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January 27, 2020  
TWENTIETH DAY



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Monday, January 27, 2020

**TWENTIETH DAY**

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Roger Hanshaw, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Friday, January 24, 2020, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

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

**H. B. 4496**, Removing the specific mandate of the Board of Risk and Insurance Management to purchase liability insurance for the Division of Corrections,

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

And,

**H. B. 4510**, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**H. B. 4120**, Requiring the Commissioner of Highways to develop a formula for allocating road funds among districts,

And,

**H. B. 4353**, Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making,

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

Pursuant to House Rule 80, the Speaker referred H. B. 4120 to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**H. B. 4026**, Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. B. 4026** – “A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating to exempting businesses relating to transporting scrap tires, waste tires, or other used tires to storage, disposal, or recycling locations from certain statutory Public Service Commission provisions; and exempting motor vehicles operated under a contract with the West Virginia Department of Environmental Protection exclusively for cleanup and transportation of waste tires generated from state authorized waste tire remediation or cleanup projects from those statutory Public Service Commission provisions,”

With the recommendation that the committee substitute do pass.

Delegate Rohrbach, Chair of the Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Committee on Prevention and Treatment of Substance Abuse has had under consideration:

**H. B. 4493**, Relating to age verification requirements for delivery sales of tobacco,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Health and Human Resources.

In accordance with the former direction of the Speaker, the bill (H. B. 4493) was referred to the Committee on Health and Human Resources.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

**Com. Sub. for S. B. 144** - “A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to precluding the charge of making a materially false statement in the investigation of a misdemeanor offense serving as the basis for a secured bond or pre-trial incarceration”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

**Com. Sub. for S. B. 311** - “A Bill to amend and reenact §62-4-16 of the Code of West Virginia, 1931, as amended, relating to court-ordered community service; designating supervisor of person sentenced to court-ordered community service; and providing state and political subdivisions

immunity from certain suits from individuals participating in court-ordered community service”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

**S. B. 321** - “A Bill to amend and reenact §11-10-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-18a of said code, all relating to the collection of tax and the priority of distribution of an estate or property in receivership and the liability of the fiduciary”; which was referred to the Committee on the Judiciary.

### **Resolutions Introduced**

Delegates P. Martin and C. Martin offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

**H. C. R. 35** - “Requesting the Division of Highways to name bridge number 21-1-4.66 (21A212), locally known as Horse Run W-Beam Bridge, carrying County Route 1 over Freemans Creek in Lewis County, the ‘U.S. Navy BT 2nd Wade E. Burnside Memorial Bridge’.”

Whereas, Wade E. Burnside was born August 15, 1929, in Lewis County, West Virginia, and except for military service, lived his entire life in Lewis County on the family farm, still owned by family, of his great grandfather, John Lew Burnside. While living on the farm, Wade E. Burnside raised cattle, sheep, hogs and other farm animals, and tended crops including buckwheat and sugar cane; and

Whereas, Wade E. Burnside told friends many stories about working in the corn fields and making molasses at a neighbor’s home; and

Whereas, Wade E. Burnside showed his love for farming and his animals, especially his prize bull, Ferdinand; and

Whereas, Wade enlisted in the U.S. Navy in 1949 and served as a boiler technician during the Korean Conflict on the USS Robert A Owens, a destroyer. He was discharged from the Navy in 1953; and

Whereas, Wade E. Burnside used his boiler technician skills as a civilian working on boilers at Reed Station in Lewis County where he worked as a station engineer; and

Whereas, Wade was instrumental in establishing the Jackson’s Mill Volunteer Fire Department in 1971. Although he did not serve as a firefighter, he recognized the importance of a community department and worked diligently to get one established in his hometown. Two of his grandsons became members of the department; and

Whereas, Wade E. Burnside recognized the importance of being able to compete as an athlete and for several years was a participant in the torch run for the Special Olympics in West Virginia, donating his time and resources to transport the runners carrying the torch. Wade E. Burnside served well his country and his local community; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 21-1-4.66 (21A212), locally known as Horse Run W-Beam Bridge, carrying County Route 1 over Freemans Creek in Lewis County, the "U.S. Navy BT 2nd Wade E. Burnside Memorial Bridge"; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge as the "U.S. Navy BT 2nd Wade E. Burnside Memorial Bridge"; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Westfall, Cadle, Higginbotham and Atkinson offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

**H. C. R. 36** - "Requesting the Division of Highways name bridge number 18-331-1.84, locally known in Cottageville, Jackson County, as the Cottageville concrete I-beam bridge crossing Little Mill Creek, the 'Thomas Brothers Memorial Bridge'."

