

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE
REGULAR SESSION, 2019
TWENTY-SECOND DAY

Charleston, West Virginia, Wednesday, January 30, 2019

The Senate met at 9:37 a.m.

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

Prayer was offered by the Honorable Glenn D. Jeffries, a senator from the eighth district.

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, January 29, 2019,

At the request of Senator Azinger, 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 passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 17, Relating to probation eligibility.

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

Eng. Senate Bill 119, Specifying documents not subject to discovery in certain proceedings.

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 2083—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-2-1c, relating to facilitating a released inmate's reintegration into society, by requiring the Division of Corrections and Rehabilitation to provide an identification card for eligible released inmates who do not have a

West Virginia identification card or driver's license; permitting the Division of Motor Vehicles to make visits to Division of Corrections and Rehabilitation's facilities to assist inmates with applications to obtain a West Virginia identification card; providing that the Division of Corrections and Rehabilitation be temporary in nature; providing that the identification card issued by the Division of Corrections and Rehabilitation have the same force and effect as a standard/Not For Federal Use identification card; providing that the Division of Motor Vehicles shall accept an unexpired Division of Corrections and Rehabilitation identification card as proof of identity and proof of residency; requiring the Division of Corrections and Rehabilitation and the Division of Motor Vehicles to work together to develop a policy to verify social security numbers of released inmates; and requiring a former inmate to pay all fees charged by the Division of Motor Vehicles related to the issuance of an identification card.

Referred to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2191—A Bill to amend and reenact §29-22B-321, §29-22B-503, §29-22B-504, §29-22B-903, and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating generally to limited video lottery; modifying the definition of "operator;" allowing operators to be retailers at up to 10 licensed locations with certain exceptions; increasing the maximum wager permitted per limited video lottery game; removing restrictions on bill denominations accepted by limited video lottery terminals; and fixing the state's share of gross terminal income at 50 percent on July 1, 2019.

Referred to the Committee on Finance.

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

Eng. House Bill 2514—A Bill to amend and reenact §47-26-2 of the Code of West Virginia, 1931, as amended, relating to permitting pawn brokers to disclose whether any specific property has been sold or pledged.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 2602—A Bill to amend and reenact §61-3-18 of the Code of West Virginia, 1931, as amended, relating to receiving or transferring stolen property; and providing that to knowingly possess stolen goods is an element of the offense of receiving or transferring stolen property.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

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 52, Entitling natural resource producers to economic opportunity tax credit.

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

Your Committee on Government Organization has had under consideration

Senate Bill 90, Transferring Safety and Treatment Program from DHHR to DMV.

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

Com. Sub. for Senate Bill 90 (originating in the Committee on Government Organization)—
A Bill to amend and reenact §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as amended, all relating to the Safety and Treatment Program; transferring the program from the Department of Health and Human Resources to the Division of Motor Vehicles; adding grievance and appellate procedures and judicial review for individuals participating in the Safety and Treatment Program; authorizing the Commissioner of the Division of Motor Vehicles to promulgate rules to add such procedures and judicial review for participants; and amending internal code references.

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,

Gregory L. Boso,
Chair.

The bill (Com. Sub. for S. B. 90), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 100, Increasing court fees to fund law-enforcement standards training and expenses.

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

Com. Sub. for Senate Bill 100 (originating in the Committee on Finance)—A Bill to amend and reenact §30-29-4 of the Code of West Virginia, 1931, as amended, relating to increasing a fee added to the usual court costs of all criminal proceedings; and increasing fee added to the amount of any cash or property bond posted for violation of any criminal law, the proceeds of which are dedicated to the funding of training, professional development, and certification programs for law-enforcement officers and to paying the expenses of the Law-Enforcement Professional Standards Subcommittee.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Clements, 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 105, Creating enhanced penalty for certain aggravated traffic offenses.

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,

Charles H. Clements,
Chair.

