

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE  
REGULAR SESSION, 2020  
FORTY-THIRD DAY

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Charleston, West Virginia, Wednesday, February 19, 2020

The Senate met at 11:14 a.m.

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

Prayer was offered by the Reverend Jim Butcher, Madison Baptist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Randy E. Smith, a senator from the fourteenth district.

Pending the reading of the Journal of Tuesday, February 18, 2020,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 560**, Permitting nursing home use trained individuals administer medication.

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

**Eng. Senate Bill 620**, Authorizing Division of Corrections and Rehabilitation approve home plans for inmates.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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

## **ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-13. Powers and duties of board; eligibility for parole; procedure for granting parole.**

(a) The Parole Board, whenever it is of the opinion that the best interests of the state and of the inmate will be served, and subject to the limitations provided in this section, shall release any inmate on parole for terms and upon conditions provided by this article.

(b) Any inmate of a state correctional institution is eligible for parole if he or she:

(1) (A) Has served the minimum term of his or her indeterminate sentence or has served one fourth of his or her definite term sentence, as the case may be; or

(B) He or she has applied for and been accepted by the Commissioner of Corrections and Rehabilitation into an accelerated parole program. To be eligible to participate in an accelerated parole program, the commissioner must determine that the inmate:

(i) Does not have a prior criminal conviction for a felony crime of violence against the person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;

(ii) Is not serving a sentence for a crime of violence against the person, or more than one felony for a controlled substance offense for which the inmate is serving a consecutive sentence, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child; and

(iii) Has successfully completed a rehabilitation treatment program created with the assistance of a standardized risk and needs assessment.

(C) Notwithstanding any provision of this code to the contrary, any inmate who committed, or attempted to commit, a felony with the use, presentment, or brandishing of a firearm is not eligible for parole prior to serving a minimum of three years of his or her sentence or the maximum sentence imposed by the court, whichever is less: *Provided*, That any inmate who committed, or attempted to commit, any violation of §61-2-12 of this code, with the use, presentment, or brandishing of a firearm, is not eligible for parole prior to serving a minimum of five years of his or her sentence or one third of his or her definite term sentence, whichever is greater. Nothing in this paragraph applies to an accessory before the fact or a principal in the second degree who has been convicted as if he or she were a principal in the first degree if, in the commission of or in the attempted commission of the felony, only the principal in the first degree used, presented, or brandished a firearm. An inmate is not ineligible for parole under the provisions of this paragraph because of the commission or attempted commission of a felony with the use, presentment, or brandishing of a firearm unless that fact is clearly stated and included in the indictment or presentment by which the person was charged and was either: (i) Found guilty by the court at the time of trial upon a plea of guilty or nolo contendere; (ii) found guilty by the jury upon submitting to the jury a special interrogatory for such purpose if the matter was tried before a jury; or (iii) found guilty by the court if the matter was tried by the court without a jury.

(D) The amendments to this subsection adopted in the year 1981:

(i) Apply to all applicable offenses occurring on or after August 1 of that year;

(ii) Apply with respect to the contents of any indictment or presentment returned on or after August 1 of that year irrespective of when the offense occurred;

(iii) Apply with respect to the submission of a special interrogatory to the jury and the finding to be made thereon in any case submitted to the jury on or after August 1 of that year or to the requisite findings of the court upon a plea of guilty or in any case tried without a jury: *Provided*, That the state gives notice in writing of its intent to seek such finding by the jury or court, as the case may be. The notice shall state with particularity the grounds upon which the finding will be sought as fully as the grounds are otherwise required to be stated in an indictment, unless the grounds upon which the finding will be sought are alleged in the indictment or presentment upon which the matter is being tried;

(iv) Does not apply with respect to cases not affected by the amendments and in those cases the prior provisions of this section apply and are construed without reference to the amendments; and

(v) Insofar as the amendments relate to mandatory sentences restricting the eligibility for parole, all matters requiring a mandatory sentence shall be proved beyond a reasonable doubt in all cases tried by the jury or the court.

(E) As used in this section, "felony crime of violence against the person" means felony offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(F) As used in this section, "felony offense where the victim was a minor child" means any felony crime of violence against the person and any felony violation set forth in §61-8-1 *et seq.*, §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(G) For the purpose of this section, the term "firearm" means any instrument which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, gunpowder, or any other similar means;

(2) Is not in punitive segregation or administrative segregation as a result of disciplinary action;

(3) Has prepared and submitted to the Parole Board a written parole release plan setting forth proposed plans for his or her place of residence, employment and, if appropriate, his or her plans regarding education and post-release counseling and treatment which has been approved by the Division of Corrections and Rehabilitation: *Provided*, That an inmate's application for parole may be considered by the board without the prior submission of a home plan, but the inmate shall have a home plan approved by the ~~board~~ division prior to his or her release on parole. The Commissioner of the Division of Corrections and Rehabilitation, or his or her designee, shall review and investigate the plan and provide ~~recommendations~~ findings to the board as to the suitability of the plan: *Provided, however*, That in cases in which there is a mandatory 30-day notification period required prior to the release of the inmate, pursuant to §62-12-23 of this code, the board may conduct an initial interview and deny parole without requiring the development of a plan. In the event the board believes parole should be granted, it may defer a final decision pending completion of an investigation and receipt of ~~recommendations~~ the commissioner's

~~findings.~~ Upon receipt of the plan, together with the investigation and ~~recommendation findings,~~ the board, through a panel, shall make a final decision regarding the granting or denial of parole; and

(4) Has satisfied the board that if released on parole he or she will not constitute a danger to the community.

(c) Except in the case of an inmate serving a life sentence, a person who has been previously twice convicted of a felony may not be released on parole until he or she has served the minimum term provided by law for the crime for which he or she was convicted. An inmate sentenced for life may not be paroled until he or she has served 10 years, and an inmate sentenced for life who has been previously twice convicted of a felony may not be paroled until he or she has served 15 years: *Provided*, That an inmate convicted of first degree murder for an offense committed on or after June 10, 1994, is not eligible for parole until he or she has served 15 years.

(d) In the case of an inmate sentenced to a state correctional facility regardless of the inmate's place of detention or incarceration, the Parole Board, as soon as that inmate becomes eligible, shall consider the advisability of his or her release on parole.

(e) If, upon consideration, parole is denied, the board shall promptly notify the inmate of the denial. The board shall, at the time of denial, notify the inmate of the month and year he or she may apply for reconsideration and review. The board shall at least once a year reconsider and review the case of every inmate who was denied parole and who is still eligible: *Provided*, That the board may reconsider and review parole eligibility any time within three years following the denial of parole of an inmate serving a life sentence with the possibility of parole.

(f) Any inmate in the custody of the commissioner for service of a sentence who reaches parole eligibility is entitled to a timely parole hearing without regard to the location in which he or she is housed.

(g) The board shall, with the approval of the Governor, adopt rules governing the procedure in the granting of parole. No provision of this article and none of the rules adopted under this article are intended or may be construed to contravene, limit, or otherwise interfere with or affect the authority of the Governor to grant pardons and reprieves, commute sentences, remit fines, or otherwise exercise his or her constitutional powers of executive clemency.

(h) (1) The Division of Corrections and Rehabilitation shall promulgate policies and procedures for developing a rehabilitation treatment plan created with the assistance of a standardized risk and needs assessment. The policies and procedures shall provide for, at a minimum, screening and selecting inmates for rehabilitation treatment and development, using standardized risk and needs assessment and substance abuse assessment tools, and prioritizing the use of residential substance abuse treatment resources based on the results of the standardized risk and needs assessment and a substance abuse assessment. The results of all standardized risk and needs assessments and substance abuse assessments are confidential.

(2) An inmate shall not be paroled under paragraph (B), subdivision (1), subsection (b) of this section solely due to having successfully completed a rehabilitation treatment plan, but completion of all the requirements of a rehabilitation treatment plan along with compliance with the requirements of subsection (b) of this section creates a rebuttable presumption that parole is appropriate. The presumption created by this subdivision may be rebutted by a Parole Board finding that, according to the standardized risk and needs assessment, at the time parole release

is sought the inmate still constitutes a reasonable risk to the safety or property of other persons if released. Nothing in subsection (b) of this section or in this subsection may be construed to create a right to parole.

(i) Notwithstanding the provisions of subsection (b) of this section, the Parole Board may grant or deny parole to an inmate against whom a detainer is lodged by a jurisdiction other than West Virginia for service of a sentence of incarceration, upon a written request for parole from the inmate. A denial of parole under this subsection precludes consideration for parole for a period of one year or until the provisions of subsection (b) of this section are applicable.

(j) If an inmate is otherwise eligible for parole pursuant to subsection (b) of this section, and has completed the rehabilitation treatment program required under subdivision (1), subsection (h) of this section, the Parole Board may not require the inmate to participate in an additional program, but may determine that the inmate must complete an assigned task or tasks prior to actual release on parole. The board may grant parole contingently, effective upon successful completion of the assigned task or tasks, without the need for a further hearing.

(k) (1) The Division of Corrections and Rehabilitation shall supervise all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the Uniform Act for Out-of-State Parolee Supervision.

(2) The Division of Corrections and Rehabilitation shall provide supervision, treatment/recovery, and support services for all persons released to mandatory supervision under ~~section twenty-seven, article five, chapter twenty-eight~~ §15A-4-17 of this code.

