

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE  
REGULAR SESSION, 2020  
TWENTY-FOURTH DAY

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Charleston, West Virginia, Friday, January 31, 2020

The Senate met at 11:11 a.m.

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

Prayer was offered by Pastor Mike Harper, North Hills Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Sue Cline, a senator from the ninth district.

Pending the reading of the Journal of Thursday, January 30, 2020,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for House Bill 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.

Referred to the Committee on Government Organization.

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, to take effect from passage, of

**Eng. House Bill 4130**, Relating to competitive bidding for government construction contracts arising out of declared states of emergency.

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 4353**—A Bill to amend and reenact §17A-6-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-23-8 of said code; to amend said code by adding thereto a new section, designated §21-1-6; to amend and reenact §21-2-9 of said code; to amend and reenact §21-5-5c of said code; to amend and reenact §21-14-6 of said code; to amend and reenact §21-16-7 of said code; to amend and reenact §29-22-8 of said code; to amend and reenact §29-22A-7 of said code; to amend and reenact §29-22B-502 of said code; to amend and reenact §29-22C-15 of said code; to amend and reenact §29-22D-10 of said code; to amend and reenact §29-25-13 of said code; to amend and reenact §31-17A-5 of said code; to amend and reenact §32A-2-8 of said code; and to amend and reenact §33-13C-3 and §33-13C-4 of said code; all relating to the use of post-criminal conduct in professional and occupational initial licensure decision making; creating a rational nexus requirement between prior criminal conduct and initial licensure decision making; providing criteria for commissioners or commissions as licensing authorities to determine whether a criminal conviction bears a rational nexus to an occupation; removing offenses described as one of moral turpitude as a basis for license denial unless the underlying crime bears a rational nexus to the occupation or profession requiring licensure; limiting licensure disqualification; and authorizing persons to petition licensure commissioners or commissions as to whether a person's criminal records precludes licensure.

Referred to the Committee on Government Organization.

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 4496**—A Bill to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended, relating to removing the specific mandate of the Board of Risk and Insurance Management to purchase liability insurance for the Division of Corrections and Rehabilitation and its' employees.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4501**—A Bill to repeal §62-6-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §15A-5-9 of said code; and to amend and reenact §62-1C-14 of said code; all relating to the ability to refuse offenders for commitment to a jail and authorizing the acceptance of certain offenders refusing medical treatment.

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 4510**—A Bill to amend and reenact §62-8-1 of the Code of West Virginia, 1931, as amended, relating to prohibiting bodily intrusion by an inmate upon any person at any correctional facility and defining bodily intrusion for purposes of the section.

Referred to the Committee on the Judiciary.

The Senate proceeded 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 Bill 123**, Relating generally to pyramid promotional schemes.

And has amended same.

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

Respectfully submitted,

Chandler Swope,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Economic Development pending.

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

Your Committee on Finance has had under consideration

**Senate Bill 190**, Modifying requirement that racetrack participate in WV Thoroughbred Development Fund by certain date.

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

**Com. Sub. for Senate Bill 190** (originating in the Committee on Finance)—A Bill to amend and reenact §29-22A-10b of the Code of West Virginia, 1931, as amended, relating to modifying the requirement that a racetrack must have participated in the West Virginia Thoroughbred Development Fund since, on, or before January 1, 1999, in order for counties to receive two percent of the net terminal income where the video lottery terminals are located.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator 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 269**, Establishing advisory council on rare diseases.

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

**Com. Sub. for Senate Bill 269** (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 article, designated §16-5AA-1, §16-5AA-2, §16-5AA-3, §16-5AA-4, §16-5AA-5, and §16-5AA-6, all relating to establishing an advisory council on rare diseases; creating the advisory council and its composition; setting terms of members; defining terms; defining duties, subject to the availability of resources; defining powers of the advisory council; setting out particular discretionary duties of the Secretary of the Department of Health and Human Resources; and establishing a special revenue account.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill (Com. Sub. for S. B. 269), under the original double committee reference, was then referred to the Committee on Government Organization.

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

Your Committee on Finance has had under consideration

**Senate Bill 300**, Updating certain terms in WV Corporation Net Income Tax Act.

And reports the same back with the recommendation that it 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 316**, Relating to oil and gas conservation commission membership.

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

**Com. Sub. for Senate Bill 316** (originating in the Committee on Government Organization)—A Bill to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating to membership of the Oil and Gas Conservation Commission; and revising qualifications of appointed public member and of appointed member who serves as chair of commission.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 544**, Authorizing pharmacists and pharmacy interns administer vaccines.