Whereas, Brothers Marion, James and Alvin Thomas were the sons of Mr. and Mrs. A.H. Thomas. All three sons were born and raised in the community of Mt. Alto, Union District, Jackson County, West Virginia; and

Whereas, The Thomas family is believed to be the first family in the country which had three brothers, Marion, James and Alvin Thomas, serve together in uniform in the United States Army during the Korean War; and

Whereas, Marion H. Thomas, the oldest brother, was born in Ripley, West Virginia, on May 24, 1927. Marion initially served in the United States Navy for 31 months during World War II, then returned to service with the United States Army for the Korean War. He was posted at Fort Sill, Oklahoma, before being deployed to the front line in the Korean War. Marion passed away January 22, 1985; and

Whereas, James H. Thomas, the middle brother, was born in Ripley, West Virginia, on September 27, 1931. James served with United States Air Force in the Korean War and retired from Rockwell International after 39 years of service. He was an avid hunter and fisherman, loved playing tricks on people, especially his neighbors, and enjoyed spending time with his Bassett Hound, Susie. James passed away November 24, 2012; and

Whereas, Alvin W. Thomas, the youngest brother, was born in Leon, West Virginia, on November 19, 1933. Alvin, also a Korean War Veteran, enlisted in the U.S. Army at 17 years of age and was initially posted at Fort Knox, Kentucky. After the war Alvin worked for the West Virginia Department of Highways and retired after 30 years of service. Alvin was a true outdoorsman and enjoyed hunting, fishing and hunting for ginseng. He loved going to yard sales, flea markets and auctions. Alvin passed away November 18, 2017; and

Whereas, It is fitting that a permanent memorial be established to the exemplary lives and service of the Thomas brothers of Jackson County, West Virginia; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 18-331-1.84, locally known in Cottageville, Jackson County, as the Cottageville concrete I-beam bridge crossing Little Mill Creek, the "Thomas Brothers 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 “Thomas Brothers Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Rodighiero, Evans, Tomblin, R. Thompson, Hicks, Worrell, Phillips, Staggers, N. Brown and Wilson offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

**H. C. R. 37** - “Affirming the Legislature’s commitment to the rights of West Virginia citizens under the Second Amendment to the United States Constitution and Section 22 of Article III of the West Virginia Constitution.”

Whereas, The Second Amendment to the United States Constitution, adopted in 1791 as part of the Bill of Rights, protects the inalienable and individual right of the people to keep and bear arms; and

Whereas, The Supreme Court of the United States in *District of Columbia v. Heller*, 554 U.S. 570 (2008), affirmed an individual’s right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home; and

Whereas, The Supreme Court of the United States in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to ‘keep and bear arms,’ as protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment and thereby made applicable to the states; and

Whereas, The Supreme Court of the United States in *United States v. Miller*, 307 U.S. 174 (1939), held that firearms that are part of ordinary military equipment, or with use that could contribute to the common defense, are protected by the Second Amendment; and

Whereas, Section 22 of Article III of the West Virginia Constitution provides that a “person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use”; and

Whereas, Section 10 of Article III of the West Virginia Constitution provides that no ‘person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers’; and

Whereas, Section 6 of Article III of the West Virginia Constitution provides that the “rights of the citizens to be secure in their houses, persons, papers and effects, against unreasonable searches and seizures, shall not be violated”; and

Whereas, Section 9 of Article III of the West Virginia Constitution provides that private property “shall not be taken or damaged for public use, without just compensation”; and

Whereas, The right to keep and bear arms is a fundamental individual right that shall not be infringed; and

Whereas, It is the desire of The Legislature to declare its support of the Second Amendment to the United States Constitution and to the provisions of the West Virginia Constitution which protect citizens’ inalienable and individual right to keep and bear arms; and

Whereas, The legislators each took an oath to support and defend the United States Constitution and the West Virginia Constitution; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature affirms its commitment to citizens' rights under the Second Amendment to the United States Constitution and Section 22 of Article III of the West Virginia Constitution; and further

That, the Legislature opposes any unconstitutional firearms law or any federal or state act, law, order, rule, or regulation, which restricts an individual's constitutional right to keep and bear arms, firearm accessories, or ammunition; and, be it

*Further Resolved*, That the Clerk of the House of Delegates shall forward a copy of this resolution to the Governor, every county commission within the state of West Virginia, and the United States Congress.