(l) (1) When considering an inmate of a state correctional facility for release on parole, the Parole Board panel considering the parole shall have before it an authentic copy of, or report on, the inmate's current criminal record as provided through the West Virginia State Police, the United States Department of Justice, or any other reliable criminal information sources and written reports of the ~~warden or~~ superintendent of the state correctional institution to which the inmate is sentenced:

(A) On the inmate's conduct record while in custody, including a detailed statement showing any and all infractions of disciplinary rules by the inmate and the nature and extent of discipline administered for the infractions;

(B) On the inmate's industrial record while in custody which shall include: The nature of his or her work, occupation or education, the average number of hours per day he or she has been employed or in class while in custody and a recommendation as to the nature and kinds of employment which he or she is best fitted to perform and in which the inmate is most likely to succeed when he or she leaves the state correctional institution; and

(C) On any physical, mental, psychological, or psychiatric examinations of the inmate.

(2) The Parole Board panel considering the parole may waive the requirement of any report when not available or not applicable as to any inmate considered for parole but, in every case, shall enter in its record its reason for the waiver: *Provided*, That in the case of an inmate who is incarcerated because the inmate has been found guilty of, or has pleaded guilty to, a felony under the provisions of §61-8-12 of this code or under the provisions of §61-8B-1 *et seq.* or §61-8C-1 *et seq.* of this code, the Parole Board panel may not waive the report required by this subsection. The report shall include a study and diagnosis of the inmate, including an on-going treatment plan

requiring active participation in sexual abuse counseling at an approved mental health facility or through some other approved program: *Provided, however,* That nothing disclosed by the inmate during the study or diagnosis may be made available to any law-enforcement agency, or other party without that inmate's consent, or admissible in any court of this state, unless the information disclosed indicates the intention or plans of the parolee to do harm to any person, animal, institution, or to property. Progress reports of outpatient treatment are to be made at least every six months to the parole officer supervising the parolee. In addition, in such cases, the Parole Board shall inform the prosecuting attorney of the county in which the person was convicted of the parole hearing and shall request that the prosecuting attorney inform the Parole Board of the circumstances surrounding a conviction or plea of guilty, plea bargaining, and other background information that might be useful in its deliberations.

(m) Before releasing any inmate on parole, the Parole Board shall arrange for the inmate to appear in person before a Parole Board panel and the panel may examine and interrogate him or her on any matters pertaining to his or her parole, including reports before the Parole Board made pursuant to the provisions of this section: *Provided,* That an inmate may appear by video teleconference if the members of the Parole Board panel conducting the examination are able to contemporaneously see the inmate and hear all of his or her remarks and if the inmate is able to contemporaneously see each of the members of the panel conducting the examination and hear all of the members' remarks: *Provided, however,* That the requirement that an inmate personally appear may be waived where a physician authorized to do so by the Commissioner of the Division of Corrections and Rehabilitation certifies that the inmate, due to a medical condition or disease, is too debilitated, either physically or cognitively, to appear. The panel shall reach its own written conclusions as to the desirability of releasing the inmate on parole and the majority of the panel considering the release must concur in the decision. The ~~warden or~~ superintendent shall furnish all necessary assistance and cooperate to the fullest extent with the Parole Board. All information, records, and reports received by the Parole Board shall be kept on permanent file.

(n) The Parole Board and its designated agents are at all times to have access to inmates imprisoned in any state correctional facility or in any jail in this state and may obtain any information or aid necessary to the performance of its duties from other departments and agencies of the state or from any political subdivision of the state.

(o) The Parole Board shall, if requested by the Governor, investigate and consider all applications for pardon, reprieve, or commutation and shall make recommendation on the applications to the Governor.

(p) Prior to making a recommendation for pardon, reprieve or commutation, the board shall notify the sentencing judge and prosecuting attorney at least ten days before the recommendation.

(q) A parolee shall participate as a condition of parole in the litter control program of the county to which he or she is released to the extent directed by the Parole Board, unless the board specifically finds that this alternative service would be inappropriate.

**§62-12-13c. Authority of commissioner to establish a nonviolent offense parole program.**

(a) The commissioner is authorized to establish a nonviolent offense parole program for any inmate of a state correctional facility in which an inmate may be paroled without action of the Parole Board based upon objective standards as set forth in this section, to commence on July 1, 2021.

(b) Notwithstanding any provision of this code to the contrary, any inmate of a state correctional facility is eligible for parole under the nonviolent offense parole program if:

(1) He or she has served at least the minimum term of his or her sentence and is eligible for parole as determined by the parole board; and

(2) He or she qualifies for the nonviolent offense parole program as authorized by this section.

(c) To qualify for the nonviolent offense parole program, the commissioner must determine that the inmate:

(1) Is not serving a sentence for a crime of violence against the person, crime of violence against an animal, or felony for a controlled substance offense which involves actual or threatened violence to a person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;

(2) Has successfully completed an individualized rehabilitation treatment program as determined by the division; and

(3) Has otherwise satisfied the requirements for parole eligibility set forth in §62-12-13 of this code.

(d) Any person released under the nonviolent offense parole program shall be subject to all conditions of release and sanctions for violations applicable to persons released on parole by the Parole Board, and all parole revocations of persons granted parole pursuant to this section shall be heard in accordance with the provisions of §62-12-19 of this code.

(e) The nonviolent offense parole program authorized by subsection (a) of this section requires no action by the Parole Board as to the release decision if the inmate qualifies for the program and has successfully completed his or her rehabilitation treatment program as determined by the commissioner.

(f) The commissioner shall develop a policy directive setting forth the processes and procedures to determine successful completion of the rehabilitation treatment program and to provide notice to the inmate. If the inmate fails to successfully complete his or her rehabilitation treatment program, his or her parole shall be determined in accordance with the provisions of §62-12-13 of this code. An inmate who has been denied parole pursuant to the provisions of §62-12-13 of this code and who thereafter successfully completes his or her rehabilitation treatment program prior to his or her next parole review shall be eligible for release under the nonviolent offense parole program within a reasonable time after he or she may successfully complete such program as determined by the commissioner, provided the inmate remains qualified for release under the nonviolent offense parole program.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 620**—A Bill to amend and reenact §62-12-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §62-12-13c, all relating to authorizing the Commissioner of the Division of Corrections and Rehabilitation to approve home plans for inmates; authorizing the Commissioner of the Division

of Corrections and Rehabilitation to establish a nonviolent offense parole program; establishing eligibility requirements for said program; clarifying that inmates released under said program are subject to the same conditions of release and sanctions; clarifying that inmate's failing to successfully complete the rehabilitation treatment program are ineligible for release; and clarifying that inmates not otherwise released may be eligible for said program at the time of successful completion of the rehabilitation treatment program.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 620, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 620) passed with its House of Delegates amended title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

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

**Eng. Com. Sub. for House Bill 2086**, Uniform Real Property Electronic Recording Act.

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

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

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 2775**—A Bill to amend and reenact §18-2-7c of the Code of West Virginia, 1931, as amended, relating to requiring each high school student to complete a one credit course of study in personal finance as a requirement for high school graduation; end-of-course examination; state board development of standards.

Referred to the Committee on Education.

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



**Eng. House Bill 2922**, Relating to requirements to obtain a final order of discharge and dismissal for possession of opiates or opioids.

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

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

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the Senate amendments to the bill were reported by the Clerk:

On page one, section one, subsection (b), subdivision (1), by striking out the word “fetus” and inserting in lieu thereof the word “child”;

On page one, section one, subsection (b), subdivision (1), paragraph (A), by striking out the word “fetus” and inserting in lieu thereof the word “child”;

And,

On page one, section one, subsection (b), subdivision (1), paragraph (B), by striking out the word “fetus” and inserting in lieu thereof the word “child”.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Engrossed House Bill 4007, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4007) passed with its Senate amended title.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate.

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

**Eng. Com. Sub. for House Bill 4058**, Relating to pharmacy benefit managers.

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 4165**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-8b, relating to public education; establishing the West Virginia Remembers Program; and authorizing the State Board of Education to promulgate a rule providing for maintaining of lists by county boards of veteran volunteers to speak in the public schools.

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

A message from the Clerk of the House of Delegates announced that that body had agreed to the changed effective date, to take effect from passage, of

**Eng. Com. Sub. for House Bill 4470**, Relating to persons 18 years of age or older in the custody of the Bureau of Juvenile Services.

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

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

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 4519**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5B-2D-8 and §18-2-7e, all relating to partnerships for improving student engagement and preparation in the changing world of work; establishing a summer youth intern pilot program within Department of Commerce; authorizing diverse stakeholder working group and external champions for development and support of future-ready graduate profile for success in occupations and entrepreneurship; suggesting action steps; and suggesting roles for local school improvement councils.

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

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

**Eng. Com. Sub. for House Bill 4621**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-8G-1, §31A-8G-2, §31A-8G-3, §31A-8G-4, §31A-8G-5, §31A-8G-6, §31A-8G-7, and §31A-8G-8, all relating to the West Virginia FinTech Regulatory Sandbox Program; defining terms; establishing requirements for participants to temporarily test innovative financial products or services on a limited basis without otherwise being licensed or authorized to act under the laws of the state; establishing scope of the ability to operate without otherwise being licensed or authorized to act with respect to approved financial products or services; providing consumer protections; establishing time limitations on the ability to operate without otherwise being licensed or authorized to act with respect to approved financial products or services; providing reporting requirements; and providing for rulemaking.

Referred to the Committee on Economic Development.