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

**Com. Sub. for Senate Bill 544** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-5-7 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy, the Board of Medicine, and the Board of Osteopathic Medicine to propose joint rules to permit a licensed pharmacist and a pharmacy intern to administer vaccines in accordance with the Center for Disease Control and Prevention's latest definitive treatment guidelines promulgated by the U.S. Department of Health and Human Resources, Centers for Disease Control and Prevention (CDC); and requiring that such joint rules shall permit a licensed pharmacist or pharmacy intern to administer immunizations in accordance with the latest definitive treatment guidelines promulgated by the CDC guidelines.

With the recommendation that the committee substitute 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 Bill 551**, Relating to Water and Wastewater Investment and Infrastructure Improvement Act.

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

**Com. Sub. for Senate Bill 551** (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-12-17 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §24-2-4g, all relating generally to the Water and Wastewater Investment and Infrastructure Improvement Act to encourage

investment in water and wastewater utilities; describing and expanding permissible uses for proceeds of a sale or lease of a municipal utility; making legislative findings on the valuation of utility assets in the context of certain utility acquisitions and the combination or allocation of water and wastewater revenue requirements; making legislative findings on the valuation of utility assets in the context of an acquisition; establishing a range within which a post-acquisition rate-base addition is to be established; providing for ancillary approvals; specifying preliminary agreements and commitments not requiring prior approval; authorizing the Public Service Commission to combine water and wastewater revenue requirements or allocate a portion of wastewater revenue requirement to water customers where a utility provides both water and wastewater service, and where the combination or allocation is reasonable and results in water and wastewater rates that are just and reasonable and based primarily on the cost of providing service; and setting forth defined terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*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 554**, Relating to termination, expiration, or cancellation of oil or natural gas leases.

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

**Com. Sub. for Senate Bill 554** (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-4-9b, relating to the termination, expiration, or cancellation of oil or natural gas leases; providing a requirement for a lessee to execute and deliver to the lessor, within a specified time and without cost, a recordable release for terminated, expired, or cancelled oil or natural gas leases; providing for a procedure by which a lessor may serve notice to a lessee, if a lessee fails to timely provide the release; providing requirements for the content of the notice; requiring a lessee to timely notify the lessor in writing of a dispute regarding the termination, expiration, or cancellation of the oil and natural gas lease; providing for an affidavit of termination, expiration, or cancellation with specified contents; and providing a requirement that county clerks accept and record said affidavit.

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,

Randy E. Smith,  
*Chair.*

The bill (Com. Sub. for S. B. 554), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 560**, Permitting nursing home use trained individuals administer medication.

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

**Com. Sub. for Senate Bill 560** (originating in the Committee on Health and Human Resources)—A Bill to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12, and §30-7D-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-5AA-1, §16-5AA-2, §16-5AA-3, §16-5AA-4, §16-5AA-5, §16-5AA-6, §16-5AA-7, §16-5AA-8, §16-5AA-9, and §16-5AA-10, all relating to permitting a nursing home to use trained individuals to administer medication under the direction of a registered professional nurse; defining terms; authorizing approved medication assistive personnel (AMAP) to administer medication in nursing homes; providing certain exemptions from chapter 30 licensing requirements; establishing requirements for training curricula and national Medication Aide Certification Examination procedures; establishing eligibility criteria; establishing requirements for AMAP to administer medication; requiring nursing homes using AMAP to establish an administrative monitoring system; permitting a registered professional nurse to withdraw authorization for AMAP to administer medications in certain circumstances; allowing certain fees to be collected; providing limits on administration of medication by AMAP; providing that use of AMAP in nursing homes is permissive; and repealing a pilot program designed to monitor the practice of unlicensed personnel administering medication in a nursing home setting.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Eng. House Bill 4007**, Born-Alive Abortion Survivors Protection Act.

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 the Judiciary.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

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 4042**, Requiring agencies exempt from some or all of state purchasing requirements to adopt procedural rules.

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

Respectfully submitted,

Mark R. Maynard,  
*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

**Eng. Com. Sub. for House Bill 4091**, Allowing for expedited oil and gas well permitting upon payment of applicable expedited fees.

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

Respectfully submitted,

Randy E. Smith,  
*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 4393**, Relating to making suffocation and asphyxiation crimes.