Delegates Miller, Westfall, Tomblin, Rodighiero, Hicks, Butler and Linville offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

**H. C. R. 38** - "Requesting the Division of Highways to name a portion of County Route 1/2, Costa Road, near Costa, Boone County, W.Va., beginning at point (38.16421297' N) (-81.71190007W), at the intersection of Secondary Rt. 1, Ashford Nellis Rd., and Costa Rd., County Route 1/2, and ending at point (38.16056707N) (-81.7041669W), traveling approximately .75 miles, the 'U. S. Army PFC Nile C. Ballard Memorial Road'."

Whereas, PFC Nile C. Ballard was born June 5, 1917, in Peytona, Boone County, West Virginia, to Edgar H. and Lillian Ballard; and

Whereas, PFC Ballard was the middle sibling with one older sister, Orpha, and one younger sister, Mildred, and grew up in Costa, Boone County, West Virginia, and graduated from Sherman High School in 1940; and

Whereas, Before enlisting in the United States Army, PFC Ballard worked as a coal miner while living with his parents; and

Whereas, On February 22, 1942, PFC Ballard enlisted in the United States Army, receiving his training at Fort Bragg, North Carolina, where he became a Private First Class; and

Whereas, Upon completion of training, PFC Ballard embarked overseas in June 1942, serving as a medic in the 168th Infantry Regiment, 34<sup>th</sup> Infantry Division; and

Whereas, PFC Ballard participated in the invasion of North Africa and the Tunisia campaign. At that time, less than one year after entering service, the International Committee of the Red Cross reported PFC Nile Ballard had been captured by the enemy February 1, 1943; and

Whereas, PFC Ballard was a prisoner of war for at least 1,043 days, or more than two years and 10 months, one of the longest durations of captivity recorded, and was held prisoner in various locations including Italy, Germany and Russia; and

Whereas, During the course of his three years of service, he managed to escape the enemy five times. At one time PFC Ballard was concealed by an Italian family for eight months, only five miles



from the Allied front, where he was captured the final time and ultimately held as a prisoner of war at Stalag 3B near Fuerstenberg, Prussia, where 4,222 American POWs were held, under control of Nazi Germany; and

Whereas, On April 15, 1945, during an Allied Bombing raid, PFC Ballard was tragically killed, at a camp which was liberated only 20 days later with the surrender of Germany; and

Whereas, Even in the custody of enemy forces, PFC Ballard time and time again showed never-ending bravery, ingenuity and resolve to fight for freedom until he left this earth; and

Whereas, Throughout his brief military career, PFC Ballard received numerous decorations, including an Army Good Conduct Medal and Purple Heart; and

Whereas, At 28 years of age, PFC Ballard was a young man who devoted his life to his country and gave his life fighting for us to keep the freedom that we all enjoy because of men and women like him; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name a portion of County Route 1/2, Costa Road, near Costa, Boone County, W.Va., beginning at point (38.16421297' N) (-81.71190007W), at the intersection of Secondary Rt. 1, Ashford Nellis Rd., and Costa Rd., County Route 1/2, and ending at point (38.16056707N) (-81.7041669W), traveling approximately .75 miles, the "U. S. Army PFC Nile C. Ballard Memorial Road"; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the "U. S. Army PFC Nile C. Ballard Memorial Road"; 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.

Delegates Barnhart, D. Kelly, Azinger, J. Kelly, Anderson and Criss offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

**H. C. R. 39** - "Requesting the Division of Highways name a portion of Ritchie CR 16/35, known locally as School Road, beginning at the junction of WV 16 (MP 0,00) and ending at the junction of US 50 (MP.0.75) Ritchie County, the 'Coach Kenny Wright Road'."

