

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

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

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Charleston, West Virginia, Thursday, January 31, 2019

The Senate met at 9:17 a.m.

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

Prayer was offered by the Honorable Charles S. Trump IV, a senator from the fifteenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles H. Clements, a senator from the second district.

Pending the reading of the Journal of Wednesday, January 30, 2019,

At the request of Senator Facemire, 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 amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, to take effect from passage, of

**Eng. Senate Bill 272**, Updating code relating to Commission on Special Investigations.

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

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Senate Bill 272**—A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, and §4-5-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to the Commission on Special Investigations; continuing the commission; clarifying composition and chairmanship of the commission and terms of members; redefining what constitutes a quorum for voting procedures of the commission; specifying contents of the commission's annual report; authorizing the employment of staff and the creation of certain staff positions; granting power to conduct

interviews and request production from agencies of the state and its political subdivisions of books, records, documents, papers, and tangible things; authorizing the issuance of written requests for production in lieu of subpoenas; authorizing the director to issue subpoenas on the commission's behalf; authorizing the commission to require an agency head to appear before the commission to answer for an agency's failure to appear or produce requested or subpoenaed material or other failure to comply with a commission investigation; ~~providing for the confidentiality of investigations~~; providing for executive session and confidentiality rights of witnesses; updating exemption of investigative materials from public disclosure; removing requirement for pre-approval of expenses of the commission by the Joint Committee on Government and Finance; providing procedures for the commission's retention and disposal of records; establishing new offenses of impersonating a commission member or staff member and of threatening or otherwise obstructing a commission member or staff; establishing criminal penalties; allowing the commission to award duty weapons to certain members on retirement; exempting the commission from the jurisdiction of the agency for surplus property within the Purchasing Division of the Department of Administration with respect to the disposal of the commission's primary and secondary duty weapons; authorizing sale of surplus weapons to active and retired members of the commission's investigative staff; and updating language and terms for clarity throughout.

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

Engrossed Senate Bill 272, as amended by the House of Delegates, was then 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, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 272) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, 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, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 272) takes effect from passage.

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

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

**Eng. Com. Sub. for House Bill 2407**—A Bill to repeal §30-7-1a, §30-7-6a, §30-7-6b, §30-7-8a, §30-7-11a, §30-7-15a, §30-7-15b, §30-7-15c, §30-7-15d, and §30-7-15e of the Code of West Virginia, 1931, as amended; to repeal §30-7E-1, §30-7E-2, and §30-7E-3 of said code; to amend and reenact §16-5B-19 of said code; to amend and reenact §30-7-1, §30-7-2, §30-7-3, §30-7-4, §30-7-5, §30-7-6, §30-7-7, §30-7-8, §30-7-9, §30-7-10, §30-7-11, §30-7-12, §30-7-13, §30-7-14, §30-7-15, §30-7-16, §30-7-17, §30-7-18, §30-7-19, and §30-7-20 of said code; to amend said code by adding thereto twelve new sections, designated §30-7-21, §30-7-22, §30-7-23, §30-7-24, §30-7-25, §30-7-26, §30-7-27, §30-7-28, §30-7-29, §30-7-30, and §30-7-31, all relating to the Board of Nursing, prohibiting the practice of nursing without a license; providing other applicable sections; defining terms; renaming the board; providing for board composition and qualifications; setting forth the powers and duties of the board; clarifying rule-making authority; continuing a special revenue account; establishing license and permit requirements; establishing qualifications for licensure; codifying a scope of practice; creating a temporary permit; providing for reciprocal licensure; establishing renewal requirements; providing for exemptions from licensure; creating a special volunteer license; continuing a Joint Advisory Council; providing the council's composition; providing council members' terms; providing powers of the council; providing duties of the council; setting forth limitations of the article; permitting the board to file an injunction; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; providing criminal offenses are to be reported to law enforcement; providing criminal penalties; repealing expired authority; and updating references.

Referred to the Committee on Health and Human Resources.

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 2492**—A Bill to amend and reenact §9-6-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-2-809 of said code, all relating to mandatory reporting procedures of abuse and neglect of adults and children.

Referred to the Committee on Health and Human Resources.