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 Senator Cline:**

**Senate Bill 669**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-18-1, §20-18-2, §20-18-3, §20-18-4, §20-18-5, §20-18-6, §20-18-7, §20-18-8, §20-18-9, §20-18-10, §20-18-11, §20-18-12, and §20-18-13, all relating to the West Virginia Greenways and Trails Act; providing limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails; providing for the establishment of the West Virginia Greenways and Trails System, Greenways, and Trails Program and Greenways and Trails Council; allowing sponsorship of state greenways and trails and acquisition of land; establishing role of Division of Natural Resources; requiring coordination with Department of Transportation and the West Virginia Recreational Trails Advisory Board; authorizing rules; and encouraging recreational opportunities on mined lands.

Referred to the Committee on Natural Resources; and then to the Committee on Finance.

**By Senator Weld:**

**Senate Bill 670**—A Bill to amend and reenact §56-3-33 of the Code of West Virginia, 1931, as amended, relating to amending the manner of service of process on nonresident persons or corporate entities.

Referred to the Committee on the Judiciary.

**By Senator Weld:**

**Senate Bill 671**—A Bill to amend and reenact §16-2-17 of the Code of West Virginia, 1931, as amended, relating to temporary food service permits issued by a local or county health department; permitting in-state and out-of-state vendors to use the same permitting process; removing the restriction that the permit be limited to nonpotentially hazardous foods; and decreasing notification time frame.

Referred to the Committee on Health and Human Resources.

**By Senators Jeffries, Beach, Clements, and Sypolt:**

**Senate Bill 672**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to creating a special registration plate to recognize Girl Scouts.

Referred to the Committee on Transportation and Infrastructure.

**By Senator Sypolt:**

**Senate Bill 673**—A Bill to amend and reenact §5-10-22l of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7A-26w of said code, all relating to increasing the monthly retirement annuity by \$2 for certain retirants with 20 or more years of credited service.

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

**By Senator Maynard:**

**Senate Bill 674**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-4-56, relating to permitting the Commissioner of the Division of Highways to purchase hardware items and equipment from a local seller rather than the holder of a state contract if the cost of the item or equipment is less than the cost from the holder of the state contract.

Referred to the Committee on Government Organization.

**By Senator Stollings:**

**Senate Bill 675**—A Bill supplementing and amending by increasing and decreasing existing items of appropriations of public moneys out of the Treasury in the State Fund, General Revenue, from within the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2020, organization 0511, by supplementing, amending, increasing, and decreasing items of appropriation for the fiscal year ending June 30, 2020.

Referred to the Committee on Finance.

**By Senators Mann, Baldwin, Jeffries, Takubo, and Weld:**

**Senate Bill 676**—A Bill to amend and reenact §15-2C-6 of the Code of West Virginia, 1931, as amended, relating to permitting fees from the Central Abuse Registry to be used for costs relating to information technology support and infrastructure; and permitting the term “criminal recordingkeeping” to include data creation.

Referred to the Committee on Government Organization.

**By Senator Maynard:**

**Senate Bill 677**—A Bill to amend and reenact §14-2-13 of the Code of West Virginia, 1931, as amended, relating to expanding the jurisdiction of the Legislative Claims Commission to include claims for property damage caused by certain wildlife.

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

**By Senators Clements, Baldwin, Jeffries, Pitsenbarger, Roberts, and Trump:**

**Senate Bill 678**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-5-10, relating to the expungement of fines and fees for persons who successfully complete the Getting Over Addicted Lifestyles Successfully Program in jail for the purpose of obtaining a driver’s license.

Referred to the Committee on the Judiciary.

**By Senator Ihlenfeld:**

**Senate Bill 679**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-9g; and to amend said code by adding four new sections, designated §22-11-31, §22-11-32, §22-11-33, and §22-11-34, all relating to creating the Clean Drinking Water Act of 2020; directing the Secretary of the Department of Health and Human Resources to propose maximum contaminant levels or treatment techniques for certain PFAS pollutants; creating the West Virginia PFAS Action Response Team to act as an advisory body within the Department of Environmental Protection; setting forth the team’s responsibilities and powers; requiring facilities using certain PFAS chemicals to report their use; setting forth other duties of those facilities; requiring the Secretary of the Department of Environmental Protection to propose updates to the numeric Public Water Supply human health criteria; and requiring rulemaking.

Referred to the Committee on the Judiciary.

