

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
SEVENTEENTH DAY

Charleston, West Virginia, Friday, January 26, 2018

The Senate met at 11:10 a.m.

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

Prayer was offered by the Reverend Jim Walther, Jr., Retired Presbyterian Clergy, Elkview, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Thursday, January 25, 2018,

At the request of Senator Baldwin, 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 Clerk presented the following communication from a state agency as required by the provisions of law:

Agriculture, Department of (§19-1-4)

The Senate proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2916—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6; to amend and reenact §6-1-3a of said code; to amend said code by adding thereto a new section, designated §7-1-3tt; to amend said code by adding thereto a new section, designated §7-15-19; to amend said code by adding thereto a new section, designated §8-15-28; and to amend said code by adding thereto a new section, designated §16-4C-24, all relating to authorizing certain investigators, homeland security emergency management personnel, and first responders to carry firearms; authorizing supervising entities to authorize investigators employed by the attorney general, reserve deputy

sheriffs, homeland security emergency management personnel, ambulance crew members, firefighters, rescue squad members and emergency service personnel to carry firearms; specifying the training required for all such persons to be eligible to carry a firearm; requiring successful completion of such training; and, for first responders, allowing for reimbursement for the cost of the training.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 3004—A Bill to amend and reenact §3-10-3, §3-10-4, §3-10-5, and §3-10-7 of the Code of West Virginia, 1931, as amended, all relating to filling vacancies in elected offices; the filling of vacancies in offices of state officials, Justices, judges, and magistrates; and requiring a vacancy in the partisan offices of that section to be filled by appointment by the Governor; providing that such vacancies be filled with a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred; setting requirements for party executive committees to submit qualified names for vacancies in said offices; providing that such appointments be made within a time certain; providing for appointment of a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred under circumstances where party executive committees do not act to submit qualified names for vacancies in said offices; requiring vacancies in the office of United States senator to be filled by appointment by the Governor; providing that such vacancy be filled with a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred; setting requirements for party executive committees to submit qualified names for vacancies in office of United States senator; providing that such appointments be made within a time certain; providing for appointment of a person of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred under circumstances where party executive committees do not act to submit qualified names for vacancies in said office; requiring vacancies created in state Legislature to be filled by appointment by the Governor; providing that such vacancies be filled with a person from the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred; requiring vacancies in offices of county commissioner or clerk of the county commission to be filled with person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred; providing process for vacancy on county commission or clerk of the county commission to be filled by the county commission itself; providing process for vacancy on county commission to be filled if county commission fails to fill the vacancy by itself; requiring the Governor appoint persons to fill vacancies on county commission when no quorum on county commission with a person from the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred; setting requirements for party executive committees to submit qualified names for county commission vacancies that must be filled by the Governor; ensuring county commission appointments are subject to time periods set forth in section one of the article; and making technical corrections.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 3005—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1 and §61-14-2, all relating to regulation of unmanned aircraft systems; defining terms; creating misdemeanor criminal offense for certain conduct using an unmanned aircraft system and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system equipped with a lethal weapon, creating exceptions, and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system with the intent to cause damage or disrupt in any way the flight of a manned aircraft and setting penalties therefor; and creating an exception for operating an unmanned aircraft system for commercial purposes that is authorized by the Federal Aviation Administration in a manner that is consistent with federal law and the provisions of this article.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 4150—A Bill to amend the Code of West Virginia, 1931, as amended, to amend and reenact §46A-6F-501; all relating to prohibiting telemarketing companies from transmitting misleading or inaccurate caller identification information.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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

Your Committee on Government Organization has had under consideration

Senate Bill 10, Relating generally to PSC jurisdiction.