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 4633**—A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to expanding county commissions' ability to dispose of county or district property; and adding the ability of county commissions to dispose of the property to a nonprofit community center organization or nonprofit senior center organization without conducting a public sale.

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. Com. Sub. for House Bill 4729**—A Bill to amend and reenact §18B-10-14 of the Code of West Virginia, 1931, as amended, relating to the purchase of educational materials at institutions of higher education; establishing or continuing an educational materials affordability committee; requiring that the educational materials affordability committee make certain recommendations to the institutional governing boards; and defining the term “educational materials”.

Referred to the Committee on Education.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 18th day of February, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. 46)**, Defining “pepper spray” and exempting from definition of “deadly weapons”.

**(Com. Sub. for S. B. 364)**, Authorizing Department of Transportation promulgate legislative rules.

**(Com. Sub. for S. B. 470)**, Relating to use of crossbow to hunt.

**(Com. Sub. for S. B. 487)**, Providing exception that all DNR payments be deposited within 24 hours.

**(Com. Sub. for S. B. 500)**, Relating to Class Y special crossbow hunting permit.

**(Com. Sub. for S. B. 501)**, Adding protection, operation of North Bend Rail Trail, Greenbrier River Trail, and Elk River Trail to Parks and Recreation Section of DNR.

And,

**(H. B. 4141)**, Requiring the Department of Administration to publish its comprehensive annual financial report by the end of December.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

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 120**, Establishing priorities for expenditures for plugging abandoned gas or oil wells.

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,

Randy E. Smith,  
*Chair.*

The bill, 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

**Com. Sub. for Senate Bill 284** (originating in the Committee on Banking and Insurance), Creating WV Health Care Continuity Act.

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

**Com. Sub. for Com. Sub. for Senate Bill 284** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4u, to amend said code by adding thereto a new section, designated §33-16-3ff, to amend said code by adding thereto a new section, designated §33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto a new section, designated §33-25A-8u; to amend said code by adding thereto a new article designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6, §33-53-7, §33-53-8, §33-53-9, §33-53-10, §33-53-11, and §33-53-12, all relating to establishing the West Virginia Health Care Continuity Act; including making the act applicable to existing code; including provisions for the creation of a State Commission on Health Care Continuity, when the act becomes effective; establishing of the West Virginia Patient Protection Pool Risk-Sharing Program, and the involvement of the Joint Committee on Government and Finance; providing

limitations on preexisting condition exclusions for health benefit plans; requiring rulemaking; requiring fairness in cost sharing and ratemaking; and including a conflict of laws provision.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 484**, Requiring free feminine hygiene products be provided to female prisoners.

And,

**Senate Bill 755**, Relating to High-Wage Growth Business Tax Credit Act.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Com. Sub. for Senate Bill 491** (originating in the Committee on Agriculture and Rural Development), Relating to Seed Certification Program.

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

**Com. Sub. for Com. Sub. for Senate Bill 491** (originating in the Committee on Government Organization)—A Bill to amend and reenact §19-16-1, §19-16-2, §19-16-3, §19-16-4, §19-16-5, and §19-16-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §19-16-3b, §19-16-5a, and §19-16-9, all relating to the Seed Certification Program within the Department of Agriculture; defining terms; adding flower seed requirements; adding labeling requirements for seed; adding labeling requirements for interstate shipping; authorizing legislative rules for penalties; updating certificate of registration requirements; requiring quarterly tonnage fees and reports for seed; requiring monthly reports for seed potatoes; requiring record retention; updating prohibitions for labeling; setting forth label, signage, and other requirements for noncommercial seed sharing; updating duties and authority of commissioner; authorizing inspections of seed conditioning facilities, issuance of permits, and establishment of fees; and providing for penalties for labeling deficiencies.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 528**, Creating Uniform Worker Classification Act.

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

**Com. Sub. for Senate Bill 528** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5I-1, §21-5I-2, §21-5I-3, §21-5I-4, §21-5I-5, and §21-5I-6, all relating to the West Virginia Employment Law Worker Classification Act; and clarifying definition of “independent contractor”.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

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

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

**Com. Sub. for Senate Bill 578** (originating in the Committee on Finance)—A Bill to amend and reenact §11-13-2o of the Code of West Virginia, 1931, as amended, relating to adjusting the calculation of business and occupation tax on the business of generating, producing, or selling electricity from solar energy facilities; and clarifying the taxable generating capacity for generating units utilizing solar photovoltaic methods shall equal eight percent of official capacity of the unit for the taxable period beginning January 1, 2020.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Bill 579** (originating in the Committee on Government Organization), Changing and adding fees to wireless enhanced 911 fee.

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

**Com. Sub. for Com. Sub. for Senate Bill 579** (originating in the Committee on Finance)—A Bill to amend and reenact §11-15-30 and §24-6-6b of the Code of West Virginia, 1931, as amended, relating to changing the wireless enhanced 911 fee; and establishing a separate public safety fee and wireless tower fee.

With the recommendation that the committee substitute for committee substitute 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 586**, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security.

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

**Com. Sub. for Senate Bill 586** (originating in the Committee on Government Organization)—A Bill to repeal §15-5-4, §15-5-27, §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 and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §15-1A-3 of said code; to amend and reenact §15-5-3, §15-5-4b, §15-5-4c, §15-5-13, §15-5-20a, §15-5-24 and §15-5-26 of said code; to amend said code by adding thereto a new section, designated as §15-5-29; to amend and reenact §15A-1-2 and §15A-1-3 of said code; to amend said code by adding thereto a new section, designated as §15A-1-9; 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, and §15A-9-7, 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, §15A-10-11, §15A-10-12, §15A-10-13, §15A-10-14, §15A-10-15, §15A-10-16, §15A-10-17, §15A-10-18, §15A-10-19, §15A-10-20, §15A-10-21, §15A-10-22, §15A-10-23, §15A-10-24, §15A-10-25; to amend said code by adding thereto a new article, designated §15A-11-1, §15A-11-2, §15A-11-3, §15A-11-4, §15A-11-5, §15A-11-6, §15A-11-7, §15A-11-8, §15A-11-9, §15A-11-10, and §15A-11-11; to

amend and reenact §19-1-4 of said code; to amend and reenact §19-21A-4 of said code; to amend and reenact §20-1-7 of said code; to amend and reenact §22-1-6 of said code; to amend and reenact §29-31-2, §29-31-3, and §29-31-4 of said code; to amend said code by adding thereto a new section, designated §29-31-5; and to amend said code by adding thereto a new section, designated §33-2-23; all relating to reorganizing and redesignating the Department of Military Affairs and Public Safety as the Department of Homeland Security; clarifying the divisions that report to the cabinet secretary of that Department, removing the Adjutant General's Office, State Armory Board, and Military Awards Board from the Department of Military Affairs and Public Safety; clarifying the agencies established within the Department of Military Affairs and Public Safety; delineating that the secretary of each state Department cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; requiring that the Adjutant General cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; designating the Department of Homeland Security as the State Administrative Agency for homeland security and emergency management grants; designating the Division of Homeland Security and Emergency Management as the Division of Emergency Management; making the employees of the Division of Emergency Management classified exempt employees; terminating the West Virginia Disaster Recovery Board; providing that the State Resiliency Officer have the authority to disburse funds from the Disaster Recovery Trust Fund; granting powers necessary to accomplish such disbursement to the State Resiliency Officer; providing for appropriations and other funding sources to the Disaster Recovery Trust Fund; deleting requirements for government entities with deficiently trained floodplain managers to transfer their floodplain oversight to another governmental entity; amending provisions regarding administration of the Disaster Recovery Trust Fund; providing the State Resiliency Officer need not pay taxes for moneys deposited in the Disaster Recovery Trust Fund or other assets of such Fund; repealing the provision for an annual report of the abolished Disaster Recovery Board; providing the Director of the Division of Emergency Management shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; establishing the powers and duties of the Secretary of Homeland Security; establishing the Office of Administrative Hearings within the Department of Homeland Security; authorizing the appointment of a Chief Hearing Examiner, establishing the organization of the Office of the Chief Hearing Examiner; establishing the jurisdiction of the office of administrative hearings; establishing hearing procedures; establishing rule-making authority; establishing a duty to provide notice of change of address; establishing policies for the transition from divisions of the department of homeland security to the office of administrative hearings; separating the Fire Marshal from the Fire Commission; transferring the Fire Marshal from the State Fire Commission to the Department of Homeland Security; 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 Marshals 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; continuing the Fire Service Equipment and Training Fund; providing the Commissioner of Agriculture shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the State Conservation Committee shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Director of the Division of Natural Resources shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; providing the Secretary of the Department of Environmental Protection shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; repealing generally now-obsolete provisions relating to the Fire Commission and State Fire Marshal; placing the State Resiliency office under the Office of the Governor; adding the President of the West Virginia Emergency Management Council, the Secretary of the Department of Homeland Security, Director of the Division of Emergency Management on the State Resiliency Office Board; adding two non-voting member legislators from each house of the Legislature to the State Resiliency Office Board; specifying tenure of office on that board; providing that members of the board serve without compensation, but may collect necessary expenses; providing certain mandatory duties for that Board; providing the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, and setting the duties and qualifications for such officer; providing for the employment of a deputy to the State Resiliency Officer shall be appointed by the Governor with the advice and consent of the Senate, upon presentation from a list of names by the State Resiliency Office Board, and, setting the duties and qualifications for such officer; providing that the State Resiliency officer and his or her deputy must have complimentary work experience; specifying the areas in which the State Resiliency Office Board shall be required to assist the State Resiliency Officer to fulfill the missions of that office, and specifying the areas where that body shall assist the State Resiliency Officer to devise plans and develop procedures; providing for certain exemptions from the Public Meetings Act and Freedom of Information Act for meetings of, and materials presented to the Board; delineating the authority of the State Resiliency Office and the State Resiliency Officer in carrying out their missions; providing the State Resiliency Officer shall report at least quarterly to the Joint Legislative Committee on Flooding; granting the State Resiliency Officer authority to hire employees for the office; providing that such employees are at-will, may participate in state insurance and other programs, and, if entrusted with state funds, shall execute surety bonds; providing that the State Resiliency Officer shall set employee salary rates; creating the state Office of the National Flood Insurance Program in the Office of the Insurance Commissioner; requiring a coordinator to administer such program; providing that state owned property in any non-participating community shall be governed by