**By Senators Palumbo, Hamilton, Jeffries, Lindsay, Pitsenbarger, and Takubo:**

**Senate Bill 680**—A Bill to amend and reenact §18-2E-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18C-9-3 of said code, all relating to qualifying not-for-

profit private baccalaureate institutions for the Advanced Career Education programs and the West Virginia Invests Grant Program.

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

**By Senator Trump:**

**Senate Bill 681**—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, §33-15F-5, §33-15F-6, §33-15F-7, and §33-15F-8, all relating to creating the Persistent Symptoms Act; making findings; setting forth the rights of health insurance providers and patients; establishing the access to approved and indicated or investigational drugs, biological products, and devices for patients who suffer from persistent symptoms; limiting causes of action; setting forth the effect on health care coverage; and defining terms.

Referred to the Committee on Health and Human Resources.

**By Senator Tarr:**

**Senate Bill 682**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-11-1, §9-11-2, §9-11-3, §9-11-4, §9-11-5, §9-11-6, and §9-11-7, all relating to improving the quality of West Virginia's Medicaid program; establishing a pilot program to implement smart health cards for the transmission of health care-related information for certain Medicaid beneficiaries between the Department of Health and Human Resources and public and private health care providers; defining terms; establishing the Smart Health Card Medicaid Pilot Program; providing implementation date for pilot program; outlining goals of the pilot program; setting forth the requirements for establishing the pilot program; setting forth cybersecurity procurement requirements for vendors who provide technology and services relating to the pilot program; setting forth the requirements of the smart health card; restricting disclosure of health information to the same extent as federal HIPAA requirements; establishing annual reporting requirement to the Legislative Committee on Health and Human Resources Accountability; and providing for a sunset date of June 30, 2024.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

**By Senators Sypolt, Blair, Clements, Maynard, Pitsenbarger, Roberts, and Trump:**

**Senate Bill 683**—A Bill to repeal §29-3-1, §29-3-2, §29-3-3, §29-3-4, §29-3-5, §29-3-5a, §29-3-5b, §29-3-5c, §29-3-5d, §29-3-5e, §29-3-5f, §29-3-6, §29-3-7, §29-3-8, §29-3-9, §29-3-10, §29-3-11, §29-3-12, §29-3-12a, §29-3-12b, §29-3-13, §29-3-14, §29-3-15, §29-3-16, §29-3-16a, §29-3-16b, §29-3-16c, §29-3-16d, §29-3-17, §29-3-18, §29-3-19, §29-3-21, §29-3-22, §29-3-27, §29-3-28, §29-3-29, §29-3-30, and §29-3-32 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, §15A-9-7, §15A-9-8, §15A-9-9, §15A-9-10, §15A-9-11, §15A-9-12, §15A-9-13, §15A-9-14, §15A-9-15, §15A-9-16, §15A-9-17, §15A-9-18, §15A-9-19, §15A-9-20, §15A-9-21, §15A-9-22, §15A-9-23, §15A-9-24, and §15A-9-25; and to amend said code by adding thereto a new article, designated §15A-10-1, §15A-10-2, §15A-10-3, §15A-10-4, §15A-10-5, §15A-10-6, §15A-10-7, §15A-10-8, §15A-10-9, §15A-10-10, and §15A-10-11, all relating to separating the Fire Marshal from the Fire Commission; transferring the Fire Marshal from the State Fire Commission to the Department of Military Affairs and Public Safety; setting forth the appointment process for the Fire Marshal; setting forth qualifications, salary, and responsibilities of the State Fire Marshal; allowing the Fire Marshal to hire employees; allowing the Fire Marshal to hire a deputy, and setting the qualifications of the deputy; requiring new Fire Marshal 1, 2, 3,