Whereas, Kenny Wright spent 42 years coaching and teaching prior to his retirement in 2001; and

Whereas, He worked six years at Van High School in Boone County, 21 years at Pennsboro High School where he served as athletic director and football and basketball coach, and 15 years at Ritchie County High School as athletic director and football and basketball coach; and

Whereas, Coach Kenny Wright's Ritchie County High School football teams were in the AA playoffs six times; and

Whereas, Coach Kenny Wright received many awards and honors; and

Whereas, Coach Wright was named Athletic Director of the Year in 1989-1990, received the Award of Merit from WVADA in 1998-1999, and was inducted into the first North-South Football Hall of Fame; and

Whereas, The Coach was Director of the North-South All Star Football Game for 19 years, was a member of the Board of Directors of the National Coaches Association for 15 years and received the National Distinguished Service Award from NHSACA in 2001. He was head coach of the North in the North-South Football Game in 1978. He also was a member of the Ohio Valley Hall of Fame committee and served as president of the Ritchie County Teachers Association and the Little Kanawha Conference. He was named Wayne Underwood Coach of the Year in 1969 and 1994, named St. Mary's High School Alumni of the Year in 2005, and was inducted into the Mid Ohio Valley Hall of Fame in 2003; and

Whereas, Coach Kenny Wright began working as Sports Editor of the Pennsboro News in 1976; and

Whereas, Coach Kenny Wright is a member of the United Methodist Church in Pennsboro; and

Whereas, It is fitting that an enduring recognition be established to commemorate Coach Kenny Wright and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of Ritchie CR 16/35, known locally as School Road, beginning at the junction of WV 16 (MP 0,00) and ending at the junction of US 50 (MP.0.75) in Ritchie County, the "Coach Kenny Wright Road"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to erect signs containing bold and prominent letters at both ends identifying the portion of road as the 'Coach Kenny Wright Road'; and, be it

*Further Resolved,* That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegate Hanna offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

**H. C. R. 40** - "Requesting the Division of Highways name bridge number 51-15-8.69 (51A006), (38.57446, -80.45280) locally known as Diana Deck Girder, carrying WV 15 over the Right Fork of Holly River in Webster County, the 'The Hall Brothers Veterans Bridge'."

Whereas, Living in the little village Guardian was Levi M. Hall and Rebecca Perrine Hall and their family of 12 children. When World War II broke out, three sons answered the call to serve their country in the United States Navy; and

Whereas, Walter Ray Hall (1907-1984) was 36 years old when he left his young wife and family and completed basic training at Great Lakes, Illinois. He was transferred to Camp Perry, Virginia, to be deployed, but when it was discovered that he was an educated man and schoolteacher, Walter Hall was instead assigned to educate draftees and bring them up to the necessary fourth-grade level. The war ended just as he was to be shipped out to sea. Following his discharge, Walter Hall returned to Guardian, raised a large family, and continued to serve his state as an educator and school principal in Webster County; and

Whereas, As a 20-year old newlywed, Leonard M. Hall (1922-2011) entered military service at Great Lakes, Illinois. He served aboard the USS New York before being transferred to the USS Franklin, CV-13, serving both in the Atlantic and Pacific oceans. Leonard Hall was awarded a Commendation from the Commander of the Fifth Fleet for distinguished service and meritorious achievement while serving aboard United States aircraft carrier that was striking the main Japanese Islands near Kobe on 19 March, 1945. After his ship was hit in an enemy air attack, there followed a series of violent explosions of ready bombs, rockets and ammunition which penetrated below decks to the engineering spaces and threatened complete destruction of the carrier. In the face of continuing explosions and raging fires, he remained at his post, despite suffocating smoke and intense heat, and effectively carried out the orders of his commanding officer. His courage, loyalty and devotion to duty contributed materially to the saving of the ship and were in keeping with the highest traditions of the United States Naval Service. Leonard Hall remained in Webster County for several years, raised a family of nine children in Preston and Monongalia counties, and worked as a West Virginia coal miner until his retirement; and

Whereas, Millard Ross Hall (1926-1973) was the youngest child of the family, leaving the family farm to join the service at the tender age of 16 to follow in his brothers' footsteps. Millard Ross Hall served in the U.S. Navy, and was stationed in Dutch Harbor, Alaska during Japan's invasion of the Aleutian Islands. He was also stationed in Egypt and served aboard the USS Savannah in the Mediterranean Sea. Millard Ross Hall later raised a family of three sons and further served West Virginia in its coal mines until his death at the young age of 47; and

Whereas, From their humble beginnings, these three young West Virginians answered the call of service to their country in the United States Navy and asked for nothing in return. Thus, it is fitting that an enduring tribute be established to honor the service of the Hall brothers for their contributions for our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 51-15-8.69 (51A006), (38.57446, -80.45280) locally known as Diana Deck Girder, carrying WV 15 over the Right Fork of Holly River in Webster County, "The Hall Brothers Veterans Bridge"; and, be it

*Further Resolved*, That the Commissioner of the Division of Highways is hereby requested to have made and erected signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge as "The Hall Brothers Veterans Bridge"; and, be it

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

And,

Delegates Hartman, N. Brown, C. Thompson and Boggs offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

**H. C. R. 41** - "Requesting the Division of Highways name bridge number 42-33-8.40, locally known as Gum Lick Run Bridge, carrying US Route 48 over Gum Lick Run in Randolph County, the 'U. S. PFC Dennis Warren Baxter, USMC, Memorial Bridge'."