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 2510**—A Bill to amend and reenact §30-1-10 of the Code of West Virginia, 1931, as amended, relating to special funds of boards of examination or registration; requiring notice by Treasurer to Legislative Auditor of certain transfers; requiring review of the fee structure of board by Legislative Auditor under certain circumstances; and requiring report to Joint Standing Committee on Government Organization.

Referred to the Committee on Government Organization.

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

**Eng. House Bill 2525**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-56-1, §16-56-2, §16-56-3, §16-56-4, §16-56-5, and §16-56-6, all relating to permitting a pharmacist to dispense a tobacco cessation therapy under a standing prescription drug order.

Referred to the Committee on Health and Human Resources.

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 2530**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-54-1, §16-54-2 and §16-54-3, all relating to regulation of recovery residences; providing voluntary certification procedures; providing voluntary inspection standards; providing requirements for the referral of persons; providing criminal penalties; providing for the payment of state funds to recovery residences.

Referred to the Committee on Health and Human Resources.

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 2531**—A Bill to amend and reenact §16-5Y-5 of the Code of West Virginia, 1931, as amended, relating to permitting certain trained professionals to provide counseling in a medication-assisted treatment program.

Referred to the Committee on Health and Human Resources.

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 2559**—A Bill to amend and reenact §29-6-7a of the Code of West Virginia, 1931, as amended, relating to requiring a special report by the Division of Personnel; setting a deadline for delivering the report; requiring certain financial revenue and expense data; requiring information related to classification and compensation actions of the division; and requiring a description of any administrative appeals and outcomes.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

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

Your Committee on Health and Human Resources has had under consideration

**Senate Bill 81**, Prohibiting smoking in vehicle when minor under 16 present.

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

**Com. Sub. for Senate Bill 81** (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-9A-11, relating to prohibiting smoking of tobacco products in a motor

vehicle while an individual 17 years of age or less is present; defining terms; making the violation a secondary misdemeanor offense; and providing a penalty.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill (Com. Sub. for S. B. 81), under the original double committee reference, was then referred to the Committee on the Judiciary.

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 Azinger:**

**Senate Bill 485**—A Bill to amend and reenact §33-17A-3 of the Code of West Virginia, 1931, as amended, relating to defining a reduction in coverage and clarifying what is a termination for property insurance purposes.

Referred to the Committee on Banking and Insurance.

**By Senators Cline and Stollings:**

**Senate Bill 486**—A Bill to amend and reenact §5-1-25 of the Code of West Virginia, 1931, as amended, relating to making daylight saving time the official time in West Virginia, year round.

Referred to the Committee on the Judiciary.

**By Senators Maroney, Trump, and Takubo:**

**Senate Bill 487**—A Bill to amend and reenact §55-7B-7a of the Code of West Virginia, 1931, as amended, relating to the admissibility of health care staffing requirements in litigation; providing that compliance with minimum staffing requirements creates a rebuttable presumption that appropriate staffing and adequate supervision were provided; and requiring that jury shall be instructed that presumption may be rebutted by clear and convincing evidence.

Referred to the Committee on the Judiciary.

**By Senators Maroney, Hardesty, Takubo, Stollings, Plymale, and Tarr:**

**Senate Bill 488**—A Bill to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended, relating to the Director of the Public Employee Insurance Agency's authority to execute contracts for group prescription drug insurance; requiring the director to include language in any contract for pharmacy benefits management that requires the quarterly report of certain data relating to payment of claims; requiring any pharmacy benefit manager of the agency to itemize administrative fees, rebates, or processing charges associated with pharmacy claims when there is a difference between the amount paid to a pharmacy provider and the amount charged to the agency; providing that any proprietary data be kept confidential; requiring the director to report

aggregated data to the Joint Committee on Government and Finance at least quarterly which details any difference between the amount paid by a pharmacy benefit manager to pharmacy providers and the amount charged to the agency for each claim by the pharmacy benefit manager, and the impact any difference has on agency expenditures; and requiring the director to terminate a pharmacy benefit manager contract for failure to comply.