and deputies to become certified law-enforcement officers; setting forth powers and duties of the State Fire Marshal; setting forth additional powers and duties relating to law enforcement, statewide contracts, penalties, and authority to carry firearms; creating enforcement standards for the state building and fire codes; creating rule-making authority; allowing the appointment of advisory boards; setting forth the responsibilities of insurance companies in fire loss investigations; allowing the Fire Marshal to set fees; requiring an annual report; setting forth maintenance of fire hazard standards; allowing orders for repair or demolition; allowing orders to contain notice to comply and a right to appeal; providing standards for service of repair or demolition orders; clarifying who is responsible for cost of work or demolition; allowing an action to recover cost; requiring smoke detectors in one and two-family dwellings; requiring carbon monoxide detectors in residential units, schools, and day care facilities and setting forth penalties; allowing the use of live trees in public buildings under certain circumstances; setting forth safety standards for bed and breakfast establishments; setting forth standards for installation of propane gas systems; setting forth parameters to abate fire hazards; setting forth license denial, limitation, suspension, and revocation standards; creating an independent informal dispute process for licensees upon appeal; establishing demonstration building and equipment standards for educational instruction for fire protection and prevention and abatement; creating crime of false alarm of fires and setting forth penalties; creating tax on insurance companies; setting forth general criminal penalties for violation; setting forth that the parts of the article are construed liberally; creating a severability section; allowing the Fire Marshal to award service weapons to retiring employees under certain conditions; allowing the Fire Marshal to dispose of unused firearms; continuing the Fire Commission, setting forth composition, qualifications, appointment, terms of office, removal, vacancies, and compensation and expenses; establishing chairperson, vice chairperson, meeting, and quorum requirements; creating rule-making authority for Fire Code, Building Code, and general rule-making authority; continuing the Hazardous Response Training Program; requiring public hearing and notice prior to promulgation of Fire Code; setting forth commission's powers and conduct of public hearing; setting forth commission's powers, duties, and authority; setting forth authority over volunteer fire department training, and equipment, and creating rule-making authority for such; continuing courtesy certification of firefighters in surrounding states to serve as volunteer firefighters; and continuing the Fire Service Equipment and Training Fund.

Referred to the Committee on Government Organization.

Senator Weld offered the following resolution:

**Senate Concurrent Resolution 16**—Requesting the Division of Highways name bridge number 35-43-0.01 (35A054), locally known as Middle Creek School Bridge, carrying CR 43 over Middle Wheeling Creek in Ohio County, the “Firefighter Marvin Layton Hughes Memorial Bridge”.

Whereas, Marvin Layton Hughes was born on October 12, 1924, in Dallas, Marshall County, West Virginia; and

Whereas, Marvin Layton Hughes took a job at the railroad during World War II, to do his part getting coal to the steel mills for the war effort. He later worked as a security guard at the Division of Highways in Triadelphia, West Virginia; and

Whereas, Marvin Layton Hughes was known in Dallas, West Virginia, as the “unofficial mayor” and served as a member of the Dallas Volunteer Fire Department for 44 years prior to his death on July 27, 1998; and

Whereas, Marvin Layton Hughes loved serving his community and walked the roads picking up trash, in no official capacity, just for the beautification of his community; and

Whereas, Marvin Layton Hughes raised two daughters, who followed his example of community service, and are part of the Dallas Volunteer Fire Department; and

Whereas, It is fitting that an enduring memorial be established to commemorate Marvin Layton Hughes and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 35-43-0.01 (35A054), locally known as Middle Creek School Bridge, carrying CR 43 over Middle Wheeling Creek in Ohio County, the “Firefighter Marvin Layton Hughes 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 “Firefighter Marvin Layton Hughes 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 Ihlenfeld offered the following resolution:

**Senate Concurrent Resolution 17**—Requesting the Division of Highways name bridge number: 35-43-0.01 (35A054), locally known as Middle Creek School Bridge, carrying CR 43 over Middle Wheeling Creek in Ohio County, the “U.S.M.C. PFC Manuel P. Markos Memorial Bridge”.

Whereas, Manuel P. Markos was born in Utah on October 27, 1924, the second child of Paul S. Markos (Markakis) and Diamanto Tsuhlares Markos of Short Creek, West Virginia; and

Whereas, Growing up in Short Creek, West Virginia, Manuel P. Markos had three siblings: Nick P. Markos, born on May 9, 1923, who died on July 17, 2002; Stella M. Markos (Sfamenos), born on August 23, 1929, who still resides in Short Creek; and Goldie M. Markos (Basil), born on February 6, 1937, who also still resides in Short Creek; and

Whereas, Manuel P. Markos’ parents immigrated to the United States through Ellis Island from the village of Hania on the island of Crete, Greece; and

Whereas, Manuel P. Markos’ older brother, Nick, was a member of the U.S. Army and fought in the Rhineland Campaign in central Europe in World War II, and received an honorable discharge following the war; and

Whereas, Manuel P. Markos attended school at Beech Bottom Elementary and Junior High and then Wellsburg High School. He worked at Markos Grocery Store, the family business, while attending school; and