appropriate rules promulgated by the Insurance Commissioner; requiring the coordinator and floodplain managers to develop a strategic plan to meet goals and objectives, which plan shall be reviewed by and must be approved by the State Resiliency Officer and State Resiliency Office Board; requiring the coordinator to establish and enforce flood plain management regulations in special hazard areas which are in conformity with Federal laws and regulations; and which are in conformity with Federal laws and regulations; and providing the coordinator of the state office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Bill 649**, Permitting county emergency phone system directors negotiate contracts for mobile phones.

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

**Com. Sub. for Senate Bill 649** (originating in the Committee on Government Organization)—  
A Bill to amend and reenact §24-6-5 of the Code of West Virginia, 1931, as amended, relating to permitting directors of county emergency phone systems to obtain mobile phone emergency lines and enter into service provider contracts; establishing payment of emergency mobile phone contracts; and requiring a report.

And,

**Senate Bill 751**, Removing certain requirements of municipality annexing property within urban growth boundary.

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

**Com. Sub. for Senate Bill 751** (originating in the Committee on Government Organization)—  
A Bill to amend and reenact §8-6-4a of the Code of West Virginia, 1931, as amended, relating to removing certain requirements when a municipality seeks to annex property within an urban growth boundary.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

Senator Swope, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill 672**, Creating special registration plate recognizing Girl Scouts.

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

**Com. Sub. for Senate Bill 672** (originating in the Committee on Transportation and Infrastructure)—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; and establishing a special initial application fee and an annual fee for each plate.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,  
*Vice 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 689**, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act.

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

**Com. Sub. for Senate Bill 689** (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 §33-53-1, §33-53-2, §33-53-3, §33-53-4, and §33-53-5, all relating to enacting the Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act; providing a short title; providing for definitions; outlining reporting requirements for drug manufacturers and health benefit plan issuers to the Auditor; outlining the pharmaceutical data required by the Auditor; directing the Auditor to create a searchable pharmaceutical transparency website; protecting confidentiality of patient information; providing registration requirements to drug manufacturers and health benefit plan issuers; requiring reporting to the Legislature; and outlining penalties when a health benefit plan or drug manufacturer fails to submit or submits inaccurate information to the Auditor.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 691**, Limiting programs adopted by State Board of Education.

And,

**Senate Bill 781**, Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Roberts, from the Committee on the Workforce, submitted the following report, which was received:

Your Committee on the Workforce has had under consideration

**Senate Bill 705**, Allowing military veterans with certain experience qualify for examination as electrician or plumber.

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

**Com. Sub. for Senate Bill 705** (originating in the Committee on the Workforce)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-14-3a; to amend said code by adding thereto a new section, designated §29-3B-4a; and to amend said code by adding thereto a new section, designated §29-3D-4a, all relating to allowing military veterans with certain experience to qualify for examination for licensure as a plumber, electrician, sprinkler fitter, and sprinkler fitter in training; providing the qualifications to sit for a plumber's examination; providing qualifications to sit for an electrician's examination; and providing qualifications to sit for an examination of a sprinkler fitter in training or a journeyman sprinkler fitter.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Rollan A. Roberts,  
*Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 707**, Relating to nursing career pathways.

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

**Com. Sub. for Senate Bill 707** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-11a, relating to making a nursing career pathway available to students statewide; setting forth legislative findings; requiring that a nursing career pathway workgroup be convened; charging the workgroup with developing a career pathway to address the unmet need for nursing assistants, licensed practical nurses, registered nurses, and registered nurses with a bachelor's degree in nursing; requiring the nursing career pathway to be made available to students statewide; requiring report to the legislative oversight commission on education accountability every month that the commission meets on the progress in implementing the career pathway; and requiring consideration of certain specified ideas in establishing the pathway.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Swope, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill 722**, Relating to special license plates for public and private nonprofit transit providers.

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

**Com. Sub. for Senate Bill 722** (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §11-15-3c of the Code of West Virginia, 1931, as amended; and to amend and reenact §17A-3-23 of said code, all relating to motor vehicles; exempting certain vehicles operated in the name of a public transit provider or nonprofit transit provider from motor vehicle sales tax; and authorizing special license plates for certain vehicles titled in the name of a public transit provider, private nonprofit transit provider, or certain nonprofit entities.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Chandler Swope,  
*Vice Chair.*

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

Your Committee on Education has had under consideration

**Senate Bill 723**, Requiring Department of Education develop plan based on analyzed data on school discipline.

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

Respectfully submitted,

Patricia Puertas Rucker,  
*Chair.*

Senator Swope, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Bill 727**, Relating to disbursement of funds for highway road repair.

And,

**Senate Bill 734**, Clarifying powers and duties of DOH in acquiring property for state road purposes.

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

Respectfully submitted,

Chandler Swope,  
*Vice 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 728**, Exempting all property used for agricultural purposes from county property maintenance codes or ordinances.

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

**Com. Sub. for Senate Bill 728** (originating in the Committee on Government Organization)—  
A Bill to amend and reenact §7-1-3n of the Code of West Virginia, 1931, as amended, relating to prohibiting county commissions from enacting or enforcing property maintenance codes.

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 731**, Limiting severance tax break on steam coal.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

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

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

Your Committee on Education has had under consideration

**Senate Bill 760**, Allowing state college or university apply to HEPC for designation as administratively or financially exempt school.

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

**Com. Sub. for Senate Bill 760** (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-1-1F; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-4 and §18B-1B-6 of said code; to amend and reenact §18B-1D-7 of said code; and to amend and reenact §18B-19-4 of said code, all relating to higher education; providing findings; defining terms; allowing any state college and university to apply to the Higher Education Policy Commission for designation as an administratively exempted school; requiring Higher Education Policy Commission to propose rules for legislative approval that address loss of an administratively exempted designation; setting forth specific exemptions for a college and university designated as an administratively exempted school; requiring Higher Education Policy Commission report to the Legislative Oversight Commission on Education Accountability certain information pertaining to the administratively exempted schools eligibility criteria; updating institution names; referring to exempted schools as statutorily exempted schools; removing obsolete language; updating code to reflect removal of statewide master plan and compact requirements by prior legislation; removing requirement for Higher Education Policy Commission to advise and confirm in the appointment of presidents of the institutions of higher education under its jurisdiction; amending the powers and duties of the Higher Education Policy Commission, consistent with the specific exemptions provided for administratively exempted schools; clarifying that Higher Education Policy Commission can use certain appropriated incentive funds to influence behavior of statutorily and administratively exempted schools; amending requirements pertaining to the required report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability that includes a recommendation for the allocation of general revenue to be appropriated to the institutions; removing requirement for Higher Education Policy Commission to confirm appointment of institutional presidents; requiring classified employees, if any are employed by the institution, be used when doing evaluations of institutional presidents; updating language to be consistent with replacing institutional and statewide report cards with a data reporting system in prior legislation; removing unnecessary language; declaring that the geographic areas of responsibility for the West Virginia School of Osteopathic Medicine,

Marshall University, and West Virginia University are statewide; and removing requirement for Higher Education Policy Commission confirmation of campus development plans.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,  
*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 770**, Revising requirements for post-doctoral training.

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

**Com. Sub. for Senate Bill 770** (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-14-2 and §30-14-4 of the Code of West Virginia, 1931, as amended, all relating to definitions and applications for licensure or educational permits for osteopathic physicians and surgeons; revising requirements for post-doctoral training; and eliminating continuing medical education requirements for initial licensure.

And,

**Senate Bill 787**, Providing benefits to pharmacists for rendered care.

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

**Com. Sub. for Senate Bill 787** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-53-1, relating to providing benefits to pharmacists for pharmacist care rendered within the pharmacist's scope of practice if benefits would be provided for such services performed by other health care providers; providing for reimbursement pursuant to negotiations; and providing for effective date.

With the recommendation that the two committee substitutes 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

**Senate Bill 782**, Relating to fees assessed by Health Care Authority on certain hospitals.



And reports the same back with the recommendation that it 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 789**, Repealing obsolete sections of WV Code relating to Legislature.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 803**, Supplemental appropriation of money out of General Revenue Fund to DHHR.