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

Com. Sub. for Senate Bill 10 (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-19-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §8-19-2a and §8-19-2b; and to amend and reenact §24-2-1, §24-2-2, §24-2-3, and §24-2-4b of said code, all relating generally to the jurisdiction of the Public Service Commission; excluding the setting and adjustment of rates, fees, and charges of municipal power systems from the jurisdiction of the Public Service Commission; providing for a right of appeal by customers; and clarifying the commission's jurisdiction as modified by chapters 161 and 209, Acts of the Legislature, regular session, 2017, over Internet protocol-enabled service, voice-over Internet protocol-enabled service, storm water services by a public service district, political subdivisions providing separate or combined water and/or sewer services, and certain telephone company transactions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Takubo, 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 36, Relating generally to DNA testing.

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,

Tom Takubo,
Chair.

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

Senator Takubo, 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 46, Permitting pharmacists to inform customers of lower-cost alternative drugs.

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

Com. Sub. for Senate Bill 46 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-5-10 of the Code of West Virginia, 1931, as amended; relating to permitting pharmacists to inform customers about lower cost alternatives to prescribed drugs.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Tom Takubo,
Chair.

Senator Gaunch, 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 71, Defining “veteran” as it pertains to veteran-owned business.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Takubo, 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 103, Establishing tax credits for certain physicians who locate in WV to practice.

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,

Tom Takubo,
Chair.

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

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

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 141, Expanding county assessment and collection of head tax on breeding cows.

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

Com. Sub. for Senate Bill 141 (originating in the Committee on Agriculture and Rural Development)—A Bill to amend and reenact §7-7-6e of the Code of West Virginia, 1931, as amended, relating to expanding the county assessment and collection of a head tax on breeding cows, if the owner participates in the Coyote Control Program.

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

Respectfully submitted,

Dave Sypolt,
Chair.

The bill (Com. Sub. for S. B. 141), under the original double committee reference, was then referred to the Committee on Government Organization.

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 184, DOH rule relating to disposal, lease and management of real property.

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

Com. Sub. for Senate Bill 184 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-8-1 of the Code of West Virginia, 1931, as amended, relating generally to authorizing and directing the Division of Highways to promulgate certain legislative rules as filed, as modified, and as amended and repealing a rule; authorizing the Division of Highways to promulgate a legislative rule relating to the disposal, lease, and management of real property and appurtenant structures, and relocation assistance; directing the Division of Highways to promulgate a legislative rule relating to employment procedures; and repealing the Division of Highways legislative rule relating to waste tire remediation/environmental clean-up.

And,

Senate Bills 235, 236, 237, 238, 239, and 240 Tax Department rule relating to farm to food bank tax credit.

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

Com. Sub. for Senate Bill 237 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §64-7-1, §64-7-2, and §64-7-3 of the Code of West Virginia, 1931, as amended, relating generally to authorizing and directing certain agencies within the Department of Revenue to promulgate certain legislative rules as filed, as modified, and as amended; relating to authorizing the State Tax Department to promulgate a legislative rule relating to farm to food bank tax credit; authorizing the State Tax Department to promulgate a legislative rule relating to payment of taxes by electronic funds transfer; authorizing the State Tax Department to promulgate a legislative rule relating to property transfer tax; authorizing the State Tax Department to promulgate a legislative rule relating to municipal sales and service and use tax administration; directing the State Tax Department to promulgate a legislative rule relating to a personnel rule for the Tax Division; authorizing the Lottery Commission to promulgate a legislative rule relating to state lottery rules; and authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Takubo, 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 242, Requiring health insurance providers provide coverage for certain Lyme disease treatment.

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

Respectfully submitted,

Tom Takubo,
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 267, Increasing salaries of certain state employees.

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

Com. Sub. for Senate Bill 267 (originating in the Committee on Finance)—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-2 and §18A-4-8a of said code, all relating to increasing certain state employees' salaries; increasing the annual salaries of members of the West Virginia State Police; increasing the annual salaries of public school teachers; and increasing the annual salaries of school service personnel.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 268, Eliminating requirement that certain agencies purchase commodities produced on institutional farms.