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

**By Senators Maroney, Takubo, and Tarr:**

**Senate Bill 489**—A Bill to amend and reenact §33-51-3, §33-51-4, §33-51-7, §33-51-8, and §33-51-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §33-51-10 and §33-51-11, all relating generally to the Pharmacy Audit Integrity Act and the regulation of pharmacy benefit managers; defining terms; requiring pharmacy benefit managers to obtain a license from the Insurance Commissioner before doing business in the state; setting forth terms and fees for licensure of pharmacy benefit managers; authorizing the Insurance Commissioner to promulgate rules for legislative approval relating to licensing, fees, application, financial standards, and reporting requirements of pharmacy benefit managers; requiring pharmacy benefit managers provide a reasonably adequate network; providing that a pharmacy benefit manager has a fiduciary duty to certain third parties; requiring the Insurance Commissioner to enforce the licensure provisions relating to pharmacy benefit managers; providing for the applicability of provisions to pharmacy benefit managers; clarifying that requirements do not apply to certain prescription drug plans; clarifying that an auditing entity may not seek a charge-back or recoupment from a pharmacy or pharmacist except in certain circumstances; providing that pharmacy benefit managers may not reimburse a pharmacy or pharmacist for prescription drugs or pharmacy services below a certain cost plus dispensing fee; prohibiting a pharmacy benefit manager from reimbursing a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the amount a pharmacy benefit manager reimburses its affiliates; and requiring the reporting of certain data relating to the payment of pharmacy claims.

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

**By Senators Baldwin, Ihlenfeld, Lindsay, Hardesty, Stollings, Romano, Jeffries, Woelfel, Beach, Prezioso, Palumbo, Plymale, and Unger:**

**Senate Bill 490**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, §5-30-5, §5-30-6, §5-30-7, §5-30-8, and §5-30-9, all relating to authorizing the State Treasurer to buy and sell certain loan obligations.

Referred to the Committee on Finance.

**By Senators Trump and Palumbo:**

**Senate Bill 491**—A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating to delaying effective date for voter registration in conjunction with driver licensing until July 1, 2020; and requiring the Division of Motor Vehicles to file a report with the Joint Committee on Government and Finance containing a complete list of all infrastructure needed to achieve compliance and a schedule outlining how the division will implement the changes by July 1, 2020.

Referred to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 492**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to permitting unlicensed persons to be hired by consumers; providing for a short title; providing for definitions; providing for disclosure information; providing for an example disclosure form; providing for working without a license; providing for defense and relief; providing for remedies; providing for applicability; providing for limitations; providing for preemption of state statutes; and providing for an effective date.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

**By Senator Maynard:**

**Senate Bill 493**—A Bill to amend and reenact §17C-6-8 of the Code of West Virginia, 1931, as amended, relating to correcting terminology referring to racing vehicles illegally on the street.

Referred to the Committee on Transportation and Infrastructure.

**By Senator Maynard:**

**Senate Bill 494**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-8a, relating to requiring the Department of Health and Human Resources to collaborate with the Workforce Development Board and the West Virginia Division of Personnel for purposes of job placement.

Referred to the Committee on Government Organization.

**By Senator Azinger:**

**Senate Bill 495**—A Bill to amend and reenact §46A-5-101 of the Code of West Virginia, 1931, as amended, relating to conforming the state Consumer Credit and Protection Act to the federal Fair Debt Collection and Practices Act.

Referred to the Committee on the Judiciary.

**By Senators Sypolt, Smith, and Maroney:**

**Senate Bill 496**—A Bill to repeal §16-7-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §16-7-5 of said code; and to amend said code by adding thereto a new article, designated §19-11E-1, §19-11E-2, §19-11E-3, §19-11E-4, §19-11E-5, §19-11E-6, §19-11E-7, §19-11E-8, §19-11E-9, §19-11E-10, §19-11E-11, §19-11E-12, §19-11E-13, §19-11E-14, §19-11E-15, §19-11E-16, and §19-11E-17, all relating generally to transferring authority to regulate milk from the Department of Health and Human Resources to the Department of Agriculture.

Referred to the Committee on Government Organization.

**By Senator Azinger:**

**Senate Bill 497**—A Bill to amend and reenact §30-38-1 of the Code of West Virginia, 1931, as amended, relating to expanding exceptions to the applicability of the Real Estate Appraiser Licensing and Certification Act.