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

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

Your Committee on Government Organization has had under consideration

Senate Bill 323, Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

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

Com. Sub. for Senate Bill 323 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-4e; and to amend and reenact §19-12A-6a of said code, all relating to establishing and funding a special revenue fund to be known as the Department of Agriculture Capital Improvements Fund; creating the fund; providing for administration by Department of Agriculture; identifying sources of moneys for said fund; identifying expenditures that may be made from said fund; providing for funds to remain at end of each fiscal year; eliminating certain

deposits in the General Revenue Account; permitting deposits into certain funds; and making technical corrections.

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,

Gregory L. Boso,
Chair.

The bill (Com. Sub. for S. B. 323), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 324, Relating to Commissioner of Agriculture employees.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 357, Relating generally to Division of Administrative Services.

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

Com. Sub. for Senate Bill 357 (originating in the Committee on Government Organization)—
A Bill to repeal §15-9A-1, §15-9A-2, §15-9A-3, and §15-9A-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §15A-2-1 and §15A-2-3 of said code; and to amend said code by adding thereto two new sections, designated §15A-2-4 and §15A-2-5, all relating to the Division of Administrative Services; designating division as staffing agency for certain agencies; providing that division perform executive and administrative support services for certain agencies; designating the division as the state administrative agency responsible for criminal justice and juvenile justice systems; providing exception; providing that code references to the Division of Justice and Community Services are to be construed as references to Division of Administrative Services; transferring employees of Division of Justice and Community Services to Division of Administrative Services; enumerating duties of director of division; requiring legislative rulemaking; and providing for posting of human trafficking assistance notices.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 358, Exempting Purchasing Division purchases for equipment to maintain security at state facilities.

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

Respectfully submitted,

Gregory L. Boso,
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 361, Relating to Public Defender Services.

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

Com. Sub. for Senate Bill 361 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §29-21-6 of the Code of West Virginia, 1931, as amended, relating to Public Defender Services; authorizing the agency's executive director to establish and operate a habeas division; providing that the executive director or his or her designee shall be the director of the division to represent qualified persons in habeas corpus matters; providing for the representation of eligible clients upon appointment by the circuit courts or the Supreme Court of Appeals; providing for limitations on appointments for conflicts of interest or an excessive caseload; authorizing the executive director to employ attorneys and support staff to perform the duties of the division; and requiring maintenance of client records for record-keeping purposes only.

Senate Bill 369, Relating to generic drug products.

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

Com. Sub. for Senate Bill 369 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §30-5-12b of the Code of West Virginia, 1931, as amended, relating generally to generic drug products; providing definitions; providing that when a pharmacist substitutes a drug the patient shall receive the savings which shall be equal to the difference in acquisition cost of the product prescribed and the acquisition cost of the substituted product; providing an exception for covered individuals; and clarifying that the West Virginia Board of Pharmacy has primary responsibility for enforcement.

And,

Senate Bill 373, Relating to financial responsibility of inmates.

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

Com. Sub. for Senate Bill 373 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating to the financial responsibility of inmates generally; and authorizing the commissioner of corrections to deduct money from civil judgments and settlements to pay court-ordered obligations prior to depositing such moneys in the inmate's account.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
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 377, Relating to minimum wage and maximum hour standards.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 389, Allowing developmentally disabled person purchase base hunting license.

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

Com. Sub. for Senate Bill 389 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-30a of the Code of West Virginia, 1931, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training; providing that said developmentally disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a person 18 years of age or older; and providing for criminal penalties.

With the recommendation that the 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 398, Relating to compensation for senior judges.