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

Com. Sub. for Senate Bill 268 (originating in the Committee on Agriculture and Rural Development)—A Bill to amend and reenact §19-12A-1a, §19-12A-5, and §19-12A-6 of the Code of West Virginia, 1931, as amended, all relating to eliminating the requirement that the Division of Corrections and the Bureau for Public Health purchase commodities produced on institutional farms from the Department of Agriculture.

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

Respectfully submitted,

Dave Sypolt,
Chair.

The bill (Com. Sub. for S. B. 268), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 327, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty.

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

Com. Sub. for Senate Bill 327 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-13 of the Code of West Virginia, 1931, as amended, relating to the crime of extortion; and providing that extorting anything of value, including sexual contact, sexual intercourse, or an image of an intimate body part qualifies as extortion and subjects a person to a criminal penalty, defining terms, and establishing criminal penalties.

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 384, Decreasing and increasing appropriations from State Fund, General Revenue to DHHR.

Senate Bill 385, Decreasing and adding appropriations out of Treasury to DHHR and MAPS.

And,

Senate Bill 388, Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration.

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

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

By Senators Ojeda, Baldwin, Beach, Clements, Facemire, Jeffries, Palumbo, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, and Woelfel:

Senate Bill 394—A Bill to amend and reenact §61-11B-2 and §61-11B-4 of the Code of West Virginia, 1931, as amended, all relating to changing the requisite period necessary to take advantage of criminal offense reduction; amending the definition to reduce the period and create

a special period for honorably discharged veterans; adjusting the elements that a petitioner must prove accordingly; and making minor technical cleanup.

Referred to the Committee on the Judiciary.

By Senators Trump and Boso:

Senate Bill 395—A Bill to amend and reenact §22B-1-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22B-2-3 of said code; to amend and reenact §22B-3-3 of said code; and to amend and reenact §22B-4-3 of said code, all relating to the general provisions for judicial review; providing that decisions of the Air Quality Board, Environmental Quality Board, and Surface Mine Board may be directly appealed to the Supreme Court of Appeals except in certain cases; and providing that a petition for appeal must be perfected within 30 days after the entry of an order of a board.

Referred to the Committee on the Judiciary.

By Senators Ojeda, Baldwin, Beach, Facemire, Jeffries, Prezioso, Romano, Rucker, Stollings, Unger, Woelfel, and Plymale:

Senate Bill 396—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §24-9-1, §24-9-2, §24-9-3, and §24-9-4, all relating to creating the West Virginia Net Neutrality Act; protecting an open Internet in West Virginia; defining terms; placing certain requirements and restrictions on broadband Internet access service providers; requiring certain information be made publicly available by broadband Internet access service providers; prohibiting certain conduct by broadband Internet access service providers; authorizing the Public Service Commission to waive certain prohibitions; declaring violations of the act to be treated as violations of the West Virginia Consumer Credit and Protection Act; and requiring any funds recovered by the Office of the Attorney General for violations of the act to be deposited into the Broadband Enhancement Fund.

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

By Senators Sybolt, Facemire, Romano, and Cline:

Senate Bill 397—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-15-9, relating to making it a misdemeanor to impersonate a person who is blind or disabled; making it a misdemeanor for a person to fraudulently represent himself or herself to be the owner or trainer of a service animal; and establishing penalties.

Referred to the Committee on the Judiciary.

By Senators Gaunch, Cline, and Plymale:

Senate Bill 398—A Bill to amend and reenact §46A-4-101 and §46A-4-107 of the Code of West Virginia, 1931, as amended, all relating to requirements for making consumer loans in West Virginia; modifying the authority to make regulated consumer loans; providing that a person must first obtain a license from the Commissioner of Banking authorizing him or her to make regulated consumer loans before engaging in the business of making regulated consumer loans, taking assignments of or undertaking direct collection of payments from or enforcement of rights against consumers arising from regulated consumer loans; and adjusting threshold amounts of consumer loans for which certain finance charges can be imposed.