Whereas, Private First Class Dennis Warren Baxter was born on May 18, 1947, in Elkins, WV, and reared and educated in Randolph County, the son of Gorman Baxter of Summit, NJ and mother Doris Houston; and

Whereas, Following the divorce of his parents and his graduation from Elkins High School in 1965, Private First Class Dennis Warren Baxter, while visiting his mother, living in Clarksburg, WV, joined the United States Marine Corps. Then after visiting his father in Summit, NJ., departed for Parris Island, SC and commenced active duty; and

Whereas, In July 1966, PFC Baxter arrived in Vietnam where he served as an assault infantryman with 3rd Platoon, Hotel Company, 2nd Battalion 5th Marines, 1st Marine Division, III Marine Amphibious Force; and

Whereas, PFC Baxter was killed on January 26, 1967, as a result of multiple gunshot wounds after his platoon was attacked by a large North Vietnamese Army force while crossing Song Thu Bon River on 'Operation Tuscaloosa' in Quam Nam Providence, South Vietnam; and

Whereas, PFC Baxter was awarded the Purple Heart Medal, Combat Action Ribbon, the Republic of Vietnam Campaign Medal, the Vietnam Service Medal, the National Defense Medal, Presidential Unit Citation, Vietnam Gallantry Cross Unit Citation, and the Good Conduct Medal; and

Whereas, PFC Baxter's name is listed on the Vietnam Memorial Wall in Washington, D. C., Panel 14E, Line 78; and

Whereas, PFC Baxter was one of several hundred West Virginia residents and one of over 17 Randolph County residents to make the ultimate sacrifice for his county during the Vietnam War. He is buried in the American Legion Little Arlington Cemetery, Randolph County, West Virginia; and

Whereas, PFC Baxter, on the date of death, left his father, Gorman Baxter; his mother, Doris Houston; brother, David Houston; sister, Patricia Roy; grandparents, Mr. and Mrs. Dennis Baxter; and maternal grandmother, Mrs. John Roy of Lumberport, WV; and

Whereas, The ultimate sacrifice of this brave and courageous son of Randolph County, West Virginia, requires us to honor Private First Class Dennis Warren Baxter by ensuring that future generations are aware of his sacrifice in the cause of freedom; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 42-33-8.40, locally known as Gum Lick Run Bridge, carrying US Route 48 over Gum Lick Run in Randolph County, the "U. S. PFC Dennis Warren Baxter, USMC, Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to erect signs containing bold and prominent letters identifying the bridge as the "U. S. PFC Dennis Warren Baxter, USMC, Memorial Bridge"; and, be it

*Further Resolved*, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

**By Delegate Hanshaw (Mr. Speaker):**

**H. J. R. 109** — "Proposing an amendment to the Constitution of the State of West Virginia, amending section nine, article IV thereof, relating to the impeachment of officials; providing that courts have no jurisdiction or authority to stay or enjoin an impeachment proceeding or a trial of impeachment; specifying that rules of practice or procedure relating to impeachment or a trial of impeachment are not subject to judicial review or interpretation; clarifying that a separate vote of two

thirds of the members of the Senate is required to disqualify a person from any office of honor, trust, or profit; designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on the Judiciary.

### **Bills Introduced**

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

**By Delegates Waxman, Steele, Phillips, Miley, Queen, Hamrick, Foster, Bibby, Kump, N. Brown and Fast:**

**H. B. 4544** - "A Bill to amend and reenact §60A-4-401 and §60A-4-406 of the Code of West Virginia, 1931, as amended, all relating to possession of any controlled substance on the premises of or within 200 feet of a public library, and applying a mandatory period of incarceration prior to parole eligibility for persons 18 years old or over who are convicted of distributing a controlled substance within 200 feet of a public library"; to the Committee on the Judiciary.