Referred to the Committee on Government Organization.

Senators Maynard and Sypolt offered the following resolution:

**Senate Concurrent Resolution 21**—Urging the United States Congress to reopen public lands in the State of West Virginia.

Whereas, Off-highway vehicle recreation has demonstrated a tremendous economic benefit of at least \$43 billion throughout the United States and to West Virginia, in particular; and

Whereas, West Virginia has an unparalleled opportunity to replace lost jobs with new employment supporting off-highway vehicle recreation; and

Whereas, West Virginia currently suffers from the highest rates of drug overdose deaths, and the actual number of deaths due to opioid overdose has quadrupled since 2010, but wilderness therapy programs, outdoor recreation, and off-highway vehicle recreation have demonstrated positive health effects for veterans with post-traumatic stress disorder and individuals with opioid addictions; and

Whereas, Resumption of logging in the national forests will bring both economic benefits to the state and to the national budget as well as reduction in the potential for devastating wildfires through proper forest management and timbering practices; and

Whereas, The public benefits of maintaining West Virginia's recreation economy, opportunities for outdoor therapy, and vital logging industry provide powerful reasons to restore full access to nationally managed public lands in this state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Congress to reopen public lands in the state of West Virginia; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the representatives and senators elected by the citizens of West Virginia serving the citizens of West Virginia in the Congress of the United States in Washington, D. C.

Which, under the rules, lies over one day.

Senators Tarr, Sypolt, Smith, Maroney, Plymale, and Roberts offered the following resolution:

**Senate Resolution 25**—Designating January 31, 2019, as West Virginia Homeschool Day at the Capitol.

Whereas, The State of West Virginia is committed to excellence in education; and

Whereas, The State of West Virginia recognizes that parental involvement and individualized attention to educational success are the unique and basic ingredients of homeschooling; and

Whereas, Homeschooled students exhibit self-confidence and good citizenship and are prepared academically to meet the challenges of today's society; and

Whereas, Contemporary studies continue to confirm that children who are educated at home score exceptionally well on nationally normed achievement tests; and

Whereas, Homeschooled students have scored above the national average on the SAT and on the ACT tests; and



Whereas, Homeschooled students have been shown to be competitive with publicly and privately schooled students at the college level; therefore, be it

*Resolved by the Senate:*

That the Senate hereby designates January 31, 2019, as West Virginia Homeschool Day at the Capitol; and, be it

*Further Resolved,* That the Senate hereby recognizes all West Virginia homeschool families for their dedication to excellence and their success in the education of West Virginia's children; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Home Educators Association and the Christian Home Educators of West Virginia.

At the request of Senator Tarr, 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 9:27 a.m., the Senate recessed to present Senate Resolution 25.

The Senate reconvened at 9:30 a.m. and proceeded to the seventh order of business.

**Senate Concurrent Resolution 12**, US Army CPL Lee Roy Young 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.

**Senate Concurrent Resolution 20**, US Air Force SSGT Ryan David Hammond Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

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 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 187**, Authorizing Department of Revenue to promulgate legislative rules.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, 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. 187) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 187) takes effect from passage.

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

**Eng. Com. Sub. for Senate Bill 199**, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 199 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. 199) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 199) takes effect from passage.

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

**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. Senate Bill 256**, Allowing certain deductions from individual personal income tax refunds.

Having been read a third time on yesterday, Tuesday, January 30, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Senate Bill 256 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. S. B. 256) 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 297**, Extending expiration of military members' spouses' driver's license.

Having been read a third time on yesterday, Tuesday, January 30, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Senate Bill 297 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. S. B. 297) 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 390**, Requiring electric utilities submit feasibility studies of constructing and operating middle-mile broadband internet projects.

Having been read a third time on yesterday, Tuesday, January 30, 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.

The Senate proceeded to the ninth order of business.

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

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 264**, Requiring courts to order restitution to crime victims where economically practicable.

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 read a second time.

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

On page two, section seventeen-a, line sixteen, after the words “governmental use” by changing the period to a comma and inserting the following: or those facilities which are owned or leased by a local exchange carrier, as defined by 150 CSR-6.;

On page three, section seventeen-a, line fifty-four, after the word “compensation” by inserting the words “if the lease includes multiple districts of the division of highways”;

And,

On page eleven, section six, line twenty-eight, by striking out the words “(d) and (e)” and inserting in lieu thereof the words “(c) and (d)”.