**Senate Bill 804**, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund.

And,

**Senate Bill 806**, Supplemental appropriation out of federal funds in Treasury to DOT.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Senate Bill 837** (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated, §11-5A-1, §11-5A-2, §11-5A-3, §11-5A-4, §11-5A-5, §11-5A-6, §11-5A-7, §11-5A-8, and §11-5A-9; to amend and reenact §11-15-3 of said code; to amend and reenact §11-15A-2 of said code; to amend and

reenact §11-17-3 of said code; and to amend and reenact §11-17-4b of said code, all relating to providing exemptions from ad valorem taxation for certain types of personal property and providing substitute revenue sources to levying bodies; setting out legislative findings; defining terms; setting out legislative intent; defining terms; providing for an exemption from ad valorem taxation for property classified as manufacturing machinery, equipment, and inventory over a six-year period; setting out exclusions from the exemption; providing for exemption from ad valorem taxation on motor vehicles over a six-year period; providing for exemption from ad valorem taxation on retail inventory over a six-year period; requiring the Governor and Legislative appropriate replacement revenue to levying bodies; providing for a four-year lookback from effective date of provision; providing that the state share of the county's basic foundation will be replaced; providing that any general revenue bond or levy in existence shall not be effected; allowing for procedural rules; creating a special revenue account; providing for an effective date; making elimination of ad valorem taxes contingent upon passage of constitutional amendment; increasing tax levied and imposed on sales and service; making increase of tax levied and imposed on sales and service contingent upon passage of constitutional amendment; providing for an effective date for the sales and service tax increase; increasing levied and imposed use tax; making increase of imposed and levied use tax contingent upon passage of constitutional amendment; providing for an effective date for the use tax increase; increasing excise tax levied and imposed on tobacco products; making increase excise tax levied and imposed on tobacco products contingent upon passage of constitutional amendment; providing for an effective date for the tax increase imposed on tobacco products increase; providing for apportionment of the increased revenue, to be dedicated to a special account for tobacco use prevention, cessation, and nicotine treatment; increasing excise tax levied and imposed on sale of e-cigarette liquid; making increased excise tax levied and imposed on e-cigarette liquid contingent upon passage of constitutional amendment; providing for an effective date for the tax increase imposed on e-cigarette liquid; setting effective dates for tax increases; and providing additional tax revenue on tax increases be deposited in special revenue account.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Senate Bill 838** (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-55 relating to directing the state police to establish a referral program for substance abuse treatment; exempting persons seeking treatment from arrest and prosecution; directing the destruction of controlled substances received from persons seeking treatment; requiring referrals to treatment of persons seeking same; specifying persons who are ineligible for referral; immunizing the state police and its employees civilly and criminally for making referrals and exempting records of program from freedom of information disclosure.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on Finance has had under consideration

**Com. Sub. for Senate Joint Resolution 9**, Amendment Authorizing Legislature to Eliminate or Lower Ad Valorem Tax on Motor Vehicles and Any Other Tangible Personal Property.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Swope, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 19**, USMC LCpl Fred Michael Kerns Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 19** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 42-219/00-038.13 (42A139), locally known as Isner Creek Bridge, carrying US 219 over Isner Creek in Randolph County, the “U.S. Marine Corps LCPL Fred Michael Kerns Memorial Bridge”.

Whereas, Fred Michael Kerns was born on October 15, 1948, in Weston, West Virginia, the son of Fred G. and Thelma Marie Glover Kerns; and

Whereas, Fred Michael Kerns was sworn into the United States Marine Corps after graduating from Buckhannon - Upshur High School in 1966, and commenced active duty in 1967; and

Whereas, On October 3, 1968, LCPL Fred Michael Kerns arrived in Vietnam, where he served as an air crewman aboard helicopters with Marine Light Attack Helicopter Squadron 167 (HML-167), Marine Air Group 16 (MAG-16), First Marine Air Wing, Third Marine Amphibious Force; and

Whereas, LCPL Fred Michael Kerns was killed on July 29, 1969, as a result of a nonhostile helicopter crash in Quam Nam Providence, South Vietnam; and

Whereas, LCPL Fred Michael Kerns was awarded the Air Medal, Combat Action Ribbon, Republic of Vietnam Campaign Medal, Vietnam Service Medal, National Defense Medal, Presidential Unit Citation, Vietnam Gallantry Cross Unit Citation, and Combat Aircrew Badge; and

Whereas, LCPL Fred Michael Kerns' name is listed on the Vietnam Memorial Wall in Washington, D. C., Panel 20W, Line 71; and

Whereas, LCPL Fred Michael Kerns was one of several hundred West Virginia residents, and one of over 17 Randolph County residents, to make the ultimate sacrifice for his country during the Vietnam War. He is buried at the Masonic Cemetery, Weston, West Virginia; and

Whereas, LCPL Fred Michael Kerns, on the date of his death, left his father Fred Kerns, his mother Thelma Kerns, and three brothers: Terry Lee, Alan William, and Stephen Craig Kerns; and

Whereas, It is fitting that an enduring memorial be established to commemorate LCPL Fred Michael Kerns and his contributions and sacrifice 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 42-219/00-038.13 (42A139), locally known as Isner Creek Bridge, carrying US 219 over Isner Creek in Randolph County, the "U.S. Marine Corps LCPL Fred Michael Kerns 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. Marine Corps LCPL Fred Michael Kerns 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.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Chandler Swope,  
*Vice Chair.*

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

Your Committee on Government Organization has had under consideration

**Senate Concurrent Resolution 27**, Requesting study on ways to make State Capitol building more handicap accessible.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

Senator Swope, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Eng. Com. Sub. for House Bill 2338**, Allowing the owner of an antique military vehicle to display alternate registration insignia.

And has amended same.

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

Respectfully submitted,

Chandler Swope,  
*Vice 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 4477**, West Virginia Mutual to Mutual Insurance Holding Company Act.

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.*

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. House Bill 4661**, Relating to the powers of the Public Service Commission and the regulation of natural gas utilities.

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

Respectfully submitted,

Randy E. Smith,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senators Romano, Facemire, and Unger offered the following resolution:

**Senate Resolution 47**—Recognizing the Clay County High School “We the People” team for winning its sixth consecutive West Virginia state championship.

Whereas, “We the People: The Citizen and the Constitution” is the flagship civic education program of the Center for Civic Education, a nonprofit, nonpartisan education organization that administers national and international civic education programs; and

Whereas, “We the People: The Citizen and the Constitution” was developed in 1987 and adopted by the Commission on the Bicentennial of the U.S. Constitution, chaired by Chief Justice Warren E. Burger, as the principal education program of the U.S. Constitution’s Bicentennial; and

Whereas, The “We the People” program culminates with a simulated congressional hearing during which students “testify” before a panel of judges acting as members of Congress; and

Whereas, Participating students must demonstrate a thorough knowledge and understanding of constitutional principles and evaluate, take, and defend positions relevant to historical and contemporary issues competing at local, congressional district, state, and national levels; and

Whereas, Participating high school classes in “We the People” compete from December to February in state competitions throughout the country and, each spring, the state champion and wild card classes are eligible to participate in the “We the People” National Finals in the Washington, D.C., area at the National Conference Center in Leesburg, Virginia. The competition culminates with a top-12 final round to determine the national winner; and

Whereas, Sixteen students enrolled in the fall 2019 Advanced Placement Government and Politics class at Clay County High School; and

Whereas, In June 2019, these Clay County High School Advanced Placement Government and Politics students began studying the United States Constitution extensively in preparation for the “We the People: The Citizen and the Constitution” competition; and

Whereas, Clay County High School advanced to the State “We the People” Competition on November 14, 2019, as the Congressional District 2 Champions; and

Whereas, Clay County High School were crowned State Champions of the “We the People” competition on January 24, 2020, by defeating Congressional District 1 Champion Tyler Consolidated and Congressional District 3 Champion Shady Springs High School; and

Whereas, Clay County High School has won six consecutive state championships in the “We the People” competition and, for the sixth straight year, will represent the State of West Virginia at the National “We the People: The Citizen and the Constitution Competition” in Washington D.C.; and

Whereas, The Advanced Placement Government and Politics class from Clay County High School is taught by Philip Dobbins who proudly serves as coach of the “We the People” team along with assistant coach Michael Mullins; and

Whereas, The Clay County High School students in the 2019-2020 Advanced Placement Government and Politics class and the “We the People” team members are: Kelsey Prather, Jaydin Cogar, Julia Holcomb, Caleb Atha, Nicholas Evans, Owen Nottingham, Elijah, Payton, Emily Hayes, Jefferson Hymer, Anastasia Knopp, Aden Knopp, Tyler Cummings, Hayden Morris, Zoe Davis, Austin Smith, and Autumn Stone; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Clay County High School “We the People” team for winning its sixth consecutive West Virginia state championship; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Clay County High School “We the People” team.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Resolution 46**, Congratulating Victory Baptist Academy volleyball team for winning 2019 WV Christian Education Association state volleyball tournament.

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

At the request of Senator Roberts, 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 11:40 a.m., the Senate recessed to present Senate Resolution 46.

The Senate reconvened at 11:45 a.m. and proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 6**, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 6) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 204**, Providing for nonpartisan elections of county prosecuting attorneys.

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

The nays were: Beach, Facemire, Ihlenfeld, and Lindsay—4.

Absent: None.

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. 204) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Jeffries, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Facemire, Ihlenfeld, and Lindsay—4.

Absent: None.

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. 204) takes effect from passage.

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

**Com. Sub. for Senate Bill 285**, Eliminating WV Greyhound Breeding Development Fund.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 18, 2020, for amendments to be received on third reading, was reported by the Clerk.