**By Delegates Westfall, Atkinson, Tomblin, Sypolt, Anderson, Cadle, Hott, Hartman, D. Kelly and Dean:**

**H. B. 4545** - "A Bill to amend and reenact §20-5-2 of the Code of West Virginia, 1931, as amended; relating to the powers of the director with respect to the Section of Parks and Recreation payment for retail licensee purchases from the Alcohol Beverage Control Commissioner"; to the Committee on Agriculture and Natural Resources then the Judiciary.

**By Delegates Atkinson, Bartlett, Cooper, Dean, Ellington, Evans, J. Kelly, Lavender-Bowe, Westfall and Higginbotham:**

**H. B. 4546** - "A Bill to amend and reenact §18-4-2 of the Code of West Virginia, 1931, as amended, relating to tuberculosis testing for school superintendents; removing requirement for biennial screenings; and adding permissive screenings based upon suspicion of exposure"; to the Committee on Education then Health and Human Resources.

**By Delegate Sypolt:**

**H. B. 4547** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §11-14D-1, §11-14D-2 and §11-14D-3; all relating to providing tax credits to expand access to gainful employment by providing vehicles to certain low-income persons; authorizing a tax credit for individual tax payers under certain conditions; authorizing a tax credit to licensed automobile dealers under certain conditions; providing for definitions; establishing the minimum criteria of a qualified charitable organization; establishing the minimum criteria for an eligible vehicle to be used as the basis of the tax credit; requiring that the Tax Commissioner track the number and amount of tax credits claimed; providing that multiple qualified charitable organizations may use a percentage of total allowable tax credits for the year; providing the Tax Commissioner can develop criteria for allocating percentages of the total allowable tax credits to qualified charitable organizations; establishing the maximum amount of tax credits for tax years 2020 through 2021 at \$300,000; establishing the maximum amount of tax credits for subsequent years at \$1 million; and providing for rule-making authority"; to the Committee on Technology and Infrastructure then Finance.

**By Delegates Hamrick, Maynard, Hardy, Bibby, Stagers, Higginbotham, Hanna, Barnhart, Walker, J. Jeffries and Ellington:**

**H. B. 4548** - "A Bill to amend and reenact §8-10-2b of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-3-3c of said code; and to amend and reenact §62-4-17 of said

code, all relating to eliminating the ability of a person's driver's license to be suspended for the failure to pay court fines and costs"; to the Committee on Technology and Infrastructure then the Judiciary.

**By Delegates Cadle, R. Thompson, Atkinson, Anderson, Hartman, Tomblin, Sypolt, Westfall, Hott, Cooper and Dean:**

**H. B. 4549** - "A Bill to amend and reenact §20-2-5g of the Code of West Virginia, 1931, as amended, relating to the use of a crossbow to hunt"; to the Committee on Agriculture and Natural Resources then the Judiciary.

**By Delegates Byrd, Lovejoy, Mandt, Foster, Steele, N. Brown, Bates, Linville and Skaff:**

**H. B. 4550** - "A Bill to amend and reenact §50-1-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §51-1-10a of said code; to amend and reenact §51-2-13 of said code; and to amend and reenact §51-2A-6 of said code, all relating to increasing salaries of magistrates, supreme court justices, circuit court judges, and family court judges pursuant to the 2018 recommendations of the Judicial Compensation Commission"; to the Committee on Finance.

**By Delegates Hill and Pack:**

**H. B. 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"; to the Committee on Health and Human Resources then Finance.

**By Delegate Barnhart:**

**H. B. 4552** - "A Bill to amend and reenact §12-3-10c of the Code of West Virginia, 1931, as amended, relating to state accounting system transaction fees; removing the centralized accounting system transaction fee; establishing a penalty fee for spending units failing to utilize a state purchasing card when the state purchasing card is accepted by a vendor; authorizing the Auditor to waive penalty fees in emergency or other circumstances; creating the Transparency and Oversight Support Fund; and prescribing the manner of billing and collection of penalty fees"; to the Committee on Finance.

**By Delegates Lavender-Bowe, Caputo, S. Brown, Estep-Burton, Staggers, Angelucci, Longstreth, Swartzmiller, Pyles, Zukoff and C. Thompson:**

**H. B. 4553** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-15F-1, §33-15F-2, §33-15F-3, §33-15F-4 and §33-15F-5, all relating to requiring certain health insurance providers to provide fertility services coverage; providing legislative findings; defining terms; providing conditions and activities, infertility and fertility diagnoses and medical procedures to be covered; providing requirements relating to diagnosis, treatment and other related activities; establishing required and prohibited services insurance coverage; and directing the Insurance Commissioner to promulgate legislative rules"; to the Committee on Banking and Insurance then the Judiciary.