The bill (Com. Sub. for S. B. 270), as amended, was then ordered to engrossment and third reading.

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

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

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

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

The Senate proceeded to the tenth order of business.

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

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

**Senate Bill 324**, Relating to Commissioner of Agriculture employees.

**Com. Sub. for Senate Bill 357**, Relating generally to Division of Administrative Services.

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

**Com. Sub. for Senate Bill 361**, Relating to Public Defender Services.

**Com. Sub. for Senate Bill 369**, Relating to generic drug products.

**Com. Sub. for Senate Bill 373**, Relating to financial responsibility of inmates.

**Senate Bill 377**, Relating to minimum wage and maximum hour standards.

**Com. Sub. for Senate Bill 389**, Allowing developmentally disabled person purchase base hunting license.

**Com. Sub. for Senate Bill 398**, Relating to compensation for senior judges.

**Senate Bill 399**, Relating to compensation for senior magistrates.

And,

**Eng. House Bill 2462**, Issuing a certificate to correctional employees to carry firearms.

Pending announcement of a meeting of the Committee of the Whole and a minority party caucus,

On motion of Senator Takubo, at 10:02 a.m., the Senate recessed until 10:30 a.m. today.

The Senate reconvened at 10:40 a.m. and, on motion of Senator Takubo, the Senate resolved itself into the Committee of the Whole for the purpose of consideration of Senate Bill 451 (*Comprehensive education reform*).

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 10:59 a.m., the Senate recessed until 12 Noon today.

The Senate reconvened at 12:09 p.m. and 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 Senator Stollings.

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

The Senate proceeded to the thirteenth order of business.

Senator Blair, Senate chair of the Committee of the Whole, was recognized to explain the following report:

Your Committee of the Whole has had under consideration

**Senate Bill 451**, Comprehensive education reform.

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

**Com. Sub. for Senate Bill 451** (originating in the Committee of the Whole)—A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of the West Virginia, 1931, as amended; to amend and reenact §11-8-6f of said code; to amend said code by adding thereto a new section, designated §11-21-25; to amend said code by adding thereto a new section, designated section §18-1-5; to amend and reenact §18-5-16, §18-5-16a; §18-5-18b, §18-5-32, and §18-5-46 of said code; to amend said code by adding thereto a new section, designated §18-5-45a; to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-9, §18-5G-10, §18-5G-11, §18-5G-12, §18-5G-13,

§18-5G-14, and §18-5G-15; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said code; to amend and reenact §18-9A-2, §18-9A-8, §18-9A-9, and §18-9A-12 of said code; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-31-1, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, and §18-31-9; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, §18A-4-9, and §18A-4-10 of said code; to amend said code by adding thereto a new section, designated §18A-4-2d; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-4A-2, and §18C-4-3 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to comprehensive education reform; providing for payment of bonus for accrued sick leave at retirement; modifying regular levy rates; allowing county boards of education to increase their regular levy rates to the statutory maximum; declaring nonseverability of act; providing that central office administrators, supervisors, and directors serve at the will and pleasure of the superintendent; authorizing the establishment of charter schools beginning in 2019-2020; establishing charter school employee permissive participation in the Public Employees Insurance Act; establishing charter school employee eligibility for the State Teachers Retirement System and the Teachers' Defined Contribution Retirement System; providing legislative purpose and intent; defining terms; establishing requirements and powers for public charter schools; providing for the creation of governing boards; setting requirements for enrollment in public charter schools; creating process and requirements for application to establish public charter schools; providing duties and responsibilities for authorizers; providing for virtual charter schools; establishing requirements for charter school contracts and the process for renewal, nonrenewal, and revocation of contracts, including required rules by the State Board of Education; creating the West Virginia Charter Public School Commission; establishing membership of the commission; providing for appointment of members; setting meeting requirements; establishing funding for charter school enrollment; creating appeals process for the denial of a charter application, the nonrenewal of a charter contract, or the revocation of a charter contract; creating prohibitions; allowing charter schools access to public facilities; establishing reporting requirements; providing that appropriation will be disbursed to the public charter schools to serve needs of exceptional children; providing for public charter school coverage by the Board of Risk and Insurance Management; creating personal income tax credits for educational expenses incurred by teachers for the purchase of supplementary educational materials or professional development costs; requiring county boards to establish attendance zones; addressing the transfer and enrollment policies for students in public schools; clarifying the employment term for school employees and the applicability to time lost due to a work stoppage or strike; including teacher recommendations in the considerations for student promotion; expanding social and emotional support services provided to students; clarifying the job duties and responsibilities of school counselors; modifying the contact requirements for a student's guardians upon accrual of unexcused absences; requiring meaningful contact be made with guardians after a student has accrued three and five unexcused absences; specifying that a principal may make meaningful contact with guardians after a student has accrued three unexcused absences; expanding the definition of "professional student support personnel"; increasing the basic foundation allowance for professional student support personnel; increasing the county allowance for current expenses to 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount; providing written notice of state Board of Risk and Insurance Management insurance coverage to county board of education insureds; providing that counties with less than 1,400 in net enrollment shall be considered to have 1,400 in net enrollment for the purposes of determining the county's basic foundation program only; enhancing counties' ability to provide additional compensation to teachers; permitting a county board of education to base its employment decisions, transfers, reassignments, reductions in the number of professional personnel, reductions in classroom