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

Com. Sub. for Senate Bill 398 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-9-10 of said code, all relating generally to compensation for judicial officers; providing that senior judges, justices, and magistrates may receive per diem compensation for temporary assignments while receiving retirement benefits, subject to certain limitations; setting forth legislative findings; limiting the per diem rate of compensation that may be paid to senior judges and justices for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior judge or justice during a single calendar year may not exceed the annual salary of a sitting circuit judge; providing an exception to the limitation on the combined total of per diem compensation and retirement benefits paid to a senior judge or justice in a calendar year, if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying that certain circumstances necessitate extended assignment of such judge or justice; requiring that administrative orders regarding extended assignment of a senior judge or justice be submitted to the State Auditor and the State Treasurer; providing that senior judges and justices may be reimbursed for actual and necessary expenses incurred in the performance of their duties; and requiring the State Treasurer to petition the West Virginia Supreme Court of Appeals for a writ of prohibition prohibiting the State Auditor from issuing warrants to authorize payment of compensation to senior judges and justices above statutory limitation on daily rate of per diem compensation.

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,

Charles S. Trump IV,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 399, Relating to compensation for senior magistrates.

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,

Charles S. Trump IV,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 450, Exempting recipients of Purple Heart medal from paying vehicle registration fee.

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

Com. Sub. for Senate Bill 450 (originating in the Committee on Military)—A Bill to amend and reenact § 17A-10-8 of the Code of West Virginia, 1931, as amended, relating to exempting recipients of the distinguished Purple Heart medal, the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal from payment of the vehicle registration fee for West Virginia residents.

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,

Ryan W. Weld,
Chair.

The bill (Com. Sub. for S. B. 450), under the original double committee reference, was then referred to the Committee on Finance.

Senator Clements, 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 12, US Army CPL Lee Roy Young Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,
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 2462, Issuing a certificate to correctional employees to carry firearms.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

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

By Senator Sypolt:

Senate Bill 468—A Bill to amend and reenact §18A-5-2 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that schools be closed on election days.

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

By Senator Maynard:

Senate Bill 469—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-30-27, relating to requiring the Secretary of the Department of Environmental Protection to prepare guidelines for small gas stations that have small volume aboveground storage tanks; and requiring rulemaking.

Referred to the Committee on the Judiciary.

By Senators Takubo, Maroney, Stollings, and Tarr:

Senate Bill 470—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7B-9e, relating to providing for the periodic payment of verdict awards under the Medical Professional Liability Act; computing those periodic payments; appropriate forms of security necessary to satisfy the periodic payment order; settlements; and assigning periodic payments.

Referred to the Committee on the Judiciary.

By Senator Sypolt (By Request):

Senate Bill 471—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, and §19-37-3, all relating to raw milk; creating the West Virginia Farm Fresh Raw Milk Act; exempting certain sales from licensure and certification; providing definitions; requiring the use of best sanitary milking and milk-handling procedures; empowering the Department of Agriculture to conduct inspections and administer the program; providing requirements for sales; and providing immunity to producers when a consumer illness results from improper handling by customers.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on the Judiciary.

By Senators Sypolt and Baldwin:

Senate Bill 472—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting retirement income of members of certain uniformed services from state income tax.

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

By Senators Sypolt and Cline:

Senate Bill 473—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; providing for nonresidents of a municipality who work in that municipality and who pay user fees pursuant to a municipal ordinance may vote in municipal elections.

Referred to the Committee on the Judiciary.

By Senator Azinger:

Senate Bill 474—A Bill to repeal §48-1-210 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto four new sections, designated §48-1-239a, §48-1-239b, §48-1-239c, and §48-1-239d; to amend and reenact §48-9-102, §48-9-203, §48-9-204, §48-9-206, §48-9-207, §48-9-209, §48-9-403, and §48-9-601 of said code; and to amend said code by adding thereto a new section, designated §48-9-204a, all relating to establishing that shared legal and physical custody of a child in cases of divorce is presumed to be in the best interests of the child.

Referred to the Committee on the Judiciary.

By Senators Sypolt, Cline, and Facemire:

Senate Bill 475—A Bill to amend and reenact §17C-15-44 of the Code of West Virginia, 1931, as amended, relating to permitting persons who are 21 years of age or older to operate or be a passenger on a motorcycle without a helmet if they have held a license valid for the operation of a motorcycle for a minimum of two years; and making a technical correction.