**By Delegates Lavender-Bowe, Caputo, Estep-Burton, Staggers, Angelucci, Longstreth, Walker, Barrett, S. Brown, Swartzmiller and Campbell:**

**H. B. 4554** - "A Bill to amend and reenact §5-16-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-16-3ff; and to amend said code by adding thereto a new section, designated §33-24-7u, all relating to insurance coverage for insulin"; to the Committee on Banking and Insurance then Health and Human Resources.

**By Delegates Storch, Cowles, Criss, Ellington, Linville, Maynard, Pack, Rowe, Skaff, Bates and Hartman:**

**H. B. 4555** - "A Bill to amend and reenact §7-18-3 and §7-18-4 of the Code of West Virginia, 1931, as amended, all relating to municipal or county taxation of hotel rooms booked through a marketplace facilitator; defining terms; providing for collection and remittance of the tax imposed by any municipality or county; requiring the marketplace facilitator separately state the tax on all bills, invoices, accounts, books of account, and records relating to occupancy or use of a hotel room; and deeming all taxes collected be held in trust by the marketplace facilitator until remitted"; to the Committee on Government Organization then Finance.

**Special Calendar**

**Third Reading**

**Com. Sub. for H. B. 4011**, Reorganizing various boards and authorities for the licensing and oversight of trades, occupations, and professions; on third reading, coming up in regular order, was read a third time.

Delegate Pushkin moved that the bill be recommitted to the Committee on Government Organization.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 40**), and there were—yeas 38, nays 55, absent and not voting 7, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Lavender-Bowe, Longstreth, Lovejoy, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Caputo, Cowles, Hornbuckle, Mandt, Miley, Storch and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the motion to recommit the bill to the Committee on Government Organization was rejected.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 41**), and there were—yeas 58, nays 35, absent and not voting 7, with the yeas and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Lavender-Bowe, Longstreth, Lovejoy, Miller, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaule, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Caputo, Cowles, Hornbuckle, Mandt, Miley, Storch and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4011) passed.

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

**Com. Sub. for H. B. 4129**, Relating to adoption; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 42**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Cowles, Hornbuckle, Mandt, Miley, Storch and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4129) passed.

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

**H. B. 4146**, Relating to credit for reinsurance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 43**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Cowles, Estep-Burton, Hornbuckle, Mandt, Miley, Storch and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4146) passed.

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

**H. B. 4149**, Relating to insurance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 44**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Cowles, Hornbuckle, Mandt, Miley, Storch and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4149) passed.

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

**H. B. 4166**, Prohibiting certain sex offenders from being in a supervisory position over children; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 45**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:



Absent and Not Voting: Caputo, Cowles, Hornbuckle, Mandt, Miley, Storch and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4166) passed.

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

**H. B. 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 46**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Cowles, Hornbuckle, Mandt, Miley, Storch and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4411) passed.

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

### **Second Reading**

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

**Com. Sub. for H. B. 2497**, Relating to the whistle-blower law,

**H. B. 4089**, Requiring cursive writing to be taught,

**H. B. 4365**, Granting of college credit hours for learning English as a second language,

And,

**H. B. 4480**, Relating to legislative rules for the Higher Education Policy Commission.

### **First Reading**

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

**Com. Sub. for S. B. 323**, Authorizing Department of Administration promulgate legislative rules,

**Com. Sub. for H. B. 2419**, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance,

**Com. Sub. for H. B. 2433**, Modifying the school calendar to begin not earlier than Labor Day and end prior to Memorial Day,

**Com. Sub. for H. B. 2877**, Relating to charging a fee for parking in an accessible parking space bearing the international symbol of access,

And,

**H. B. 4030**, Increasing limit for application for original appointment as a firefighter to 40 years of age for honorably discharged veterans.

### **Leaves of Absence**

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Cowles, Hornbuckle, Mandt, Miley, Storch and Wilson.

### **Miscellaneous Business**

Delegate Espinosa noted to the Clerk that he was absent when the votes were taken on Roll Nos. 36 through 39, and had he been present, he would have voted "Yea" thereon.