teaching positions, and reductions in the workforce on an individual's qualifications; setting forth the factors to be considered when determining an individual's qualifications; clarifying payment to teachers and withholdings; enacting an Educational Savings Account Program; providing a short title and definitions; providing basic elements of an Educational Savings Account (ESA); establishing ESA application requirements; defining responsibilities of the Treasurer; establishing a Parent Review Committee; providing eligibility requirements applicable to education service providers; providing for the responsibilities of resident school districts; addressing legal proceedings; setting local share maximum at 2015-2016 level; increasing salaries for teachers; granting additional experiences for purposes of pay scale to teachers meeting specified requirements; providing additional pay for certain teachers providing math instruction; increasing salaries for service personnel; providing for accrual of personal leave at the end of each pay period; modifying certain student financial aid resources available to students pursuing public school teaching careers; abolishing the Underwood-Smith Teacher Loan Assistance Program; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; modifying program purpose to target certain academic disciplines and emphasize the academic distinction of award recipients; modifying award eligibility, renewal, and service agreement criteria to reflect modified program purpose; requiring certain mentoring services be provided to award recipients; preserving eligibility and service agreement criteria for current award recipients; modifying the amount of an award and limiting tuition and fee charges for program recipients; and requiring annual written notice of BRIM insurance coverages by county boards to employee insureds.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Takubo moved that the bill (Com. Sub. for S. B. 451) contained in the preceding report from the Committee of the Whole be taken up for immediate consideration.

The question being on the adoption of Senator Takubo's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: None.

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

Whereupon, the bill (Com. Sub. for S. B. 451) contained in the preceding report from the Committee of the Whole was taken up for immediate consideration, read a first time, and ordered to second reading.



Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:16 p.m., the Senate adjourned until tomorrow, Friday, February 1, 2019, at 11 a.m.

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## **SENATE CALENDAR**

**Friday, February 01, 2019  
11:00 AM**

### **UNFINISHED BUSINESS**

S. C. R. 21 - Urging US Congress open public lands in WV

### **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. 103 - Relating generally to Public Defender Services

Eng. S. B. 233 - Relating to age requirements for deputy sheriff

Eng. Com. Sub. for S. B. 264 - Requiring courts to order restitution to crime victims where economically practicable

Eng. Com. Sub. for S. B. 270 - Streamlining process for utilities access to DOH rights-of-way (original similar to HB2416)

Eng. S. B. 331 - Using leashed dogs to track mortally wounded deer or bear

Eng. S. B. 332 - Relating to Class Q special hunting permit for disabled persons

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. 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 (original similar to HB2811)

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

Com. Sub. for S. B. 451 - Comprehensive education reform

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

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2019**

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**Friday, February 1, 2019**

9:30 a.m.

Judiciary

(Room 208W)