Referred to the Committee on Banking and Insurance.

By Senators Sypolt, Romano, Rucker, and Drennan:

Senate Bill 399—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8-5A-1, relating to creating the Taxation with Representation Act; and permitting nonresidents of a municipality who work in that municipality and who pay user fees pursuant to a municipal ordinance to vote in municipal elections.

Referred to the Committee on Finance.

By Senators Maynard, Boso, Gaunch, and Cline:

Senate Bill 400—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to prohibiting state licensing boards from hiring lobbyists; and declaring that the director and appointed board members of each board may lobby on behalf of the board.

Referred to the Committee on Government Organization.

By Senators Weld, Ferns, Romano, Cline, Baldwin, and Drennan:

Senate Bill 401—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4p; to amend said code by adding thereto a new section, designated §33-16-3bb; to amend said code by adding thereto a new section, designated §33-24-7q; to amend said code by adding thereto a new section, designated §33-25-8n; and to amend said code by adding thereto a new section, designated §33-25A-8p, all relating to requiring specified coverage in health benefit plans for outpatient and inpatient treatment for substance use disorders; defining terms; providing for rulemaking for the Insurance Commissioner; setting forth timeframes for coverage; and providing for expedited grievances.

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

By Senators Gaunch and Boso:

Senate Bill 402—A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating to creating an exemption from certain contract and common carrier laws for motor vehicles used by contract carriers exclusively for the transportation of railroad personnel.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Government Organization.

By Senators Rucker, Baldwin, Blair, Cline, Ferns, Jeffries, Romano, Swope, Trump, and Woelfel:

Senate Bill 403—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-12e, relating to the licensing of advance deposit wagering; providing for source market fees; providing for the distribution of those fees from wagers made by West Virginia account holders, for distribution of those fees from wagers made by account holders located within and outside 50 miles of a licensed horse racing association, and for distribution of those fees from wagers made by account holders located within 50 miles of two or more licensed horse racing associations; providing for regulatory authority in the Racing Commission over advance deposit wagering; providing for the assessment and imposition of regulatory fees and taxes on advance deposit wagering licensees' wagering in West Virginia and for the distribution of the fees and taxes; prohibiting advance deposit wagering in West Virginia unless conducted through an advance deposit wagering licensee or as otherwise provided by law; providing for criminal penalties for accepting or attempting to accept advance deposit wagers

without a license; providing authority for the Racing Commission to seek civil remedies and damages; providing that all advance deposit wagers placed by residents within the state are considered to be wagering within West Virginia subject to the laws of this state and rules of the Racing Commission; authorizing rulemaking; and defining terms.

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

By Senators Weld and Cline:

Senate Bill 404—A Bill to amend and reenact §15-12-2 and §15-12-4 of the Code of West Virginia, 1931, as amended, all relating to the sex offender registry information provided by offenders to be consistent with criminal code; and clarifying duration of registration for qualifying offenders as related to perceived minors.

Referred to the Committee on the Judiciary.

By Senators Rucker, Arvon, Azinger, Cline, Gaunch, Karnes, Maynard, and Smith:

Senate Bill 405—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2P-1, §16-2P-2, and §16-2P-3, all relating to the right to life guaranteed to all human beings; and providing definitions.

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

By Senators Ferns, Takubo, Boso, Cline, and Baldwin:

Senate Bill 406—A Bill to amend and reenact §9-5-26 of the Code of West Virginia, 1931, as amended, relating to supplemental Medicare and Medicaid reimbursement; and clarifying that ground emergency medical transportation services providers are eligible for reimbursement from Medicare.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

By Senators Sypolt, Facemire, and Cline:

Senate Joint Resolution 10—Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to exempting veterans who are 100 percent disabled from paying ad valorem real property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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

Senators Karnes, Azinger, Boley, Cline, Mann, Rucker, Swope, Trump, and Ferns offered the following resolution:

Senate Concurrent Resolution 9—Urging Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.