Whereas, Manuel P. Markos left Wellsburg High School during his senior year to enlist in the U.S. Marine Corps. He entered active service, was assigned to the Fifth Division, and had the

rank of PFC. PFC Manuel P. Markos was killed in action on February 19, 1945, the day that the U.S.M.C. invaded the Japanese island of Iwo Jima. The battle of Iwo Jima endured from February 19 until March 26, 1945; and

Whereas, Religion was an important part of PFC Manuel P. Markos' life. He was a life-time member of Saint John the Divine Greek Orthodox Church in Wheeling, West Virginia, where he was baptized and later, when his remains were returned from Iwo Jima, had his funeral. He is buried at Greenwood Cemetery in Wheeling, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S.M.C. PFC Manuel P. Markos and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 35-43-0.01 (35A054), locally known as Middle Creek School Bridge, carrying CR 43 over Middle Wheeling Creek in Ohio County, the "U.S.M.C. PFC Manuel P. Markos 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 M.C. PFC Manuel P. Markos Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 15, Kaylee Grace Whetzel 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 24, Congratulating Lukas and Gabby Newcomer, of Noble Farms, Inc., for winning Conservation Farm of Year Award.**

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

At the request of Senator Pitsenbarger, 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 Trump demanded the yeas and nays.

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

The nays were: None.

Absent: Blair, Mann, and Stollings—3.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 24) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Pitsenbarger, Smith, Maynard, Sypolt, Baldwin, Romano, and Trump regarding the adoption of Senate Resolution 24 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:36 a.m., the Senate recessed to present Senate Resolution 24.

The Senate reconvened at 11:40 a.m. and resumed business under the seventh order.

**Senate Resolution 25**, Congratulating George Washington High School Patriots boys' tennis team for winning 2019 Class AAA State Tennis Championship.

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

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

**Senate Resolution 26**, Congratulating George Washington High School Patriots volleyball team for winning 2019 Class AAA State Volleyball Championship.

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

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

**Senate Resolution 27**, Congratulating George Washington High School Patriots boys' soccer team for winning 2019 Class AAA State Championship.

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

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

On motion of Senator Takubo, at 11:47 a.m., the Senate recessed to present Senate Resolutions 25, 26, and 27.

The Senate reconvened at 11:54 a.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 449**, Authorizing Department of Commerce promulgate legislative rules.

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, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Blair, Mann, and Stollings—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. 449) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Blair, Mann, and Stollings—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 449) takes effect from passage.

*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 550**, Permitting leashed dogs track mortally wounded deer or bear.

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, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Sypolt—1.

Absent: Blair, Mann, and Stollings—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. 550) passed with its title.

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

**Eng. Senate Bill 642**, Correcting incorrect code citation in WV Consumer Credit and Protection Act.

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, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo,



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

The nays were: None.

Absent: Blair, Mann, and Stollings—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 642) 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 4103**, Relating to office of drug control policy.

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

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

The Senate proceeded to the ninth order of business.

**Senate Bill 281**, Removing residency requirement for persons applying for reappointment to municipal police dept.

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 511**, Regulating pawnbrokers.

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 534**, Removing workers' compensation exclusion for temporary legislative employees.

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 547**, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation.

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

**Senate Bill 552**, Requiring contracts of \$25,000 or more be competitively bid.

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

The Senate proceeded to the tenth order of business.

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

**Com. Sub. for Senate Bill 240**, Requiring hotels and restaurants secure manhole covers of certain grease traps.

**Com. Sub. for Senate Bill 267**, Creating offenses of conversion of leased or rented personal property.

**Com. Sub. for Senate Bill 308**, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation.

**Senate Bill 510**, Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties.

And,

**Com. Sub. for Senate Joint Resolution 7**, Preserving the Separation of Powers Amendment.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Roberts.

The Senate proceeded to the thirteenth order of business.