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

By Senator Blair:

Senate Bill 476—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-1-1b, relating to training of State Tax Division employees.

Referred to the Committee on Finance.

By Senator Blair:

Senate Bill 477—A Bill to amend and reenact §11-15A-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-15A-6b, all relating generally to collection of use tax; defining terms; requiring collection of use tax by marketplace facilitators and referrers satisfying certain economic nexus requirements; and specifying internal effective date.

Referred to the Committee on Finance.

By Senator Cline:

Senate Bill 478—A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2019, to the Department of Military Affairs and Public Safety, Fire Commission, fund 0436, fiscal year 2019, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

By Senators Cline, Baldwin, and Woelfel:

Senate Bill 479—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18B-4-11, relating to requiring each state institution of higher education, on or before a certain date, to adopt and submit to the West Virginia Higher Education Policy Commission a written sexual assault policy that includes certain due process protections in disciplinary proceedings; requiring disciplinary proceedings provisions to include a description of the rights for certain students and to include certain provisions; requiring the disciplinary proceedings provisions to require an institution of higher education to provide certain students with a certain notice, to use a certain standard of proof in certain disciplinary proceedings, to prohibit the use of mediation to resolve certain allegations except under certain circumstances, to prohibit a certain adjudicating official or body from considering certain types of evidence except in certain circumstances, to authorize counsel to be provided to certain students under certain circumstances, to require the institution to pay certain costs and fees except under certain circumstances; specifying that the institution is not required to pay a student's attorney's fees for representation in a criminal or civil matter; and relating to sexual assault and disciplinary proceedings provisions at institutions of higher education.

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

By Senator Trump:

Senate Bill 480—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §44-2-19a; and to amend and reenact section §44-3A-24 of said code, all relating to administration of estates; requiring reports by fiduciary commissioners of unprogressed estates; allowing the county commission to close an estate administratively; providing an appeal procedure; and providing that personal representatives are liable for failure to all persons with an interest in the assets of such an estate.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 481—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended, relating to Judicial Vacancy Advisory Commission; and altering the in-state residency requirements for members of the commission so that no more than two of its appointed members are residents of the same state senatorial district.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 482—A Bill to amend and reenact §42-1-1 of the Code of West Virginia, 1931, as amended; and amending said code by adding thereto a new section, designated §42-1-11, all relating to barring a parent from inheriting from a child in certain instances.

Referred to the Committee on the Judiciary.

By Senator Trump:

Senate Bill 483—A Bill to amend and reenact §41-5-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-1-4 of said code; and to amend said code by adding thereto a new section, designated §44-1-14b, all relating to the administration of estates; and providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

Referred to the Committee on the Judiciary.

By Senators Palumbo, Baldwin, Beach, Jeffries, Stollings, Facemire, and Lindsay:

Senate Bill 484—A Bill to amend and reenact §61-6-21 of the Code of West Virginia, 1931, as amended, relating to prohibiting civil rights violations based on gender identity or sexual orientation; criminal penalties; when evidence of constitutionally protected speech or associations is not admissible in criminal prosecutions; exceptions; providing for sentencing alternatives for persons convicted of violations; and designating amendments to this section as Angel's Law.

Referred to the Committee on the Judiciary.

By Senators Smith, Sypolt, Cline, and Swope:

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.

By Senators Carmichael (Mr. President) and Prezioso (By Request of the Executive):

Senate Joint Resolution 11—Proposing an amendment to the Constitution of the State of West Virginia amending article X thereof, by adding thereto a new section, designated section one-d, relating to ad valorem property taxation; defining terms; exempting new tangible industrial machinery and equipment personal property from ad valorem property taxation; providing phased-in reduction of taxation of certain tangible industrial machinery, equipment, and inventory personal property until fully exempted; providing phased-in increases of appropriations and permanent appropriation of replacement revenues for proportional distribution to levying bodies; providing for general law; preserving tax exemptions, credits, deductions, discounts, and other tax relief

benefits; establishing primacy of section; 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 Maroney, Clements, Baldwin, Stollings, and Swope offered the following resolution:

Senate Concurrent Resolution 20—Requesting the Division of Highways name bridge number 26-250-31.34 (26A119), known locally as Route 250 Jefferson Avenue Extension Bridge, crossing Little Grave Creek just south of the Walmart Plaza entrance near Moundsville, West Virginia, the “U.S. Air Force SSGT Ryan David Hammond Memorial Bridge”.