Whereas, Article IV, Section 4 of the Constitution of the United States guarantees to every state a Republican form of government which gives each state equal standing when calling for an

amendments convention. Article V of the Constitution of the United States reserves to the several states the right to call for a convention for the purpose of amending the United States Constitution when Congress or the courts or both Congress and the courts refuse to address an egregious wrong suffered by the people; and

Whereas, The states alone have the authority to “limit” the agenda and authority of a convention. The states alone can call for a “Single Issue” convention by agreeing among themselves the purpose, terms, conditions, duration, and agenda for the convention. Congress does not have the authority to define a “Single Issue” convention. The authority of Congress, under Article V of the United States Constitution empowers it to convene a convention as called for and defined by several states; and

Whereas, The founders of our Constitution empowered state legislators to be guardians of liberty against future abuses of power by the federal government which has created a crushing national debt through improper and imprudent spending; and

Whereas, The federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, It is the solemn duty of the states to protect the liberty of our people—particularly for the generations to come—by proposing amendments to the Constitution of the United States through a convention of the states under Article V for the purpose of restraining these and related abuses of power; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress; and, be it

Further Resolved, That the State of West Virginia hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress and absolutely no other business will be authorized at this convention; and, be it

Further Resolved, That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two thirds of several states have made applications on the same subject; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution and application to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of West Virginia’s congressional delegation, and to the presiding officers of each of the legislative houses in several states requesting their cooperation.

Which, under the rules, lies over one day.

Senators Beach, Baldwin, Clements, Gaunch, Maroney, Maynard, Ojeda, Plymale, Stollings, Woelfel, Facemire, Romano, Cline, and Prezioso offered the following resolution:

Senate Concurrent Resolution 10—Urging the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections in the United States.

Whereas, The Framers of the Constitution of the United States of America intended that the Congress of the United States of America should be “dependent on the people alone” (James Madison, Federalist 52); and

Whereas, That dependency has evolved from a dependency on the people alone to a dependency on powerful special interests, through campaigns or third-party groups, that has created a fundamental imbalance in our representative democracy; and

Whereas, Americans across the political spectrum agree that elections in the United States of America should be free from the disproportional influence of special interests and fair enough that any citizen can be elected into office; and

Whereas, The Constitution of the State of West Virginia states that “all power is vested in, and consequently derived from the people,” that “government is instituted for [their] common benefit” and the people have the inalienable and indefeasible right to alter or reform their government (Article III, Sections 2 & 3); and

Whereas, Article V of the United States Constitution requires Congress to call a convention for proposing amendments to the federal Constitution on the application of two-thirds legislatures of the several states; and

Whereas, The West Virginia Legislature perceives the need for an amendments convention in order to restore balance and integrity to our elections by proposing an amendment to the federal Constitution that will permanently protect free and fair elections in America by addressing, inter alia, issues raised by the decisions of the United States Supreme Court in *Citizens United v. Federal Election Commission* (2010) 130 S.Ct. 876 and related cases and events, and desires that said convention should be so limited; and

Whereas, The State of West Virginia desires that the delegates to said convention shall be comprised equally of individuals currently elected to state and local office, or be selected by election, in each Congressional district for the purpose of serving as delegates, though all individuals elected or appointed to federal office now or in the past, be prohibited from serving as delegates to the convention, and intends to retain the ability to restrict or expand the power of its delegates within the limits expressed herein; and

Whereas, The State of West Virginia intends that this be a continuing application considered together with applications calling for a convention passed in the 2013-2014 Vermont Legislature as R454, the 2013-2014 California Legislature as Resolution Chapter 77, the 98th Illinois General Assembly as SJR 42, the 2014-2015 New Jersey Legislature as SCR 132, the 2015-2016 Rhode Island Legislature as HR 7670 and SR 2589, and all other passed, pending, and future applications until such time as two thirds of the several states have applied for a convention for a similar purpose and said convention is convened by Congress; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections in the United States; and, be it