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

**Senate Bill 538** (*Repealing excise tax on soft drinks*): 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 bills:

**Com. Sub. for Senate Bill 240** (*Requiring hotels and restaurants secure manhole covers of certain grease traps*): Senator Cline;

**Com. Sub. for Senate Bill 308** (*Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation*): Senator Jeffries;

**Com. Sub. for Senate Bill 551** (*Relating to Water and Wastewater Investment and Infrastructure Improvement Act*): Senator Woelfel;

**Senate Bill 611** (*Permitting third-party ownership of renewable and alternative energy generating facilities*): Senator Roberts;

**Senate Bill 623** (*Allowing noncitizen of US be eligible for teaching certificate*): Senator Cline;

**Senate Bill 657** (*Allowing designation of tourism development districts*): Senators Cline and Sypolt;

**Senate Bill 659** (*Prohibiting insurance companies from using credit ratings to establish home and auto premiums*): Senators Beach and Cline;

**Senate Bill 661** (*Replacing minimum minutes of instructional time required per day*): Senator Cline;

**Senate Bill 663** (*Exempting certain hygiene products from sales tax*): Senator Stollings;

**Senate Bill 665** (*Requiring persons convicted of certain crimes on or after March 8, 1995, provide DNA samples*): Senator Sypolt;

**Senate Bill 666** (*Improving quality of WV Medicaid Program*): Senator Sypolt;

And,

**Senate Bill 667** (*Modifying composition of Commission on Holocaust Education*): Senator Plymale.

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

**Com. Sub. for Senate Joint Resolution 7** (*Preserving the Separation of Powers Amendment*): Senators Azinger, Cline, and Maynard;

**Senate Concurrent Resolution 15** (*Kaylee Grace Whetzel Memorial Bridge*): Senators Beach, Lindsay, and Stollings;

**Senate Resolution 24** (*Congratulating Lukas and Gabby Newcomer, of Noble Farms, Inc., for winning Conservation Farm of Year Award*): Senators Beach, Hamilton, Lindsay, Plymale, and Stollings;

**Senate Resolution 25** (*Congratulating George Washington High School Patriots boys' tennis team for winning 2019 Class AAA State Tennis Championship*): Senators Beach, Lindsay, Plymale, Stollings, and Sypolt;

**Senate Resolution 26** (*Congratulating George Washington High School Patriots volleyball team for winning 2019 Class AAA State Volleyball Championship*): Senators Beach, Lindsay, Plymale, Stollings, and Sypolt;

And,

**Senate Resolution 27** (*Congratulating George Washington High School Patriots boys' soccer team for winning 2019 Class AAA State Championship*): Senators Beach, Lindsay, Plymale, Stollings, and Sypolt.

On motion of Senator Takubo, at 12:12 p.m., the Senate adjourned until Monday, February 3, 2020, at 11 a.m.

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## **SENATE CALENDAR**

**Monday, February 03, 2020  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 16 - Firefighter Marvin Layton Hughes Memorial Bridge

S. C. R. 17 - USMC PFC Manuel P. Markos Memorial Bridge

### **THIRD READING**

Eng. S. B. 281 - Removing residency requirement for persons applying for reappointment to municipal police dept

Eng. Com. Sub. for S. B. 534 - Removing workers' compensation exclusion for temporary legislative employees

Eng. Com. Sub. for S. B. 547 - Relating to employer testing, notice, termination, and forfeiture of unemployment compensation

Eng. S. B. 552 - Requiring contracts of \$25,000 or more be competitively bid

Eng. H. B. 4103 - Relating to office of drug control policy

### **SECOND READING**

Com. Sub. for S. B. 240 - Requiring hotels and restaurants secure manhole covers of certain grease traps

Com. Sub. for S. B. 267 - Creating offenses of conversion of leased or rented personal property

Com. Sub. for S. B. 308 - Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation

S. B. 510 - Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties

Com. Sub. for S. B. 511 - Regulating pawnbrokers

Com. Sub. for S. J. R. 7 - Preserving the Separation of Powers Amendment

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

### **FIRST READING**

Com. Sub. for S. B. 190 - Modifying requirement that racetrack participate in WV Thoroughbred Development Fund by certain date

S. B. 300 - Updating certain terms in WV Corporation Net Income Tax Act

Com. Sub. for S. B. 316 - Relating to oil and gas conservation commission membership

Com. Sub. for S. B. 544 - Authorizing pharmacists and pharmacy interns administer vaccines

Com. Sub. for S. B. 551 - Relating to Water and Wastewater Investment and Infrastructure Improvement Act

Com. Sub. for S. B. 560 - Permitting nursing home use trained individuals administer medication

Eng. Com. Sub. for H. B. 4042 - Requiring agencies exempt from some or all of state purchasing requirements to adopt procedural rules

Eng. Com. Sub. for H. B. 4091 - Allowing for expedited oil and gas well permitting upon payment of applicable expedited fees

Eng. H. B. 4393 - Relating to making suffocation and asphyxiation crimes - (Com. title amend. pending)