Whereas, Ryan Hammond was born on March 29, 1989, in Glen Dale, West Virginia, and graduated from John Marshall High School in 2007; and

Whereas, After graduating high school, Ryan Hammond proudly joined the United States Air Force in September 2007 as an F-15 Avionics Technician at Tyndall Air Force Base, Florida, and Seymour Johnson Air Force Base, North Carolina. After 6 years of service, Ryan cross-trained to a Loadmaster and arrived at Dyess Air Force Base, Texas, in March 2014 as part of the 39th Airlift Squadron; and

Whereas, SSGT Ryan David Hammond, 26, of Moundsville, West Virginia, died as a hero on Friday, October 2, 2015. Ryan was killed in action when a U. S. C-130J plane crashed while taking off from Jalalabad International Airport in Afghanistan during Operation Freedom’s Sentinel; and

Whereas, Before his deployment, Ryan applied to officer training school. He was a member of the elite USAF Honor Guard. Ryan was also working toward his bachelor’s degree in Technical Management at Embry-Riddle Aeronautical University. He was a member of Ebenezer United Methodist Church on Roberts Ridge, in Moundsville. Ryan lived in Abilene, Texas, with his wife, Holly, and their dog, Dug; and

Whereas, It is fitting that an enduring memorial be established to commemorate SSGT Ryan David Hammond and his sacrifice for his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 26-250-31.34 (26A119), known locally as Route 250 Jefferson Avenue Extension Bridge, crossing Little Grave Creek just south of the Walmart Plaza entrance near Moundsville, West Virginia, the “U.S. Air Force SSGT Ryan David Hammond 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. Air Force SSGT Ryan David Hammond Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Stollings, Ihlenfeld, Facemire, Palumbo, Hardesty, Baldwin, Hamilton, Prezioso, Cline, Sypolt, and Swope offered the following resolution:

Senate Resolution 23—Designating January 30, 2019, as Cancer Survivorship Day at the Legislature.

Whereas, West Virginia will experience 12,440 new cases of cancer this year; and

Whereas, In 2019, 4,820 people will die from cancer in West Virginia; and

Whereas, Cancer will cost the United States economy an estimated \$216 billion in medical costs and lost productivity; and

Whereas, Lawmakers play a key role in preventing cancer by passing policies to reduce tobacco use and exposure to secondhand smoke, and increase healthy eating and active living; and

Whereas, Lawmakers can also advance policies that will increase access to life-saving screenings, improve quality of life with increased access to palliative care, fund research, and expand access to care; and

Whereas, There are 14.5 million cancer survivors alive in the United States and 107,520 cancer survivors in West Virginia because of the efforts of researchers, doctors, volunteers, and lawmakers; and

Whereas, This progress must continue through collaboration between lawmakers and citizens to end cancer as a major health issue; therefore, be it

Resolved by the Senate:

That the Senate hereby designates January 30, 2019, as Cancer Survivorship Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the American Cancer Society Cancer Action Network.

At the request of Senator Stollings, 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 9:54 a.m., the Senate recessed to present Senate Resolution 23.

The Senate reconvened at 9:58 a.m. and resumed business under the sixth order.

Senators Baldwin, Facemire, Palumbo, Hamilton, Stollings, Sypolt, and Swope offered the following resolution:

Senate Resolution 24—Congratulating D. Frank Masters for winning the Conservation Farm of the Year Award.