Further Resolved, That the people of the State of West Virginia speaking through its Legislature, and pursuant to Article V of the United States Constitution, hereby apply to the United States Congress to call a convention for the exclusive purpose of proposing an amendment to the Constitution of the United States of America that will restore free and fair elections as described herein, as soon as two thirds of the several states have applied for a convention for a similar purpose; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward copies of this resolution to the President of the United States; the Vice President of the United States in his capacity as presiding officer of the United States Senate; the Speaker of the United States House of Representatives; the Minority Leader of the United States House of Representatives; the President Pro Tempore of the United States Senate; to each Senator and Representative from West Virginia in the Congress of the United States with the respectful request that the full and complete text of this resolution be printed in the *Congressional Record*; to the presiding officers of each legislative body of each of the several states, requesting the cooperation of the states in issuing an application compelling Congress to call a convention for proposing an amendment pursuant to Article V of the U. S. Constitution.

Which, under the rules, lies over one day.

Senators Beach, Stollings, Romano, Unger, Plymale, Cline, and Prezioso offered the following resolution:

Senate Resolution 18—Designating January 26, 2018, as Human Resources Day at the Capitol.

Whereas, Human resources, also known as the people managers, refers to how employees are managed from small businesses and municipalities to large corporations and national governments; and

Whereas, Traditionally, human resources dealt with the part of an organization or company that was responsible for hiring, firing, training, and other personnel issues; and

Whereas, Today, human resources encompasses a vast area of diverse and dynamic issues that affect the everyday lives of our workforce; and

Whereas, In an effort to enhance morale and productivity, limit job turnover, and help organizations increase performance and improve results, human resource workers also help their companies or organizations effectively use employee skills, by providing training and development opportunities to improve those skills and increase employees' satisfaction with their jobs and working conditions; and

Whereas, In today's economy, human resources has become increasingly difficult as companies and organizations have instituted cost-cutting measures requiring human resources

workers to play a vital role in tackling these issues sensibly and responsibly for their company and its employees; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 26, 2018, as Human Resources Day at the Capitol; and, be it

Further Resolved, That the Senate extends its sincere appreciation and gratitude to the professionals working in the field of human resources; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Human Resources Day at the Capitol.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Prezioso regarding the adoption of Senate Resolution 18 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:27 a.m., the Senate recessed to present Senate Resolution 18.

The Senate reconvened at 11:32 a.m. today and proceeded to the seventh order of business.

Com. Sub. for Senate Concurrent Resolution 4, WV Army National Guard Sergeant Glenn F. Lough, P.E., Memorial Bridge.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Boso regarding the adoption of Committee Substitute for Senate Concurrent Resolution 4 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 67, Exempting DNR police officers' pensions from state income tax.

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: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 67) 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 116, Providing court costs collected under Second Chance Driver's License Program are not subject to 5 percent offset.

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: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

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. 116) 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 143, Permitting DNR identification tag be used to identify trap.

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: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 143) 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 163, Authorizing DEP promulgate legislative rules.

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

Pending extended discussion,

Senator Romano moved that the bill lie over one day, retaining its place on the calendar.

Following extended discussion,

The question being on the adoption of Senator Romano's aforestated motion, the same was put and prevailed.

Thereafter, the bill (Eng. Com. Sub. for S. B. 163) was laid over one day, retaining its place on the calendar.

Eng. Senate Bill 311, Specifying consumers sales and service tax exemption for purchase of certain services and tangible personal property related to aircraft.

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: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 311) 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 351, Permitting ballot commissioners serve while candidates for certain offices.