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

- Delegate Pushkin for H. B. 4198
- Delegate Fast for H. B. 2164 and H. B. 2892
- Delegate Linville for H. B. 2149
- Delegate Foster for H. B. 4025
- Delegate Lovejoy for H. B. 4542
- Delegate Porterfield for H. B. 4359, H. B. 4466, H. B. 4474 and H. B. 4502
- Delegates Lavender-Bowe and S. Brown for H. B. 4198
- Delegate Espinosa for H. B. 4466, H. B. 4477 and H. B. 4502

Pursuant to House Rule 94b, a form was filed with the Clerk's Office to be removed as a cosponsor of the following:

- Delegate Pushkin for H. B. 4440
- Delegates Graves and Hamrick for H. C. R. 9

At 12:09 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, January 28, 2020.

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**HOUSE OF DELEGATES**  
**STEPHEN J. HARRISON, Clerk**  
**Building 1, Room M-212**  
**1900 Kanawha Blvd., East**  
**Charleston, WV 25305-0470**

## **SPECIAL CALENDAR**

**Tuesday, January 28, 2020**

**21<sup>st</sup> Day**

**11:00 A. M.**

### **THIRD READING**

- Com. Sub. for H. B. 2497 - Relating to the whistle-blower law (SHOTT) (REGULAR)
- H. B. 4089 - Requiring cursive writing to be taught (ELLINGTON) (REGULAR)
- H. B. 4365 - Granting of college credit hours for learning English as a second language (ELLINGTON) (REGULAR)
- H. B. 4480 - Relating to legislative rules for the Higher Education Policy Commission (ELLINGTON) (REGULAR)

### **SECOND READING**

- Com. Sub. for S. B. 323 - Authorizing Department of Administration promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2419 - Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2433 - Modifying the school calendar to begin not earlier than Labor Day and end prior to Memorial Day (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2877 - Relating to charging a fee for parking in an accessible parking space bearing the international symbol of access (SHOTT) (REGULAR)
- H. B. 4030 - Increasing limit for application for original appointment as a firefighter to 40 years of age for honorably discharged veterans (MAYNARD) (REGULAR)

### **FIRST READING**

- Com. Sub. for H. B. 4026 - Exempting businesses transporting scrap tires, waste tires, or other used tires, from certain statutory provisions (HOWELL) (REGULAR)
- H. B. 4353 - Creating a rational nexus requirement between prior criminal conduct and initial licensure decision making (HOWELL) (REGULAR)
- H. B. 4476 - Providing for the timely and efficient collection, submission, testing, retention, and disposition of forensic evidence in sexual assault cases (SHOTT) (REGULAR)

- H. B. 4496 - Removing the specific mandate of the Board of Risk and Insurance Management to purchase liability insurance for the Division of Corrections (SHOTT) (REGULAR)
- H. B. 4501 - Relating to the ability to refuse offenders for commitment to a jail (SHOTT) (REGULAR)
- H. B. 4510 - Prohibiting bodily intrusion by an inmate upon any person at any correctional facility (SHOTT) (REGULAR)

**HOUSE CALENDAR**

**Tuesday, January 28, 2020**

**21<sup>st</sup> Day**

**11:00 A. M.**

**UNFINISHED BUSINESS**

H. R. 3 - Amending the Rules of the House of Delegates, relating to remarks by members

**THIRD READING**

Com. Sub. for H. B. 4096 - Requiring candidates to live in the state or local election district for the office for which they are seeking (SHOTT) (REGULAR)

**SECOND READING**

H. J. R. 102 - Providing the West Virginia Legislature rulemaking oversight of the board of education (SHOTT)

Com. Sub. for H. B. 4094 - Continuing the Foster Care Ombudsman (SHOTT) (REGULAR)

**FIRST READING**

Com. Sub. for H. B. 4388 - Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising (HOWELL) (REGULAR)

**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**TUESDAY, JANUARY 28, 2020**

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**HOUSE CONVENES AT 11:00 A.M.**

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**COMMITTEE ON THE JUDICIARY  
9:00 A.M. – ROOM 418 M**

**COMMITTEE ON FINANCE  
9:00 A.M. – ROOM 462 M**

**COMMITTEE ON RULES  
10:45 A.M. – BEHIND CHAMBER**

**VETERANS AFFAIRS AND HOMELAND SECURITY  
2:00 P.M. – ROOM 215 E**

**PENSIONS AND RETIREMENT  
2:00 P.M. – ROOM 462 M**

**COMMITTEE ON ENERGY  
4:00 P.M. – ROOM 418 M**



HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
Building 1, Room M-212  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0470