Whereas, The Conservation Farm of the Year competition showcases the best examples of farms owned and operated by people who are dedicated to conservation; and

Whereas, Cooperating farms in each county are nominated by their local conservation district and go on to compete at the county, district, area, and state levels; and

Whereas, Farms are judged on several topics, such as resource management, conservation plan, best management practices, cooperator contribution, and involvement in the community; and

Whereas, D. Frank Masters, of Ronceverte, represents the Greenbrier Valley Conservation District, which consists of Greenbrier, Monroe, and Pocahontas counties; and

Whereas, For his efforts in conservation farming, D. Frank Masters was awarded the 2018 West Virginia Conservation Farm of the Year; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates D. Frank Masters for winning the Conservation Farm of the Year Award; and, be it

Further Resolved, That the Senate extends its sincere appreciation and gratitude to D. Frank Masters for his excellence in conservation farming; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to D. Frank Masters.

At the request of Senator Baldwin, 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 Beach, and by unanimous consent, the remarks by Senator Baldwin regarding the adoption of Senate Resolution 24 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 10:01 a.m., the Senate recessed to present Senate Resolution 24.

The Senate reconvened at 10:05 a.m. and, at the request of Senator Hamilton, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the eighth order of business.

Com. Sub. for Senate Bill 4, Relating generally to Municipal Home Rule Program.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, January 29, 2019, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

Eng. Com. Sub. for Senate Bill 72, Creating Sexual Assault Victims' Bill of Rights.

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 72 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, 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. 72) 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 102, Relating generally to powers and authority of courthouse security officers.

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, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, 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. 102) 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 149, Exempting certain veterans from concealed weapons license fees.

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, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, 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. 149) 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 199, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

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

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

Eng. Senate Bill 233, Relating to age requirements for deputy sheriff.

Having been read a third time on Monday, January 28, 2019, and now coming up in regular order, was reported by the Clerk.

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

Eng. Com. Sub. for Senate Bill 243, Requiring racetrack participate in WV Thoroughbred Development 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: Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Azinger—1.

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. 243) 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 256, Allowing certain deductions from individual personal income tax refunds.

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

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

Eng. Com. Sub. for Senate Bill 258, Establishing common law “veil piercing” claims not be used to impose personal liability.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 258 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

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. 258) passed with its title.

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 Boso, and by unanimous consent, the remarks by Senators Trump, Romano, and Ihlenfeld regarding the passage of Engrossed Committee Substitute for Senate Bill 258 were ordered printed in the Appendix to the Journal.

Eng. Senate Bill 297, Extending expiration of military members’ spouses’ driver’s license.

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

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

Eng. Com. Sub. for Senate Bill 390, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

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

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

Eng. House Bill 2351, Relating to regulating prior authorizations.

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

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2351) passed.

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

Eng. House Bill 2351—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7f; to amend said code by adding thereto a new section, designated §33-15-4s; to amend said code by adding thereto a new section, designated §33-16-3dd; to amend said code by adding thereto a new section, designated §33-24-7s; to amend said code by adding thereto a new section, designated §33-25-8p; and to amend said code by adding thereto a new section, designated §33-25A-8s, all relating to requiring health insurers to develop prior authorization forms and portals; adding definitions; providing for electronically transmitted prior authorization forms; establishing procedures for submission and acceptance of forms; establishing form requirements; providing for a provision for an incomplete submission; providing for an audit; granting enforcement powers to the Department of Health and Human Resources; setting forth peer review procedures; providing for mandatory medication provisions upon discharge; requiring an exemption for health care practitioners meeting specified criteria; requiring certain information to be included on the health insurer's web page and the form; establishing deadlines and submission format for pharmacy benefits; setting forth an effective date; providing for implementation applicability; and setting deadlines.

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 187, Authorizing Department of Revenue to promulgate legislative rules.

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 270, Streamlining process for utilities access to DOH rights-of-way.

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

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

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 103, Relating generally to Public Defender Services.