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: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Plymale, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Ojeda, Palumbo, Prezioso, and Stollings—5.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 351) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Plymale, Romano,

Rucker, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Ojeda, Palumbo, Prezioso, and Stollings—5.

Absent: Beach and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 351) 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 Senate Bill 7, Relating to claims under Wage Payment and Collection Act.

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 51, Relating to domestic relations.

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

Senate Bill 280, Allowing airports' emergency management and operations vehicles to use red flashing warning lights.

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.

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

Com. Sub. for Senate Bill 165, Authorizing DHHR promulgate legislative rules.

Com. Sub. for Com. Sub. for Senate Bill 284, Increasing access to career education and workforce training.

Com. Sub. for Senate Bill 285, Establishing regional recreation authorities and areas.

Senate Bill 338, Changing date for employers to file annual reconciliation and withholding statements.

And,

Senate Bill 393, Relating to compensation and composition of WV Racing Commission.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Takubo and Stollings.

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

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, the name of Senator Plymale was removed as a sponsor of **Senate Bill 373** (*Providing special license plate to support adoption*).

At the request of Senator Rucker, the name of Senator Rucker was removed as a sponsor of **Senate Bill 396** (*Creating West Virginia Net Neutrality Act*).

At the request of Senator Ferns, unanimous consent being granted, leaves of absence for the day were granted Senators Mann and Beach.

Pending announcement of a minority party caucus,

On motion of Senator Ferns, at 12:40 p.m., the Senate adjourned until Monday, January 29, 2018, at 11 a.m.

SENATE CALENDAR

Monday, January 29, 2018
11:00 AM

UNFINISHED BUSINESS

- S. C. R. 9 - Urging Congress call convention of states under Article V limited to proposing amendments to Constitution of United States
- S. C. R. 10 - Proposing amendment to US Constitution restoring free and fair elections

THIRD READING

- Eng. Com. Sub. for S. B. 7 - Relating to claims under Wage Payment and Collection Act
- Eng. Com. Sub. for S. B. 51 - Relating to domestic relations
- Eng. Com. Sub. for S. B. 163 - Authorizing DEP promulgate legislative rules (original similar to HB 4093)
- Eng. S. B. 280 - Allowing airports' emergency management and operations vehicles to use red flashing warning lights

SECOND READING

- Com. Sub. for S. B. 165 - Authorizing DHHR promulgate legislative rules (original similar to HB 4129)
- Com. Sub. for Com. Sub. for S. B. 284 - Increasing access to career education and workforce training (original similar to HB 4267)
- Com. Sub. for S. B. 285 - Establishing regional recreation authorities and areas (original similar to SB 67)
- S. B. 338 - Changing date for employers to file annual reconciliation and withholding statements (original similar to HB 4265)
- S. B. 393 - Relating to compensation and composition of WV Racing Commission

FIRST READING

- Com. Sub. for S. B. 10 - Relating generally to PSC jurisdiction
- Com. Sub. for S. B. 46 - Permitting pharmacists to inform customers of lower-cost alternative drugs

Com. Sub. for S. B. 71 -	Defining "veteran" as it pertains to veteran-owned business
Com. Sub. for S. B. 184 -	Authorizing DOT promulgate legislative rules (original similar to HB 4099)
Com. Sub. for S. B. 237 -	Authorizing Department of Revenue promulgate legislative rules (original similar to HB 4102)
S. B. 242 -	Requiring health insurance providers provide coverage for certain Lyme disease treatment (original similar to HB 4328)
Com. Sub. for S. B. 267 -	Increasing salaries of certain state employees (original similar to HB 4145)
Com. Sub. for S. B. 327 -	Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty
S. B. 384 -	Decreasing and increasing appropriations from State Fund, General Revenue to DHHR
S. B. 385 -	Decreasing and adding appropriations out of Treasury to DHHR and MAPS
S. B. 388 -	Decreasing, increasing and adding appropriations out of Treasury to DHHR and Department of Administration