 4476), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

Senate Bill 572, Expiring funds from General Revenue and Lottery Net Profits to various accounts.

Com. Sub. for Senate Bill 717, Relating generally to adult protective services.

Senate Bill 725, Supplemental appropriation to various Department of Education accounts.

Senate Bill 778, Supplemental appropriation expiring funds from State Excess Lottery Revenue Fund to DHHR.

Senate Bill 779, Supplemental appropriation expiring funds in State Excess Lottery Revenue to Department of Veterans' Assistance.

Senate Bill 780, Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS.

And,

Eng. House Bill 4601, Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Roberts.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, unanimous consent being granted, it was ordered that the Journal show had Senator Plymale been present in the chamber on Wednesday, February 5, 2020, he would have voted “yea” on the passage of Engrossed Committee Substitute for House Bill 4091 and Engrossed House Bill 4393 and “nay” on the adoption of Engrossed Committee Substitute for Senate Joint Resolution 7.

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 135 (*Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements*): Senator Maynard;

Senate Bill 319 (*Exempting moneys in WV EMS Retirement Fund from state or municipal tax*): Senator Plymale;

Com. Sub. for Senate Bill 729 (*Relating to awards and disability under Deputy Sheriff Retirement Act*): Senator Hamilton;

Senate Bill 753 (*Authorizing PSC approve plans to install middle-mile broadband fiber*): Senator Hamilton;

Senate Bill 762 (*Creating Preserving Patient Stability Act of 2020*): Senators Lindsay, Baldwin, and Stollings;

Senate Bill 763 (*Improving accountability of opioid manufacturers*): Senator Facemire;

Senate Bill 764 (*Facilitating Business Rapid Response to State Declared Disasters Act of 2020*): Senators Stollings, Cline, and Plymale;

Senate Bill 766 (*Relating to contests of county, district, and municipal elections*): Senator Azinger;

Senate Bill 767 (*Relating to licensure of hospitals*): Senator Tarr;

Senate Bill 768 (*Permitting hospital or state college and university establishing RPN program be eligible for grants under WV Invests Grant Program*): Senators Cline, Stollings, and Hamilton;

Senate Bill 770 (*Revising requirements for post-doctoral training*): Senators Stollings and Rucker;

Senate Bill 774 (*Disposing of unused, unwanted, or expired medications*): Senators Roberts and Stollings;

Senate Bill 775 (*Requiring two water bottle filling stations be included in newly built or renovated schools*): Senator Rucker;

And,

Senate Bill 776 (*Creating ACCELERATE Act*): 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 Concurrent Resolution 30 (*Stanley W. and Evelyn C. See Memorial Bridge*): Senators Lindsay, Unger, and Jeffries;

Senate Concurrent Resolution 31 (*US Marine Corps PFC Manuel P. Markos Memorial Bridge*): Senators Lindsay, Unger, and Jeffries;

Senate Concurrent Resolution 32 (*US Marine Corps PFC James R. "Johnny" Corder Memorial Bridge*): Senators Lindsay, Unger, and Jeffries;

And,

Senate Resolution 40 (*Recognizing WV Gold Star Mothers for dedication and commitment to veterans and families*): Senators Cline, Lindsay, Unger, Facemire, Baldwin, Hamilton, Stollings, and Palumbo.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 12:33 p.m., the Senate adjourned until Monday, February 17, 2020, at 11 a.m.

SENATE CALENDAR

Monday, February 17, 2020
11:00 AM

UNFINISHED BUSINESS

- S. C. R. 25 - Requesting study on impact of future electromagnetic pulse catastrophe **[ADOPT]**
- S. C. R. 33 - US Air Force MSGT Dvon Duncan Memorial Bridge
- S. C. R. 34 - US Army CPL Dane Hampton Hamric Memorial Bridge
- S. C. R. 35 - Veterans Memorial Drive
- S. C. R. 36 - Shafer Brothers US Military Veterans Memorial Bridge
- S. C. R. 37 - Naming intersection in Hanover, Wyoming County, "Godfrey's Corner"
- S. R. 41 - Designating February 17, 2020, as Pancreatic Cancer Day **[ADOPT]**
- S. R. 42 - Commemorating centennial of ratification of 19th Amendment to the US Constitution **[ADOPT]**
- S. R. 43 - Recognizing President George Washington and President Abraham Lincoln on President's Day **[ADOPT]**
- S. R. 44 - Urging Major League Baseball rescind ill-advised proposal that threatens future of professional baseball in WV **[ADOPT]**

THIRD READING

- Eng. Com. Sub. for S. B. 265 - Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program
- Eng. Com. Sub. for S. B. 279 - Requiring dental insurance plans honor assignment made in writing by person covered (original similar to HB4171)
- Eng. Com. Sub. for S. B. 306 - Licensing of drivers utilizing bioptic telescopic devices
- Eng. Com. Sub. for Com. Sub. for S. B. 490 - Relating to criminal offenses against agricultural facilities
- Eng. Com. Sub. for S. B. 589 - Creating Critical Needs/Failing Systems Sub Account
- Eng. Com. Sub. for Com. Sub. for S. B. 597 - Relating to judicial branch members' salaries and pensions
- Eng. Com. Sub. for S. B. 702 - Designating specific grade levels in which nutrition and physical fitness programs are taught
- Eng. S. B. 703 - Increasing earning limit for employees who accept separation incentive
- Eng. Com. Sub. for S. B. 706 - Clarifying duties of law-enforcement training and certification subcommittee
- Eng. S. B. 712 - Correcting name of Forensic Analysis Laboratory

- Eng. 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. 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. 4381 - Relating to lifetime hunting, fishing and trapping licenses for adopted children
- 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. title amend. pending)

SECOND READING

- Com. Sub. for S. B. 285 - Eliminating WV Greyhound Breeding Development Fund
- S. B. 572 - Expiring funds from General Revenue and Lottery Net Profits to various accounts (original similar to HB4488)
- Com. Sub. for S. B. 717 - Relating generally to adult protective services
- S. B. 725 - Supplemental appropriation to various Department of Education accounts
- S. B. 778 - Supplemental appropriation expiring funds from State Excess Lottery Revenue Fund to DHHR
- S. B. 779 - Supplemental appropriation expiring funds in State Excess Lottery Revenue to Department of Veterans' Assistance
- S. B. 780 - Supplemental appropriation by decreasing and adding new appropriation out of Treasury to DMAPS
- 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. H. B. 4601 - Relating to distribution of premium tax proceeds to municipal policemen's and firemen's pension and relief funds

FIRST READING

- Com. Sub. for S. B. 6 - Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights
- Com. Sub. for S. B. 204 - Providing for nonpartisan elections of county prosecuting attorneys
- Com. Sub. for Com. Sub. for S. B. 291 - Requiring PEIA and health insurance providers provide mental health parity
- S. B. 652 - Authorizing School Building Authority promulgate legislative rules
- S. B. 655 - Relating to valuation of natural resources land property

Com. Sub. for S. B. 686 - Exempting contract and common carrier laws for certain vehicles

Com. Sub. for S. B. 719 - Imposing health care-related provider tax on certain health care organizations

S. B. 740 - Clarifying authorized users of Ron Yost Personal Assistance Services Fund

S. B. 747 - Requiring Bureau for Public Health develop Diabetes Action Plan

S. B. 748 - Increasing awareness of palliative care services

S. B. 767 - Relating to licensure of hospitals

Eng. Com. Sub. for H. B. 4026 - Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions - (Com. amend. pending)

Eng. H. B. 4501 - Relating to the ability to refuse offenders for commitment to a jail - (Com. amend. and title amend. pending) (original similar to SB617)