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

On page five, section three, line sixty, after line fifty-nine, by inserting the following:

“(ii) For obtaining veterinary services, documented by veterinary reports;”.

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 285 was then read a third time and put upon its passage.

(Senator Trump in the Chair.)

Pending discussion,

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

Pending extended discussion,



The question being “Shall Engrossed Committee Substitute for Senate Bill 285 pass?”

On this question, the yeas were: Azinger, Blair, Boley, Cline, Maynard, Roberts, Sypolt, Takubo, Tarr, Trump, and Carmichael (Mr. President)—11.

The nays were: Baldwin, Beach, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Unger, Weld, and Woelfel—23.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 285) rejected.

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

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 652 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 652) 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 655**, Relating to valuation of natural resources land property.

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, Beach, Blair, Boley, Cline, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Clements, Hamilton, Maroney, Pitsenbarger, Romano, and Weld—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 655) passed with its title.

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

**Eng. Com. Sub. for Senate Bill 686**, Exempting contract and common carrier laws for certain vehicles.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 686) passed with its title.

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

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

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 719 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 719) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo,

Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

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. 719) takes effect July 1, 2020.

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

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

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 740) 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 747**, Requiring Bureau for Public Health develop Diabetes Action Plan.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 747) 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 748**, Increasing awareness of palliative care services.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 748) 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 767**, Relating to licensure of hospitals.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 767) passed with its title.

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

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

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4026) 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 4501**, Relating to the ability to refuse offenders for commitment to a jail.

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, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Baldwin—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4501) passed.

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

**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; authorizing the acceptance of certain offenders refusing ordered examination or medical treatment; granting civil and criminal immunity to the division, the commissioner, employees and agents of the division for accepting offenders who refuse a medical examination or medical treatment; and clarifying conditions and circumstances under which division employees accept or refuse to accept offenders brought to a regional jail pursuant to a bailpiece.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Baldwin—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4501) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

**Com. Sub. for Com. Sub. for Senate Bill 291**, Requiring PEIA and health insurance providers provide mental health parity.

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 502**, Relating to methamphetamine criminal penalty.

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

**Senate Bill 562**, Expunging certain criminal convictions.

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

**Senate Bill 610**, Removing resident manager requirement for Alcohol Beverage Control Administration.

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

On motion of Senator Trump, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On pages one through six, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

## **CHAPTER 11. TAXATION.**

### **ARTICLE 16. NONINTOXICATING BEER.**

#### **§11-16-3. DEFINITIONS.**

**For the purpose of this article, except where the context clearly requires differently:**

(1) "Brand" means a nonintoxicating beer product manufactured, brewed, mixed, concocted, blended, bottled or otherwise produced, imported, or transshipped by a brewer or manufacturer, the labels of which have been registered and approved by the commissioner, that is being offered for sale or sold in West Virginia by a distributor who has been appointed in a valid franchise agreement or a valid amendment thereto.

(2) "Brewer" or "manufacturer" means any person manufacturing, otherwise producing, importing, or transshipping nonintoxicating beer or nonintoxicating craft beer for sale at wholesale to any licensed distributor. Brewer or manufacturer may be used interchangeably throughout this article. A brewer may obtain only one brewer's license for its nonintoxicating beer or nonintoxicating craft beer.

(3) "Brewpub" means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer, subject to federal and state regulations and guidelines, a portion of which premises is designated for retail sales of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.

(4) "Class A retail license" means a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet licensed pursuant to chapter 60 of this code.

(5) "Class B retail license" means a retail license permitting the retail sale of liquor at a mixed retail liquor outlet licensed pursuant to chapter 60 of this code.

(6) "Commissioner" means the West Virginia Alcohol Beverage Control Administration Commissioner.

(7) "Distributor" means and includes any person jobbing or distributing nonintoxicating beer or nonintoxicating craft beer to retailers at wholesale and whose warehouse and chief place of business shall be within this state. For purposes of a distributor only, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of §11-11-1 et seq. of this code notwithstanding the liability of trustees in §44D-10-1 et seq. of this code.

(8) "Franchise agreement" means the written agreement between a brewer and a distributor that is identical as to terms and conditions between the brewer and all its distributors, which agreement has been approved by the commissioner. The franchise agreement binds the parties so that a distributor, appointed by a brewer, may distribute all of the brewer's nonintoxicating beer products, brands or family of brands imported and offered for sale in West Virginia, including, but not limited to, existing brands, line extensions, and new brands all in the brewer's assigned territory for the distributor. All brands and line extensions being imported or offered for sale in West Virginia must be listed by the brewer in the franchise agreement or a written amendment to the franchise agreement. A franchise agreement may be amended by mutual written agreement of the parties as approved by the commissioner with identical terms and conditions for a brewer and all of its distributors. Any approved amendment to the franchise agreement becomes a part of the franchise agreement. A brewer and a distributor may mutually agree in writing to cancel a franchise agreement. A distributor terminated by a brewer as provided in this article and the promulgated rules no longer has a valid franchise agreement. If a brewer has reached an agreement to cancel a distributor or has terminated a distributor, then a brewer may appoint a successor distributor who accedes to all the rights of the cancelled or terminated distributor.

(9) "Franchise distributor network" means the distributors who have entered into a binding written franchise agreement, identical as to terms and conditions, to distribute nonintoxicating beer products, brands, and line extensions in an assigned territory for a brewer. A brewer may only have one franchise distributor network: *Provided*, That a brewer that has acquired the manufacturing, bottling, or other production rights for the sale of nonintoxicating beer at wholesale from a selling brewer as specified in §11-16-21(a)(2) of this code shall continue to maintain and be bound by the selling brewer's separate franchise distributor's network for any of its existing brands, line extensions, and new brands.

(10) "Freestanding liquor retail outlet" means a retail outlet that sells only liquor, wine, beer, nonintoxicating beer, and other alcohol-related products, as defined pursuant to §60-3A-4 of this code.

(11) "Growler" means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and must be

capable of being securely sealed. The growler is utilized by an authorized licensee for purposes of off-premise sales only of nonintoxicating beer or nonintoxicating craft beer for personal consumption not on a licensed premise and not for resale. Notwithstanding any other provision of this code to the contrary, a securely sealed growler is not an open container under federal, state, and local law. A growler with a broken seal is an open container under federal, state, and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. The secure sealing of a growler requires the use of a tamper-resistant seal, security tape, or other material, as approved by the commissioner, placed on or over the growler's opening, which seal, security tape or other material is clearly marked with the date of the secure sealing by the authorized licensee who is selling the growler.

(12) "Line extension" means any nonintoxicating beer product that is an extension of brand or family of brands that is labeled, branded, advertised, marketed, promoted, or offered for sale with the intent or purpose of being manufactured, imported, associated, contracted, affiliated, or otherwise related to a brewer's existing brand through the use of a brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, or other related entities. In determining whether a nonintoxicating beer product is a line extension, the commissioner may consider, but is not limited to, the following factors: Name or partial name; trade name or partial trade name; logos; copyrights; trademarks or trade design; product codes; advertising promotion; or pricing.

(13) "Manager" means an individual who is the applicant's or licensee's on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of §11-16-1 et seq. of this code and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. Such duties include but are not limited to: coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine, and liquor, as applicable; and managing security staff, security systems, video and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

~~(13)~~ (14) "Nonintoxicating beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than 11.9 percent of alcohol by weight, or 15 percent alcohol by volume, whichever is greater. The word "liquor" as used in chapter 60 of this code does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures, or preparations included within this definition.

~~(14)~~ (15) "Nonintoxicating beer floor plan extension" means a temporary one-day extension of an existing Class A licensee's floor plan to a contiguous, adjoining and bounded area, such as a parking lot or outdoor area, which shall for the temporary period encompass the licensee's licensed premises; further ~~such~~ the license shall be endorsed or approved by the county or municipality where the license is located; ~~such~~ the license shall be in good standing with the commissioner, and further such temporary event shall cease on or before midnight of the approved temporary one-day event.

~~(15)~~ (16) "Nonintoxicating beer sampling event" means an event approved by the commissioner for a Class A retail licensee to hold a nonintoxicating beer sampling authorized pursuant to §11-16-11a of this code.



~~(16)~~ (17) “Nonintoxicating beer sampling day” means any days and hours of the week where Class A retail licensees may sell nonintoxicating beer pursuant to §11-16-11a and §11-16-18(a)(1) of this code, and is approved, in writing, by the commissioner to conduct a nonintoxicating beer sampling event.

~~(17)~~ (18) “Nonintoxicating craft beer” means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent by volume and not more than 15 percent alcohol by volume or 11.9 percent alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect.

~~(18)~~ (19) “Original container” means the container used by a resident brewer or brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer or nonintoxicating craft beer for sale at wholesale.

~~(19)~~ (20) “Person” means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

~~(20)~~ (21) “Private club” means a license issued pursuant to §60-7-1 et seq. of this code.

~~(21)~~ (22) “Resident brewer” means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the State of West Virginia and which does not brew or manufacture more than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than 10,000 barrels thereof in the State of West Virginia annually.

~~(22)~~ (23) “Retailer” means any person selling, serving, or otherwise dispensing nonintoxicating beer and all products regulated by this article, including, but not limited to, malt coolers at his or her established and licensed place of business.