Com. Sub. for Senate Bill 264, Requiring courts to order restitution to crime victims where economically practicable.

Senate Bill 331, Using leashed dogs to track mortally wounded deer or bear.

And,

Senate Bill 332, Relating to Class Q special hunting permit for disabled persons.

On motion of Senator Takubo, at 10:50 a.m., the Senate recessed for 15 minutes.

The Senate reconvened at 11:13 a.m. and, at the request of Senator Takubo, and by unanimous consent, returned to the sixth order of business, which agenda includes the making of main motions.

Senator Takubo moved that the Senate resolve itself into the Committee of the Whole for the purpose of consideration of Senate Bill 451 (*Comprehensive education reform*).

The question being on the adoption of Senator Takubo's motion that the Senate resolve itself into the Committee of the Whole for the purpose of consideration of Senate Bill 451, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo's aforesaid motion had prevailed.

Senator Carmichael (Mr. President) then appointed Senator Blair to preside as Chairman of the Committee of the Whole.

Senator Blair assumed the Chair.

The Committee of the Whole having risen,

Senator Carmichael (Mr. President) took the Chair and the Senate resumed its regular session.

On motion of Senator Takubo, at 8:35 p.m., the Senate adjourned until tomorrow, Thursday, January 31, 2019, at 9 a.m.

SENATE CALENDAR

**Thursday, January 31, 2019
9:00 AM**

UNFINISHED BUSINESS

- S. C. R. 12 - US Army CPL Lee Roy Young Memorial Bridge
- S. C. R. 20 - US Air Force SSGT Ryan David Hammond Memorial Bridge

THIRD READING

- Com. Sub. for S. B. 4 - Relating generally to Municipal Home Rule Program - (With right to amend)
- Eng. Com. Sub. for S. B. 187 - Authorizing Department of Revenue to promulgate legislative rules (original similar to HB2270)
- Eng. Com. Sub. for S. B. 199 - Authorizing certain miscellaneous agencies and boards promulgate legislative rules (original similar to HB2282)
- Eng. S. B. 233 - Relating to age requirements for deputy sheriff
- Eng. S. B. 256 - Allowing certain deductions from individual personal income tax refunds
- Eng. S. B. 297 - Extending expiration of military members' spouses' driver's license (original similar to HB2784)
- Eng. Com. Sub. for S. B. 390 - Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects

SECOND READING

- Com. Sub. for S. B. 103 - Relating generally to Public Defender Services
- Com. Sub. for S. B. 264 - Requiring courts to order restitution to crime victims where economically practicable
- Com. Sub. for S. B. 270 - Streamlining process for utilities access to DOH rights-of-way (original similar to HB2416)
- S. B. 331 - Using leashed dogs to track mortally wounded deer or bear
- S. B. 332 - Relating to Class Q special hunting permit for disabled persons

FIRST READING

- Com. Sub. for S. B. 100 - Increasing court fees to fund law-enforcement standards training and expenses
- S. B. 324 - Relating to Commissioner of Agriculture employees (original similar to HB2528, HB2624)
- Com. Sub. for S. B. 357 - Relating generally to Division of Administrative Services

S. B. 358 - Exempting Purchasing Division purchases for equipment to maintain security at state facilities (original similar to HB2695)

Com. Sub. for S. B. 361 - Relating to Public Defender Services

Com. Sub. for S. B. 369 - Relating to generic drug products

Com. Sub. for S. B. 373 - Relating to financial responsibility of inmates (original similar to HB2764)

S. B. 377 - Relating to minimum wage and maximum hour standards

Com. Sub. for S. B. 389 - Allowing developmentally disabled person purchase base hunting license (original similar to HB2791)

Com. Sub. for S. B. 398 - Relating to compensation for senior judges

S. B. 399 - Relating to compensation for senior magistrates

Eng. H. B. 2462 - Issuing a certificate to correctional employees to carry firearms - (Com. amend. and title amend. pending)