~~(23)~~ (24) “Tax Commissioner” means the Tax Commissioner of the State of West Virginia or the commissioner’s designee.;

On pages six through eight, section eight, lines three through thirty-six, by striking out all of subdivision (1) and inserting in lieu thereof a new subdivision, designated subdivision (1), to read as follows:

“(1) The name and residence of the applicant, the duration of such residency, that the applicant has been a resident of the state for a period of two years preceding the date of the application and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers for a period of two years preceding the date of such application. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, such the person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees or other persons in active control of the activities of the limited liability company, association or trust relating to the license, shall state under oath that each has been a bona fide resident of the state for four years preceding the date of such include the residency for these persons on the application. All applicants and licensees must include a manager on the applicant’s license application, or a licensee’s renewal application who must meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization,

passing a background investigation, being at least 21 years of age, being a suitable person, being of good morals and character, and other requirements, all as set forth in this article and the rules, promulgated thereunder, all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain licensure, a licensee shall notify the commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an owner, the trustees or other persons in active control of the activities of the trust relating to the license shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e), of this code and shall further state, under oath, the names, addresses, Social Security numbers and birth dates of the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust must state that ~~such~~ the beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of ~~such~~ the beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number and birth date;"

On page ten, section eight, lines one hundred three through one hundred six, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

“(3) That the manager, owner, employee, or person is in a contractual relationship to provide goods or services to the applicant is an active employee of the commissioner; or”;

And,

On pages sixteen through twenty-one, by striking out all of section five and inserting in lieu thereof a new section, designated section five, to read as follows:

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§60-1-5. Definitions.**

For the purposes of this chapter:

(1) “Alcohol” shall mean ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

(2) “Alcoholic liquor” includes alcohol, beer, wine, and spirits, and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.

(3) “An agency” means a drugstore, grocery store, or general store designated by the commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commission.

(4) “Beer” means any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.

(5) "Brewery" means an establishment where beer is manufactured or in any way prepared.

(6) "Commissioner" or "commission" means the West Virginia Alcohol Beverage Control Commissioner.

(7) "Department" means the organization through which the commission exercises powers imposed upon it by this chapter.

(8) "Distillery" means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.

(9) "Intoxicated" means a person's faculties are impaired by alcohol or other substance to the point where physical or mental control or both are markedly diminished.

(10) "Manager" means an individual who is the applicant's or licensee's on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of §11-16-1 et seq. of this code and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. Such duties include but are not limited to: coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine, and liquor, as applicable; and managing security staff, security systems, video and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

(11) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.

(12) "Manufacturer" means any person engaged in the manufacture of any alcoholic liquor, and among others includes a distiller, a rectifier, a wine maker, and a brewer.

(13) "Nonintoxicating beer" means any beverage obtained by the fermentation of barley, malt, hops, or similar products or substitute, and containing not more alcohol than that specified by §11-16-2 of this code.

(14) "Original package" means any closed or sealed container or receptacle used for holding alcoholic liquor.

(15) "Person" means an individual, firm, partnership, limited partnership, corporation, or voluntary association.

(16) "Powdered alcohol" means an alcohol manufactured in a powder or crystalline form for either direct use or reconstitution as an alcoholic liquor or food. For purposes of this chapter, powdered alcohol excludes any material intended for industrial purposes.

(17) "Public place" means any place, building, or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies, and corridors of hotels and any highway, street, lane, park, or place of public resort or amusement: *Provided*, That the term "public place" shall not mean or include any of the above-named places or any portion or portions thereof which qualify and are licensed under the provisions of this chapter to sell alcoholic liquors for consumption on the premises: *Provided, however*, That the

term “public place” shall not mean or include any legally demarcated area designated solely for the consumption of beverages and freshly prepared food that directly connects and adjoins any portion or portions of a premise that qualifies and is licensed under the provisions of this chapter to sell alcoholic liquors for consumption thereupon: *Provided further*, That the term “public place” shall not include a facility constructed primarily for the use of a Division I, II, or III college or university that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium which holds a special license to sell wine pursuant to the provisions of §60-8-3 of this code, in the designated areas of sale and consumption of wine and other restrictions established by that section and the terms of the special license issued thereunder.

(18) “Sale” means any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by a principal, proprietor, agent, or employee.

(19) “Selling” includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.

(20) “Spirits” means any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution and includes brandy, rum, whiskey, cordials, and gin.

(21) “State liquor store” means a store established and operated by the commission under this chapter for the sale of alcoholic liquor in the original package for consumption off the premises.

(22) “Wine” means any alcoholic beverage obtained by the fermentation of the natural content of fruits, or other agricultural products, containing sugar.

(23) “Winery” means an establishment where wine is manufactured or in any way prepared.

~~“Spirits” means any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution and includes brandy, rum, whiskey, cordials and gin.~~

~~“Alcoholic liquor” includes alcohol, beer, wine and spirits and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.~~

~~“Original package” means any closed or sealed container or receptacle used for holding alcoholic liquor.~~

~~“Sale” means any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by principal, proprietor, agent or employee.~~

~~“Selling” includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.~~

~~“Person” means an individual, firm, partnership, limited partnership, corporation, or voluntary association.~~

~~“Manufacture” means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.~~

~~“Manufacturer” means any person engaged in the manufacture of any alcoholic liquor, and among others includes a distiller, a rectifier, a wine maker, and a brewer.~~

~~“Brewery” means an establishment where beer is manufactured or in any way prepared.~~

~~“Winery” means an establishment where wine is manufactured or in any way prepared.~~

~~“Distillery” means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.~~

~~“Public place” means any place, building, or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies, and corridors of hotels and any highway, street, lane, park, or place of public resort or amusement: *Provided*, That the term “public place” shall not mean or include any of the above named places or any portion or portions thereof which qualify and are licensed under the provisions of this chapter to sell alcoholic liquors for consumption on the premises: *Provided, however*, That the term “public place” shall not mean or include any legally demarcated area designated solely for the consumption of beverages and freshly prepared food that directly connects and adjoins any portion or portions of a premises that qualifies and is licensed under the provisions of this chapter to sell alcoholic liquors for consumption thereupon: *Provided further*, That the term “public place” shall also not include a facility constructed primarily for the use of a Division I college that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer or other Division I sports stadium which holds a special license to sell wine pursuant to the provisions of §60-8-3 of this code, in the designated areas of sale and consumption of wine and other restrictions established by that section and the terms of the special license issued thereunder.~~

~~“State liquor store means a store established and operated by the commission under this chapter for the sale of alcoholic liquor in the original package for consumption off the premises.~~

~~“An agency” means a drugstore, grocery store, or general store designated by the commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commissioner.~~

~~“Department” means the organization through which the commission exercises powers imposed upon it by this chapter.~~

~~“Commissioner” or “commission” means the West Virginia Alcohol Beverage Control Commissioner.~~

~~“Intoxicated” means having one’s faculties impaired by alcohol or other drugs to the point where physical or mental control or both are markedly diminished.~~

~~“Powdered alcohol” means an alcohol manufactured in a powder or crystalline form for either direct use or reconstitution as an alcoholic liquor or food. For purposes of this chapter, powdered alcohol excludes any material intended for industrial purposes~~

The bill (S. B. 610), as amended, was then ordered to engrossment and third reading.

**Com. Sub. for Senate Bill 692**, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial.

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 on first reading were considered read a first time and ordered to second reading:

**Com. Sub. for Senate Bill 130**, Relating to procedure for driver's license suspension and revocation for DUI.

**Com. Sub. for Senate Bill 253**, Providing for fair pay and maximized employment of disabled persons.

**Senate Bill 651**, Relating to definition of "mortgage loan originator".

**Com. Sub. for Senate Bill 660**, Regulating electric bicycles.

**Eng. House Bill 4149**, Relating to insurance.

**Eng. House Bill 4359**, Increasing the filing fees for insurers.

**Eng. House Bill 4411**, Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act.

And,

**Eng. House Bill 4515**, Relating to wildlife resources, eligibility for license or permit application.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Tarr.

At the request of Senator Romano, unanimous consent being granted, the Senate returned to the eleventh order of business and the introduction of guests.

The Senate proceeded to the thirteenth order of business.

Senator Carmichael (Mr. President) announced the replacement of Senator Blair as Vice Chair of the Committee on Education with Senator Weld.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were removed as co-sponsors of the following bills:

**Com. Sub. for Senate Bill 130** (*Relating to procedure for driver's license suspension and revocation for DUI*): Senator Romano;

**Senate Bill 735** (*Relating to excise tax on tobacco products*): Senator Ihlenfeld;

And,

**Senate Bill 744** (*Removing and repealing unauthorized and obsolete rules relating to DMAPS*): Senator Lindsay.

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 130** (*Relating to procedure for driver's license suspension and revocation for DUI*): Senator Baldwin;

**Com. Sub. for Senate Bill 253** (*Providing for fair pay and maximized employment of disabled persons*): Senators Romano, Lindsay, and Rucker;

**Com. Sub. for Senate Bill 269** (*Establishing advisory council on rare diseases*): Senators Cline and Jeffries;

**Com. Sub. for Senate Bill 579** (*Changing and adding fees to wireless enhanced 911 fee*): Senator Roberts;

**Com. Sub. for Senate Bill 660** (*Regulating electric bicycles*): Senator Cline;

**Senate Bill 698** (*Relating to retirees employed as substitute bus drivers.*): Senator Woelfel;

**Com. Sub. for Senate Bill 707** (*Relating to nursing career pathways*): Senator Stollings;

**Senate Bill 727** (*Relating to disbursement of funds for highway road repair*): Senator Plymale;

**Senate Bill 752** (*Relating generally to medical cannabis*): Senator Romano;

**Senate Bill 755** (*Relating to High-Wage Growth Business Tax Credit Act*): Senators Romano and Plymale;

**Senate Bill 756** (*Supplemental appropriation from State Excess Lottery Revenue Fund to Department of Veterans' Assistance, Veterans' Home Fund*): Senator Romano;

**Com. Sub. for Senate Bill 770** (*Revising requirements for post-doctoral training*): Senator Plymale;

**Senate Bill 782** (*Relating to fees assessed by Health Care Authority on certain hospitals*): Senator Plymale;

**Senate Bill 783** (*Creating special revenue fund for site certification and closing*): Senator Plymale;

**Senate Bill 787** (*Providing benefits to pharmacists for rendered care*): Senator Plymale;

**Senate Bill 797** (*Authorizing governing boards of public and private hospitals employ hospital police officers*): Senators Cline and Stollings;

**Senate Bill 798** (*Requiring dairy foods processed in state be added to list of items to be purchased by state-funded institutions*): Senators Cline, Stollings, and Romano;

**Senate Bill 799** (*Establishing WV Convention and Visitor's Bureau Oversight Council*): Senator Cline;

**Senate Bill 800** (*Authorizing electric utilities construct and operate project within electric utility distribution system*): Senator Smith;

**Senate Bill 801** (*Providing 12-month window to allow members of State Teachers Retirement System purchase qualified military service credits*): Senators Stollings and Romano;

**Senate Bill 807** (*Requiring statewide full-time professional counselor to student ratio of one to every 250 students*): Senators Lindsay, Stollings, Romano, Plymale, and Woelfel;

**Senate Bill 808** (*Authorizing tax credit for business entities which invest in certain fresh food retailers*): Senator Unger;

**Senate Bill 809** (*Relating to persons ineligible for employment in public schools*): Senator Plymale;

**Senate Bill 814** (*Providing pay raises to teachers*): Senator Hamilton;

**Senate Bill 815** (*Removing residency requirement for Commissioner of DOH*): Senator Cline;

**Senate Bill 818** (*Empowering WV transfer Little Beaver State Park to Raleigh County Commission*): Senator Cline;

**Senate Bill 820** (*Authorizing DHHR transfer comprehensive community mental health centers and intellectual disability facilities to regional centers and facilities*): Senator Cline;

**Senate Bill 822** (*Increasing annual longevity-based salary increase for civil service deputy sheriffs*): Senator Woelfel;

**Senate Bill 823** (*Increasing salaries for WV State Police*): Senators Lindsay, Ihlenfeld, Plymale, and Unger;

**Senate Bill 824** (*Establishing Summer Feeding for All Program*): Senators Lindsay and Woelfel;

**Senate Bill 826** (*Implementing system for ranked choice voting for election of justices to WV Supreme Court of Appeals*): Senator Plymale;

**Senate Bill 827** (*Relating to protection and repair of damage caused by oil and gas industry to state roads*): Senators Lindsay and Romano;

**Senate Bill 828** (*Clarifying municipal B&O taxation where business activity occurs*): Senators Lindsay and Woelfel;

**Senate Bill 831** (*Clarifying Economic Development Authority board enter into contracts necessary to carry out duties*): Senator Cline;

**Senate Bill 835** (*Transferring WV Network for Educational Telecomputing to Office of Technology*): Senator Woelfel;



And,

**Senate Bill 836** (*Providing rule-making power to DNR for purposes of regulating training dogs that pursue bear*): Senator Woelfel.

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

**Senate Concurrent Resolution 39** (*US Navy PO1 Jeffrey S. Taylor Memorial Bridge*): Senators Beach, Jeffries, and Unger;

**Senate Resolution 45** (*Congratulating St. Mary's High School golf team for winning 2019 Class A state golf championship*): Senators Cline, Lindsay, Jeffries, and Unger;

And,

**Senate Resolution 46** (*Congratulating Victory Baptist Academy volleyball team for winning 2019 WV Christian Education Association state volleyball tournament*): Senators Cline, Rucker, and Unger.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:52 p.m., the Senate adjourned until tomorrow, Thursday, February 20, 2020, at 11 a.m.

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## **SENATE CALENDAR**

**Thursday, February 20, 2020  
11:00 AM**

### **UNFINISHED BUSINESS**

- Com. Sub. for S. C. R. 19 - USMC LCpl Fred Michael Kerns Memorial Bridge **[ADOPT]**
- S. C. R. 27 - Requesting study on ways to make State Capitol building more handicap accessible **[ADOPT]**
- S. R. 47 - Recognizing Clay County High School "We the People" team for winning sixth consecutive WV state championship **[ADOPT]**

### **THIRD READING**

- Eng. Com. Sub. for Com. Sub. for S. B. 291 - Requiring PEIA and health insurance providers provide mental health parity
- Eng. Com. Sub. for S. B. 502 - Relating to methamphetamine criminal penalty
- Eng. S. B. 562 - Expunging certain criminal convictions
- Eng. S. B. 610 - Removing resident manager requirement for Alcohol Beverage Control Administration
- Eng. Com. Sub. for S. B. 692 - Clarifying persons indicted or charged jointly for felony offense can move to have separate trial

### **SECOND READING**

- Com. Sub. for S. B. 130 - Relating to procedure for driver's license suspension and revocation for DUI
- Com. Sub. for S. B. 253 - Providing for fair pay and maximized employment of disabled persons
- S. B. 651 - Relating to definition of "mortgage loan originator" (original similar to HB 3060)
- Com. Sub. for S. B. 660 - Regulating electric bicycles
- Eng. H. B. 4149 - Relating to insurance - (Com. amend. and title amend. pending)
- Eng. H. B. 4359 - Increasing the filing fees for insurers - (Com. amends. and title amend. pending)
- Eng. H. B. 4411 - Relating to the West Virginia Residential Mortgage Lender, Broker and Servicer Act
- Eng. H. B. 4515 - Relating to wildlife resources, eligibility for license or permit application

### **FIRST READING**

- Com. Sub. for Com. Sub. for S. B. 284 - Creating WV Health Care Continuity Act

Com. Sub. for S. B. 484 - Requiring free feminine hygiene products be provided to female prisoners

Com. Sub. for Com. Sub. for S. B. 491 - Relating to Seed Certification Program

Com. Sub. for S. B. 528 - Creating Uniform Worker Classification Act

Com. Sub. for S. B. 578 - Recalculating tax on generating, producing, or selling electricity from solar energy facilities

Com. Sub. for Com. Sub. for S. B. 579 - Changing and adding fees to wireless enhanced 911 fee

Com. Sub. for S. B. 586 - Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security (original similar to HB4485)

Com. Sub. for S. B. 649 - Permitting county emergency phone system directors negotiate contracts for mobile phones

Com. Sub. for S. B. 672 - Creating special registration plate recognizing Girl Scouts

Com. Sub. for S. B. 689 - Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act

S. B. 691 - Limiting programs adopted by State Board of Education

Com. Sub. for S. B. 705 - Allowing military veterans with certain experience qualify for examination as electrician or plumber

Com. Sub. for S. B. 707 - Relating to nursing career pathways

Com. Sub. for S. B. 722 - Relating to special license plates for public and private nonprofit transit providers

S. B. 723 - Requiring Department of Education develop plan based on analyzed data on school discipline

S. B. 727 - Relating to disbursement of funds for highway road repair

Com. Sub. for S. B. 728 - Exempting all property used for agricultural purposes from county property maintenance codes or ordinances

S. B. 734 - Clarifying powers and duties of DOH in acquiring property for state road purposes

Com. Sub. for S. B. 751 - Removing certain requirements of municipality annexing property within urban growth boundary

S. B. 755 - Relating to High-Wage Growth Business Tax Credit Act

Com. Sub. for S. B. 760 - Allowing state college or university apply to HEPC for designation as administratively or financially exempt school

Com. Sub. for S. B. 770 - Revising requirements for post-doctoral training

S. B. 781 - Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs

S. B. 782 - Relating to fees assessed by Health Care Authority on certain hospitals

Com. Sub. for S. B. 787 - Providing benefits to pharmacists for rendered care

- S. B. 789 - Repealing obsolete sections of WV Code relating to Legislature
- S. B. 803 - Supplemental appropriation of money out of General Revenue Fund to DHHR
- S. B. 804 - Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund
- S. B. 806 - Supplemental appropriation out of federal funds in Treasury to DOT
- S. B. 837 - Providing exemptions from ad valorem taxes for certain types of personal property
- S. B. 838 - Directing state police establish referral program for substance abuse treatment
- Com. Sub. for S. J. R. 9 - Amendment Authorizing Legislature to Eliminate or Lower Ad Valorem Tax on Motor Vehicles and Any Other Tangible Personal Property
- Eng. Com. Sub. for H. B. 2338 - Allowing the owner of an antique military vehicle to display alternate registration insignia - (Com. amend. pending)
- Eng. H. B. 4477 - West Virginia Mutual to Mutual Insurance Holding Company Act - (Com. title amend. pending) (original similar to SB598)
- Eng. H. B. 4661 - Relating to the powers of the Public Service Commission and the regulation of natural gas utilities

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2020**

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**Thursday, February 20, 2020**

9 a.m.	Transportation & Infrastructure	(Room 208W)
9:30 a.m.	Finance	(Room 451M)
10 a.m.	Judiciary	(Room 208W)